MASON'S

MINNESOTA STATUTES

1927

PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STATUTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED BY THE SUBSEQUENT LEGISLATION OF 1925 AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES 1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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Citer-Digest Company
St. Paul
1927

MINNESOTA SUPREME COURT

RULES OF PRACTICE OF THE SUPREME COURT OF MINNESOTA

RULE I.

Clerk—Duties of—Notice of Argument or Note of Issue Not Necessary—Setting of Cases and Notice. 1. The clerk shall keep a general docket or register, in which he shall enter the title of all actions and proceedings, including the names of the parties and the attorneys by whom they prosecute or defend, and he shall enter therein, from time to time, under the proper dates, brief notes of all papers filed and all proceedings had therein; the issuing of writs and other process and the return thereof; the court or officer to whom directed; the return of any court, officer or other person thereto; the filing of any bond or other security, and the issuing of a certificate of supersedeas, and of all orders and judgments in any action or proceeding, whether of course or on motion; also proper references to the number of all papers and proceedings.

2. He shall also keep a judgment book, in which he shall enter all judgments; the names of the parties thereto, plaintiff and defendant; the date of the judgment, its number, the amount thereof, if the recovery of money or damages is included therein, and the amount of costs, which record shall be properly indexed.

3. He shall keep a court journal, in which he shall enter, from day to day, brief minutes of all proceedings in court.

4. He shall file all papers presented to him; endorse thereon the style of the action, its number, the character of the paper and date of filing; and, after filing, no paper shall be taken from his office unless by order of the court or a judge thereof.

5. No notice of argument or note of issue is necessary to entitle a cause to be heard. Each appeal will, on the filing of the printed record and appellant's brief, be set for argument, or submission on briefs, as the case may be, by the court, and the clerk will give prompt notice of the date thereof to the respective attorneys.

6. **Certiorari—Title of Cause...** The petition for a writ of certiorari, when issued from this court and directed to a lower court or a judge thereof, shall be entitled in the case or proceeding in which the writ is sought, shall definitely and briefly state the judgment or order or proceedings which is sought to be reviewed and the errors which the relator claims. The writ shall be likewise entitled, shall refer to the order or judgment or proceedings sought to be reviewed, shall state the errors, which are claimed, shall issue in the name of the state on the relation of the petitioner, and shall direct a return of the proceedings to this court. The writ and petition shall be served upon the court or judge to which it is directed and upon the adverse party in interest. The court or judge shall make return thereto. In this court the style of the case under review shall be as in the court below. If the plaintiff below is the relator he shall be designated in this court as plaintiff and relator and the defendant shall be designated as defendant and respondent; and if the defendant is the relator he shall be designated in this court as defendant and relator and the plaintiff shall be designated as plaintiff and respondent. When the writ is directed to a court, or officer or tribunal acting judicially, to review a proceeding in which the adversary parties are not designated as plaintiff and defendant, the title of the action or proceeding below shall be preserved in this court. In no case when the writ is directed to a court or other tribunal shall the title appear as State ex rel. the relator against such court, officer or tribunal; but the writ shall issue in the name of the state upon the relation of the relator and shall be directed to such court, officer or tribunal and direct a return of the proceedings.

Records and briefs shall be printed and served, unless the order directing the writ or a subsequent order otherwise provides, as now prescribed by rule 8. The attendance of counsel on the return day is unnecessary.

The cause will be set for argument when the relator has served and filed his record and brief.

Costs shall be taxed for or against the adversary parties but not for or against the court or a judge thereof.

RULE II.

Motions—Eight Days' Notice. Motions for special relief will be heard only upon eight days' notice given the adverse party, and when not based upon the records and files shall be accompanied by the papers upon which they are founded. No oral argument will be permitted.

Fee of $2.00 must accompany all motions and applications other than in pending causes wherein the statutory appeal fee has been paid.

RULE III.

Appellant to file essential parts of original record ten days before argument.

1. Appellant shall designate in writing to the clerk of the district court what part of the original record he deems essential to the questions presented on the appeal, and cause return thereof to be made as required by law ten days before the day set for the argument of the cause in this court.

(Note—When original papers have been prematurely sent to the Supreme Court they will be returned to district court upon the written request of either party.)

RULE IV.

Defective Return—Procuring Additional Papers. If the return made by the clerk of the court below is defective and all papers, exhibits, orders or records necessary to an understanding or decision of the case are not transmitted, either party may, on an affidavit specifying the defect or omission, apply to a justice of this court for an order requiring the district clerk to make further return and supply the defect or omission without delay.

RULE V.

Endorsement of Return by Clerk of District Court. The clerk of the district court shall endorse upon each return to this court the name and postoffice address of the judge presiding in the lower court and of the attorneys for the respective parties.

RULE VI.

Original Papers—Procuring Order for Transmission to Appellate Court. Whenever it is deemed necessary to the decision of any cause that any original paper or papers be inspected by this court, which paper or papers were used on the trial below, but for any reason, whether because copies were substituted for the originals or otherwise, they are not on file, a justice of this court may, ex parte, make such order for the transmission, safe keeping and return of such paper or papers as he deems proper.

All exhibits sent to the clerk of this court shall have endorsed thereon the title of the case to which they belong.

All original exhibits, maps, and diagrams sent to the clerk of this court by the clerk of the court below, will in all cases be returned with the remittitur, all models will be so returned when necessary on a new trial, but where the decision of the court is final and no new trial is to be had, such models will be destroyed by the clerk of this court, unless called for by the parties within thirty days after final decision is rendered.

RULE VII.

Writ of Error—Giving Notice of. On the issuance from this court of a writ of error, the plaintiff in error in such writ shall give notice in writing to the attorney general and the county attorney of the county in which the action is triable, within ten days after the issuing of the writ, that such writ has been sued out.

RULE VIII.

Printing, Service and Filing Record and Briefs—Penalty. 1. The appellant, or party removing a cause to this court shall, within sixty days from the date of service of the notice of appeal upon opposing counsel, serve upon the opposite party the printed record, and his assignments of error and brief, and file with the clerk of this court twelve copies of each thereof; and within thirty days from such service upon him, the respondent shall serve his brief and file with the clerk twelve copies thereof. Appellant may reply in typewritten or printed form within ten days thereafter, and in any event at least three days before the day set for the argument of the cause. The reply shall be limited strictly to a concise answer to new points made by respondent, and whether typewritten or printed, shall comply with the rules respecting form and size.

The failure of appellant to comply with this rule in respect to printing, and serving the record and his brief, and filing the same with the clerk of this court, within the time stated—which time cannot be extended by stipulation—will be deemed an abandonment of the appeal, and the order or judgment appealed from will be affirmed or the appeal dismissed as the court may deem proper.

If not sooner applied for by respondent under rule XI, such dismissal or affirmance will be entered by the ex parte order of the court in all pending appeals so in default at the time causes are set for argument.

2. The record and briefs must be printed and the folios of the record distinctly numbered in the margin. The record shall consist of the pleadings, the findings or verdict, the order or judgment appealed from, the reasons of the trial court for the decision, if any, the notice of appeal and in cases where the sufficiency of the evidence is not involved, such abridgment of the settled case as will clearly and fully present the questions arising on the appeal. Even in cases where the sufficiency of the evidence is involved only that pertinent to the issues to be presented need be printed. (For example, in personal injury cases where the amount of the recovery, if any, is not questioned, the medical and other testimony going only to the nature and extent of the injury should be omitted.) All matters in the return not necessary to a full presentation of the questions raised by the appeal shall be excluded from the printed record, and to that end the material testimony may be printed in narrative form, immaterial parts thereof omitted, and documentary evidence condensed. If the respondent deems the record so printed not sufficiently full to present properly the merits of the appeal, he may print a supplemental record, or instead thereof, in his brief, refer to the folios or pages in the settled case, the original of which will be on file in this court, which he deems necessary and important.

3. Prefixed to the brief of the appellant but stated separately, shall be an assignment of error intended to be urged. Each specification of error shall be separately, distinctly and concisely stated, without repetition, and they shall be numbered consecutively. When the error specified is that the finding of the court below, or referee, is not sustained by the evidence, it shall specify particularly the finding complained of. No error not affecting the jurisdiction over the subject-matter will be considered unless stated in the assignment of errors. All references to evidence shall distinctly point to the folio and page of the settled case or printed record where the same may be found.

4. The brief of appellant shall contain a concise statement of the case so far as necessary to present the questions involved, and shall state separately the several points relied on for a reversal of the order or judgment of the court below, with a list of authorities to be cited in support of the same.

5. Whenever the brief of the prevailing party or the record or supplemental record contains any unnecessary, irrelevant or immaterial matter, he shall not be allowed any disbursements for preparing or printing such unnecessary matter.

The party entitled to object to the taxation of disbursements in such cases shall point out—specifying the folios—the particular portions of the record, supplemental record or brief for which he claims that the opponent is not entitled to tax disbursements.

RULE IX.

Examination of Evidence—Stating Points in Facts Claimed to be Established—Argument of Question of Fact. In cases where it may be necessary for the court to go into an extended examination of evidence, each party shall add to the copies of his points furnished the court the leading facts which he deems established, with reference to the folio and page of the settled case where he deems the proof of such facts may be found. And the court will not hear an extended discussion upon a mere question of fact.

RULE X.

Record — Printing. Records, assignments of error and briefs shall be neatly and legibly printed in leaded small pica or long primer type with black inch on white paper, properly paged at the top. The record shall be properly folioed at the side. All records, assignments of error and briefs shall be printed with a margin on the outer edge of one and one-half inches. The printed page shall be seven inches long and three and one-half inches wide, and the paper page shall be nine inches long and seven inches wide. Each brief shall be signed by the counsel preparing it. Each copy of such brief or record shall be stitched together; and its proper designation, the title of the cause and the names and addresses of the attorneys for the respective parties, shall be printed on the outside thereof. Every record and every brief exceeding fifty pages shall be accompanied with an adequate index; describing exhibits by number or letter and name of document.

One-half inch from the top of the cover page of each brief and printed record shall be printed the file number of the case in supreme court, in black-faced 18 point figures.

Records or briefs which fail to conform to this rule shall not be filed.

The prevailing party shall be allowed as a disbursement a reasonable amount which he has actually paid for printing record or brief.

RULE XI.

Default of Appellant—Affirmance or Dismissal. Respondent or defendant in error may apply to the court for judgment of affirmance or dismissal, as the case may be, if the appellant or plaintiff in error shall fail or neglect to serve and file the printed record and his points and authorities as required by these rules. But no reversal will be ordered for the failure of the respondent or defendant in error to appear, unless the record presents reversible error.

RULE XII.

Resetting—Affirmance on Failure to Submit. A cause set for hearing by the court may be reset upon a showing of good reasons therefor. But if a cause shall remain in this court for a longer period than one year from the date of filing the return therein, without a submission thereof, the order or judgment appealed from will be affirmed by the ex parte order of the court, and the cause remanded to the court below.

RULE XIII.

Oral Argument—When Allowed. Either party may submit a cause on his part on a printed brief or argument, and when no appearance is made on the day of argument, the printed record and briefs being on file, the cause will be ordered so submitted.

In actions for the recovery of money only, or of specific personal property, where the amount or the value of the property involved in the appeal shall not exceed three hundred dollars, and in appeals from orders involving only questions of practice, or forms or rules of pleading and in appeals from the clerk's taxation of costs, the parties may submit on briefs, but no oral argument will be allowed.

On oral argument, the appellant or plaintiff in error and on a motion, the moving party, or party procuring the order to show cause, shall open and be entitled to reply. Each party shall be entitled to one hour in all, except that in actions for the recovery of money only, or of specific personal property, where the amount or the value of the property involved in the appeal shall not exceed $1,000, each shall be entitled to only thirty minutes.

Application for leave to argue a cause orally, when not entitled to such oral argument, or for an extension of the time allowed for oral argument as prescribed by this rule, may be made in writing at the time of filing the briefs.

Whenever any member of the court is not present at the oral argument of a cause, such cause shall be deemed submitted to such member of the court on the record and briefs therein.

RULE XIV.

Dismissal—Certifying to Court Below. In all cases of the dismissal of any appeal or writ of error in this court, it shall be the duty of the clerk to issue a certified copy of the order of dismissal to the court below so that further proceedings may be had in such court as if no writ of error or appeal had been brought.

RULE XV.

Remittitur as Matter of Course. Upon the reversal, affirmance, or modification of any order or judgment of the district court by this court, there will be a remittitur to the district court unless otherwise ordered.

RULE XVI.

Remittitur—Mailing of Copy of Decision or Order—Entry of Judgment—Transmitting Remittitur. A remittitur shall contain a certified copy of the judgment of this court, sealed with the seal thereof, and signed by the clerk.

When a decision is filed or an order entered determining the cause the clerk shall mail a copy thereof to the attorneys of the parties, and no judgment shall be entered until the expiration of ten days thereafter. The mailing of such copy shall constitute notice of filing of the decision.

The remittitur shall be transmitted to the clerk of the court below as soon as may be after judgment is entered.

(Note.—As to remittitur on reversal, see section 9487, G. S. 1923.)

RULE XVII.

Costs—Amount Allowed—Prevailing Party. Unless otherwise ordered the prevailing party shall recover costs as follows: 1. Upon a judgment in his favor on the merits, twenty-five dollars; 2. Upon dismissal, ten dollars.

(Who is prevailing party. See Sanborn v. Webster, 2 Minn. 323 [Gil. 277]; Allen v. Jones, 8 Minn. 202 [Gil. 172].)

RULE XVIII.

Costs—Taxation of. Costs in all cases shall be taxed in the first instance by the clerk upon two days' notice, and inserted in the judgment, subject to the review of the court, and the clerk of the court below may tax the costs of the prevailing party in this, when the same are inserted in the judgment.

(Note.—See Fitzpatrick v. Railway Co., 121 Minn. 375, 141 N. W. 485.)

RULE XIX.

Reversal—Final Judgment Without Remittitur. On reversal of a judgment of the district court, rendered on a judgment removed into it from an inferior court, when there is no remittitur, this court will render such judgment as ought to have been given in the court below, including the costs of that court, and also for the costs of this court; and the plaintiff in error or appellant may have execution thereupon.

RULE XX.

Judgment for Money Only—Affirmance—Final Judgment in This Court. In all cases where a judgment of the district court for the recovery of money only is affirmed, and there is no remittitur, judgment may be entered in this court for the amount thereof, with interest and costs and damages, if any are awarded, to be added thereto by the clerk; and the party in whose favor the same was rendered may have execution thereupon from this court.

RULE XXI.

Reversal—No Remittitur—Costs of Prevailing Party. In a case of a reversal of a judgment, order or decree of a district court, rendered or made in a cause commenced therein, if there is no remittitur, the prevailing party shall have judgment in this court for the costs of reversal, and the costs of the court below, and execution therefor.

RULE XXII.

Judgment—Entry by Losing Party, or the Clerk. In case the prevailing party shall neglect to have judgment entered within twenty days after notice of the filing of the opinion or order of the court, the adverse party, or the clerk of this court, may, without notice, cause the same to be entered without inserting therein any allowance for costs and disbursements.

(Note.—See Fitzpatrick v. Railway Co., 121 Minn. 375, 141 N. W. 485.)

RULE XXIII.

Judgment Roll—Papers Constituting. In all cases the clerk shall attach together the writ of error, if any, the bond and notice of appeal certified and returned by the clerk of the court below and a certified copy of the judgment of this court signed by him; and these papers shall constitute the judgment roll.

RULE XXIV.

Remittitur — Costs Notwithstanding Remittitur. In all cases in which a remittitur is ordered, the party prevailing shall have judgment in this court for his costs, and execution, thereon, notwithstanding the remittitur.

RULE XXV.

Executions—Issuance and Satisfaction. Executions to enforce any judgment of this court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. Such executions shall be returnable in sixty days from the receipt thereof by the officer. On the return of an execution satisfied, or acknowledgement of satisfaction, in due form of law, by the party who recovered the same, or his representative, or assigns, the clerk shall make an entry thereof upon the record.

RULE XXVI.

Process and Writs Other Than Executions. All other writs and process issuing from or out of the court shall be signed by the clerk, sealed with the seal of the court, tested of the day when the same issued, and made returnable in accordance with the order of the court.

RULE XXVII.

Rehearing—Filing Application. Applications for rehearing shall be made ex parte, on petition setting forth the grounds on which they are made, and filed within ten days after the filing of the decision.

Eight copies should be filed. They may be either typewritten or printed.

(Note.—The filing of a petition for rehearing stays the entry of judgment in civil cases until the filing of the order of the court thereon, but does not stay the taxation of costs.)

RULE XXVIII.

Attorneys—Guardians Ad Litem—Continue Such on Appeal. The attorneys and guardians ad litem, of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties, respectively, in this court, until others are retained or appointed and notice thereof served on the adverse party.

RULE XXIX.

Clerks to Furnish Lists of Papers and Exhibits. Whenever a clerk of a lower court shall transmit to this court any original papers, files or exhibits as required by section 9493, G. S. 1923, he shall include therewith full and complete detailed lists in duplicate of such papers, files and exhibits. The clerk of this court shall, upon receipt of such papers, files and exhibits, receipt to the transmitting clerk therefor. And when they are returned to the lower court the clerk of said court shall receipt to the clerk of this court for the same.

(Note.—Lower court does not lose jurisdiction to settle case when appeal has been perfected. See State ex rel. Kelly v. Childress, 127 Minn. 533, 149 N. W. 550.)

RULE XXX.

Modification and Suspension of Rules. Any of these rules may be relaxed or suspended by the court in term or a judge thereof in vacation, in particular cases, as justice may require.

MISCELLANEOUS.

1. Rules do not apply in habeas corpus appeals. See section 9768, G. S. 1923.
2. Objections to taxation of costs must be made in writing and filed.
3. The use of the Supreme Court file number of the case on all papers and when communicating with the court or clerk will aid greatly in giving prompt service.
4. Rules governing applications for admission to bail where application to trial court is denied, see State v. Russell, 159 Minn. 290, 199 N. W. 750.

MINNESOTA DISTRICT COURT RULES.

As Revised and Adopted by the District Judges of the State of Minnesota at a Meeting Duly Called for That Purpose at the Capitol, in the City of St. Paul, on July 11, 1906, in Accordance with the Terms of Section 104 of Revised Laws 1905 [Minn. Stat. § 174]

PART I.—GENERAL RULES OF PRACTICE.

RULE 1.

All bonds shall be duly proved or acknowledged in like manner as deeds of real estate, before the same shall be received or filed.

No practicing attorney or counselor at law shall be received as a surety on any bond or undertaking required in an action, whether he be the attorney of record in the action or not, except where such bond or undertaking shall be executed on behalf of a nonresident party.

RULE 2.

(Revoked July 21, 1925.)

RULE 3.

Garnishments or attachments shall not be discharged under section 9383, General Statutes 1923, without notice of the application therefor to the adverse party.

RULE 4.

On process or papers to be served, the attorney, besides subscribing or indorsing his name, shall add thereto his place of residence and the particular location of his place of business by street, number, or otherwise; and if he shall neglect to do so, papers may be served on him through the mail, by directing them according to the best information that can conveniently be obtained concerning his residence.

This rule shall apply to a party who prosecutes or defends in person, whether he be an attorney or not.

RULE 5.

All copies of papers served shall be legible, and if not legible may be returned within twenty-four hours after service thereof, and the service of an illegible paper so returned shall be deemed of no force or effect.

RULE 6.

In all cases of more than one distinct cause of action, defense, counterclaim or reply, the same shall not only be separately stated, but plainly numbered; and all pleadings not in conformity with this rule may be stricken out on motion.

RULE 7.

The attorney or other officer of court who draws any pleading, affidavit, case, bill of exceptions or report, decree or judgment, exceeding two folios in length, shall distinctly number and mark each folio of one hundred words in the margin thereof or shall number the pages and the lines upon each page, and all copies either for the parties or court, shall be numbered and marked so as to conform to the originals. All typewritten matter shall be carefully and legibly typed on plain, unglazed white paper of good texture, made with well inked ribbon and carbon, and shall be double spaced. Any pleading, affidavit, bill of exceptions or case not thus prepared may be returned by the party on whom the same is served or by the court.

(Adopted July 20, 1925.)

RULE 8.

Notices of motion shall be accompanied with copies of the affidavits and other papers on which the motions are made, provided that papers in the action of which copies shall have theretofore been served and papers other than such affidavits which have theretofore been filed, may be referred to in such notice and read upon the hearing without attaching copies thereof. When the notice is for irregularity, the notice shall set forth particularly the irregularity complained of; in other cases it shall not be necessary to make a specification of points, but it shall be sufficient if the notice state generally the grounds of the motion.

RULE 9.

Whenever notice of a motion shall be given, or an order to show cause served, and no one shall appear to oppose the motion or application the moving party shall be entitled, on filing proof or admission of service, to the relief or order sought, unless the court shall otherwise direct. If the moving party shall not appear or shall decline to proceed, the opposite party, upon filing like proof of service, shall be entitled to an order of dismissal.

RULE 10.

Upon motion or order to show cause, the moving party shall have the opening and the closing of the argument. Before argument shall commence, the moving party shall introduce his evidence to support the application; the adverse party shall then introduce his evidence in opposition; and the moving party may then introduce evidence in rebuttal or avoidance of the new matter offered by the adverse party. On hearing such motion or order to show cause, no oral testimony shall be received unless the court shall so direct.

RULE 11.

The clerk in each county shall keep a special term calendar, on which he shall enter all actions or proceedings notice for special term according to the date of issue or service of notice of motion. Notes of issue of all matters for special term shall be filed with the clerk one day before the term. And no case shall be entered on the calendar unless such note of issue shall have been filed.

RULE 12.

All affidavits, notices, and other papers, designed to be used in any cause at special term, shall be filed with the clerk at or before the hearing of the cause unless otherwise directed by the court.

RULE 13.

All orders, together with the affidavits and other papers upon which the same are based, which orders are not required to be served, shall within one day after the making thereof be filed in the office of the clerk, by the party applying for such orders. Orders required to be served shall be so filed within five days after the service thereof.

RULE 14.

Any party applying to any judge or court commissioner for any order to be granted without notice, except an order to show cause, shall state in his affidavit whether he has made any previous application for such order, and if such previous application has been made upon the same state of facts, every subsequent application shall be refused. When an application made to any judge for the approval of any bond or undertaking, or for an order to show cause, or any ex parte order, is refused, the application shall not be renewed before another judge without leave.

RULE 15.

No order extending the time to answer or reply shall be granted, unless the party applying for such order shall present to the judge to whom the application shall be made an affidavit of merits, or an affidavit of his attorney or counsel that from the statement of the case made to him by such party he verily believes that he has a good and substantial defense, upon the merits, to the pleading or some part thereof.

RULE 16.

In an affidavit of merits, the affiant shall state that he has fully and fairly stated the case and facts in the case to his counsel, and that he has a good and substantial defense or cause of action on the merits, as he is advised by his counsel after such statement, and verily believes true, and shall also give the name and place of residence of such counsel.

RULE 17.

In all cases where an application is made for leave to amend a pleading or for leave to answer or reply after the time limited by statute or to open a judgment and for leave to answer and defend, such application shall be accompanied with a copy of the proposed amendment, answer or reply as the case may be, and an affidavit of merits, and be served upon the opposite party.

RULE 18.

In cases where service of any order or notice is required to be made, if the party directed to make the service and the person upon whom service is to be made, reside in the same city, village or town, the service shall be personal. In all other cases such service shall be by mail, or in such other manner as the court may direct.

RULE 19.[1]

When proof of personal service shall be made by the affidavit of the person making the service, the affidavit shall fully set forth the time, place, and manner of service, and that the person upon whom the service was made was to the affiant well known to be the person, copartnership, or corporation, agent or attorney upon whom such service was directed to be made.

If such service be made by mail, the proof thereof shall be substantially in the following form, to-wit:

"State of Minnesota, } ss.:
"County of——— }

"I, ———, of (street and No., if any) in the ——— of ———, in said county, of lawful age, being first duly sworn, on my said oath say, that at said ———, on the ——— day of ———, 19—, I did then and there deposit in the post office within and for said ——— a true copy (or in case more than one service was made, true copies) of the ——— hereto attached, which copy was (or, which copies each were) properly enveloped, sealed, postage paid thereon, and directed to the following named persons, copartnerships, or corporations respectively in said order named, at the places respectively as follows, to-wit: One to ——— at No. ——— street, in the ——— of ———, in the state of ———; one to ——— at No. ——— street, in the ——— of ———, in the state of ———."

Proof of service shall in all cases be filed in the office of the clerk within five days after the making thereof: Provided, that the written admission of service by the attorney of record in any action or proceeding shall be sufficient proof of service.

RULE 20.

Orders for publication of summons in actions for divorce will only be granted upon an affidavit of the plaintiff stating facts showing that personal service cannot well be made.

RULE 21.

All divorce cases, whether contested or not, shall be placed on the calendar and tried at general term.

(Amended August 28, 1923.)

RULE 22.

In every case where no special provision is made by law as to security, the court or officer allowing a writ of ne exeat, shall require an undertaking or bond on behalf of the party applying for such writ, in not less than two hundred and fifty dollars, executed by him or some person on his behalf, as principal, together with one or more sufficient sureties, to be approved by the court or officer allowing the writ, and to the effect that the party applying for the writ will pay the party detained such damages as he may sustain by reason of the writ, if the court shall eventually decide that the party was not entitled to the same.

RULE 23.

When a demurrer is overruled with leave to answer or reply, the party demurring shall have twenty days

[1]See 77 N. W. 137, 74 Minn. 282, holding that the rule does not apply to service of summons.

after notice of the order, if no time is specified therein, to file and answer or reply, as the case may be.

RULE 24.

A change of venue or place of trial will not be granted unless the party applying therefor use due diligence to procure the same within a reasonable time after issue joined in the action and the ground for the change shall have come to the knowledge of the applicant. Nor will a change be granted where the other party will lose the benefit of a term, unless the party asking for such change shall move therefor at the earliest reasonable opportunity after issue joined, and he shall have information of the ground of such change. In addition to what has usually been stated in affidavits concerning venue, either party may state the nature of the controversy, and show how his witnesses are material; and may also show where the cause of action or defense or both of them arose; and these facts will be taken into consideration by the court in fixing the place of trial.

RULE 25.

In cases where the trial of issues of facts by a jury is not required by section 9288, General Statutes 1923, if either party shall desire a trial by jury, such party shall, within ten days after issue joined, give notice of a motion to be made upon the pleadings, that the whole issue or any specific question of fact involved therein, be tried by a jury. With the notice of motion shall be served a distinct and brief statement of the questions of fact proposed to be submitted to the jury for trial, in proper form, to be incorporated in the order, and the court or judge may settle the issues, or may refer it to a referee to settle the same. The court or judge may, in his discretion, thereupon make an order for trial by jury, setting forth the question of fact as settled, and such questions only shall be tried by the jury, subject however to the right of the court to allow an amendment of such issues upon the trial in like manner as pleadings may be amended upon trial.

RULE 26.

Commissions to take testimony without this state may be issued on notice, and application to the court, or judge thereof, either in term time or in vacation. Within five days after the entry of the order for a commission, the party applying therefor shall serve a copy of the interrogatories proposed by him, on the opposite party. Within five days thereafter the opposite party may serve cross-interrogatories. After the expiration of the time for serving cross-interrogatories, either party may within five days give five days' notice of settlement of interrogatories before the court, or judge thereof. If no such notice be given within five days, the interrogatories and cross-interrogatories, if any served, shall be considered adopted. Whenever a commission is applied for, and the other party wishes to join therein, interrogatories and cross-interrogatories to be administered to his witnesses may be served and settled or adopted within the same time and in the same manner as those to the witnesses of the party applying. After the interrogatories are settled, they must be engrossed by the party proposing the interrogatories in chief, and the engrossed copy or copies be signed by the officer settling the same, and must be annexed to the commission and forwarded to the commissioners. If the interrogatories and cross-interrogatories are adopted without settlement, engrossed copies need not be made, but the originals or copies served may be annexed and forwarded with the commission.

RULE 27.

Should any or either of the commissioners fail to attend at the time and place for taking testimony, after being notified thereof, any one or more of the commissioners named in the commission may proceed to execute the same.

RULE 28.

In taking the deposition of a witness when the deposition is completed, the witness shall sign his name or make his mark at the end thereof as well as upon each piece of paper on which any portion of his deposition is written and the commissioner or commissioners shall annex to the commission a certificate, showing the time or times and place of executing it, which certificate may be substantially in the following form:

"I ———, commissioner named in the within and above written commission, do certify that the said commission was executed, and the testimony of ——— was taken before me at ———, in ———, on the ——— day of ———, 19—, at ——— o'clock in the ———noon, and was reduced to writing by myself (or by deponent, or by ———, a disinterested person in my presence and under my direction). That the said testimony was taken by and pursuant to the authority and requirements of the said commission, upon the interrogatories ——— annexed and herewith returned. The said witness, before examination was sworn to testify to the whole truth, and nothing but the truth, relative to the cause specified in said commission, and that the testimony of said witness was carefully read to (or by) said witness (by me) and then by him subscribed in my presence. A. B. Commissioner."

And shall also state whether any commissioner not attending was notified of the time and place of the taking of the deposition. The commissioner or commissioners shall annex the deposition, with such certificate, to the commission, seal them up in an envelope, and direct to the clerk of the court of the county in which the action is pending. They may be transmitted by mail or private conveyance. The clerk, on receipt of the same, shall open the envelope, and file it with the commission and deposition, marking thereon the time. They cannot be taken from his custody except upon the order of the court, or of a referee appointed to take proofs or try any issues in the cause. The clerk shall produce them in court to be used upon the trial of the cause, upon the request of either party.

RULE 29.

No papers on file in a cause shall be taken from the custody of the clerk, except by the judge for his own use, or a referee appointed to try the action. Before a referee shall take any files in said action, the clerk shall require a receipt therefor, signed by the referee, specifying each paper so taken.

RULE 30.

On a hearing before referees, the plaintiff may dismiss his action, or his action may be dismissed, in like

manner as upon a trial, at any time before the cause has been finally submitted to the referees for their decision, in which case the referees shall report according to the fact, and judgment may thereupon be perfected by the defendant.

RULE 31.

Upon a trial of issues by a referee, such referee shall file his report in the clerk's office, upon his fees being paid or tendered by either party.

RULE 32.[2]

There shall be two calls of the calendar. The first shall be preliminary; the second, peremptory. All preliminary motions, except motions for continuance, shall be made on the first call. The cases shall be finally disposed of in their order upon the calendar on the second call. Where, upon the preliminary call, or at any time afterwards, no response is made by either party to a case, the case shall be stricken from the calendar unless otherwise directed by the court.

RULE 33.[2]

All motions for continuance shall be made on the first day of the term, unless the cause for such continuance shall have arisen or come to the knowledge of the party subsequent to that day. And in all affidavits for continuance on account of the absence of a material witness, the deponent shall set forth particularly what he expects and believes the witness would testify to were he present and orally examined in court.

No civil case on the general term calendar shall be continued by consent of counsel only or otherwise than by order of the court for cause shown: Provided, that this prohibition shall not apply to districts in which the calendar is handled through an assignment clerk. (Adopted July 20, 1925.)

RULE 34.

On the trial of actions before the court but one counsel on each side shall examine or cross-examine a witness, and one counsel only on each side shall sum up the case to the jury, unless the judge who holds the court shall otherwise order.

Upon interlocutory questions, the party moving the court, or objecting to the testimony, shall be heard first; the respondent may then reply by one counsel, and the mover rejoin, confining his remarks to the points first stated and a pertinent answer to the respondent's argument.

Discussion on the question shall then be closed, unless the court requests further argument.

At the hearing of causes before the court, no more than one counsel shall be heard on each side, unless by permission of the court.

The defendant, in opening his case to the jury, shall confine himself to stating the facts which he proposes to prove.

RULE 35.

The points on which either party desires the jury to be instructed must be furnished in writing to the court before the argument to the jury is begun or the same may be disregarded. All exceptions to the charge and refusals to charge shall be taken before the jury retires.

[2]These rules do not apply to districts having but one county, as in Ramsey, Hennepin, and St. Louis counties.

RULE 36.

It shall not be necessary to call either party, or that either party be present or represented, when the jury returns to the bar to deliver their verdict.

RULE 37.

Upon the filing of a verdict, or of a decision if the trial be by the court or referee, the court may order a stay of all proceedings for not to exceed forty days, which stay may be extended only upon notice and showing made that a transcript of the testimony was ordered from the court reporter within a reasonable time after the filing of the verdict or decision.

(Adopted July 20, 1925.)

RULE 38.

Costs and charges to be inserted in a judgment shall be taxed in the first instance by the clerk upon two days' notice. And an appeal therefrom may be taken to the court within ten days after such taxation by the clerk, but not afterwards. Such appeal shall be taken by notice in writing, signed by the appellant, directed to and served upon the adverse party and the clerk, and shall specify the items from which the appeal is taken. When such appeal is taken, either party may bring the same on for determination before the court on notice, or by any order to show cause. On such appeal the court will only review the items objected to, and upon the grounds specified before the clerk.

RULE 39.

Judgments, and copies to annex to the judgment roll, shall in all cases be signed by the clerk, and no other signature thereto shall be required.

RULE 40.

Where a party is entitled to have judgment entered in his favor by the clerk, upon the verdict of a jury, report of referee, or decision or finding of the court, and neglects to enter the same for the space of ten days after the rendition of the verdict, or notice of the filing of the report, decision or finding (or, in case the same has been stayed, for the space of ten days after the expiration of such stay), the opposite party may cause the same to be entered by the clerk upon five days' notice to the adverse party of the application therefor.

RULE 41.

The party procuring a case or bill of exceptions, shall cause the same to be filed within ten days after the case shall be settled, or the same or the amendments thereto shall have been adopted, otherwise it shall be deemed abandoned.

RULE 42.

Transcripts of the stenographic reporter's minutes shall be made in the exact words and in the form of the original minutes. The party procuring the transcript shall, at or before the time of serving the proposed case or bill of exceptions, file the same with the clerk for the use of parties and the court, and the failure so to file said transcript shall be deemed good and sufficient reason for extending the time within which proposed amendments may be served by the

opposite party. After the settled case or bill of exceptions has been filed in the clerk's office, the stenographer's transcript may be withdrawn.

RULE 43.

If during the progress of the term a juror does not appear and answer when called by the court, the clerk shall make an entry of the default of such juror, and deduct from his time of service the day upon which such default shall have occurred, unless the court for good cause shall excuse such absence.

RULE 44.

In cases where no provision is made by statute or by these rules, the proceedings shall be according to the customary practice, as it has heretofore existed in the several district courts of the state.

RULE 45.

Receivers — Trustees — Guardians — Qualifications. Receivers, trustees, guardians and others appointed by the court to aid in the administration of justice shall be wholly impartial and indifferent to all parties in interest and shall be selected with a view solely to their character and fitness. Except by consent of all parties interested, or where it clearly appears that prejudice will result, no person who is or has been during the preceding year a stockholder, director or officer of a corporation shall be appointed as receiver for such corporation. Receivers shall be appointed only upon notice to interested parties, such notice to be given in the manner ordered by the court, but if it shall be clearly shown that an emergency exists requiring the immediate appointment of a receiver such appointment may be made ex parte.

(Adopted August 28, 1925.)

RULE 46.

Injunction—Bond. In any action for an injunction, before any restraining order shall be issued, the applicant shall give bond in the penal sum of at least $250, executed by him or by some person for him as a principal, approved by the court and conditioned for the payment to the party restrained of such damages as he shall sustain by reason of the order, if the court finally decides that the applicant was not entitled thereto.

(Adopted August 28, 1925.)

RULE 47.

The presiding judge shall examine jurors in civil cases; his examination to be followed by such further inquiry by counsel as the judge may deem proper.

(Adopted July 20, 1925.)

RULE 48.

In action for personal injury or death by wrongful act, brought by persons acting in a representative capacity, contracts for attorney's fees shall not be regarded as determinative of fees to be allowed by the court. (Adopted July 20, 1925.)

RULE 49.

In criminal trials involving sex offenses or in which the evidence is likely to be of a scandalous nature the court may, with the consent of the defendant, exclude the general public from the court room.

(Adopted July 20, 1925.)

PART II.—RULES IN INSOLVENCY PROCEEDINGS.

RULE 1.

Any creditor proving his claim against the insolvent may file, in the office of the clerk of the court, a written notice, stating that the person, or copartnership, or corporation therein named is by such creditor authorized to appear and act for him, in any and all proceedings in the matter of the assignment or receivership in such notice specified, a copy of which notice shall, by the person so filing the same, be served upon the assignee or receiver. All orders or notices made after the serving of such notice, which are directed to be served upon such creditor, shall be served upon the person, copartnership, or corporation in such notice named, and no further service thereof shall be necessary.

RULE 2.

No sale in gross of the assigned property shall be made, except upon petition to the court setting forth fully the facts relied upon to authorize such sale, of which alleged facts proofs shall be made in such manner as the court may direct, and obtaining from the court an order authorizing such sale. No such sale, except of perishable property, shall be made, save upon notice, given in such manner as the court may direct, to such creditors of the insolvent as have then proved their claims, and also to such persons as in the schedule of the insolvent are named as his creditors.

No such sale shall be consummated until after report to, and confirmation by, the court.

RULE 3.

No assignee or receiver shall make conveyance of any real estate covered by the assignment and sold by him until after confirmation of such sale by the court.

RULE 4.

The assignee or receiver making application to the court for any order declaring a dividend, or for the allowance of the account of such assignee or receiver, or for limiting the time for the filing of releases, shall file a summary statement, showing the amount of moneys then received by such assignee or receiver, the amount of the expenses of the trust then incurred, and a general description of the assigned property then remaining in his hands, with the estimated value thereof.

RULE 5.

Orders limiting the time for filing releases shall not be made until after the time for filing claims has expired, nor until the assets have been reduced to money, or such progress has been made towards the same that it appears approximately how much will be realized therefrom, and the assignee or receiver shall serve with such order a copy of the summary statement provided for by rule 4.

RULE 6.

Each assignee or receiver shall keep a list of all claims presented to him against the insolvent, which list shall contain the name and residence (with street number if known or appearing) of the creditor present-

ing the claim, the amount of such claim, the date of the presentation thereof, the amount thereof allowed, the amount thereof disallowed, the name and residence of the agent or attorney (if any) of the creditor presenting such claim, and such remarks, memoranda or explanation as he may deem necessary in connection therewith. All preferred claims shall be designated by the word "preferred." A copy of such list shall be filed in the office of the clerk of the court within five days after the expiration of the time for filing claims.

Such list shall be substantially in the following form:

DISTRICT COURT,.....COUNTY, MINNESOTA,.....JUDICIAL DISTRICT.

In the Matter of the Insolvency (or Receivership) of.....

List of claims against said insolvent filed with....., Assignee (or Receiver).

No. of Claim	Name of Creditor	Residence.	If Known No. | Street	Amount of Claim	When Presented. M.	D.	Y.	Amount of Claim Allowed.	Amount of Claim Disallowed	Agent or Attorney Presenting Claim and Residence	Remarks

RULE 7.

An appeal to the court may be taken by the insolvent from the action of the assignee or receiver allowing any claim against such insolvent. An appeal may also be taken by any creditor whose claim has been allowed by the assignee or receiver, from the action of such officer allowing the claim of any other creditor of the insolvent.

RULE 8.

All such appeals shall be taken within twenty days after filing the list of claims provided for in rule 6, and shall be so taken by serving written notice thereof upon the assignee or receiver, and upon the creditor from the allowance of whose claim the appeal is taken. Such notice, with proof of the service thereof, shall within five days after such service be filed in the office of the clerk of the court, and, if not so filed, the appeal shall be deemed and held to be abandoned. Such appeals shall be tried as civil actions.

If such appeal be not noticed for trial and placed upon the calendar by the appellant at the first general term of the court appointed to be held within the county, not less than twenty days after the taking of the appeal, the adverse party may have the same entered upon the calendar during that or some succeeding term, and have such appeal dismissed, or the action of the assignee affirmed.

RULE 9.

Upon any appeal, the pleadings shall be the same as in civil actions. The first pleading shall be the complaint of the claimant, which shall be filed in the office of the clerk of the court, and a copy thereof served upon the adverse party, within five (5) days after service of the notice of appeal. If subsequent pleadings have not been made before the first day of the term, the court shall fix the time within which the same shall be made.

RULE 10.

The assignee or receiver shall, so soon as he shall have converted all of the assigned property into money, and after the expiration of the time limited for filing releases, make to the court a full report and account of all moneys received and expenses incurred by him in the execution of his trust; which expenses shall be itemized, and which report and account shall be filed in the office of the clerk of the court.

Upon the filing of such report and account, the court, upon application of the assignee or receiver, or of any creditor whose release shall have been filed, or, if releases are not required, then upon application of any creditor whose claim shall have been proved, shall appoint a time and place for the hearing of such report and account, of which notice shall be given as the court may direct, to the insolvent, and to such creditors as have filed releases, or, if no releases are required, then to such creditors as have filed proof of their claims.

Upon such hearing, the court shall disallow or reduce the amount of any item of such expenses which shall be found to have been unnecessary or unreasonable in amount.

When such account is adjusted and allowed, the assignee or receiver shall forthwith distribute the net

amount then remaining in his hands, pro rata, and in proportion to their respective claims, among the creditors entitled to the same, subject to the approval of the court.

RULE 11.

The assignee or receiver shall take duplicate receipts for all disbursements made by him, which receipts shall be plainly marked, the one "Original," the other "Duplicate," and which "original" receipts shall be filed in the office of the clerk of the court. No order discharging any assignee or receiver shall be made until after such original receipts are so filed.

RULE 12.

The fees allowed receivers and assignees shall not exceed, in ordinary cases, 10 per cent. upon the amount received by them up to $1,000; 5 per cent. of the amount in excess of $1,000 and not exceeding $5,000, and 2 per cent. upon the amount received in excess of $5,000. The allowance for attorneys, for all services in ordinary cases, shall not exceed $50 where the estate does not exceed $1,000; $100 where the estate does not exceed $2,000; $150 where the estate does not exceed $4,000, and $200 where it exceeds $4,000. No allowance will be made to the assignee, or his attorney, for drawing the deed of assignment or for making the inventories or schedules thereunder. All such attorney's fees shall be itemized, showing fully each particular service rendered and the sum claimed as compensation therefor.

RULE 13.

Applications for the discharge of assignees or receivers, or for the allowance of their accounts, whether final or otherwise, shall be made upon notice thereof, which shall be published in a newspaper of the county, once in each week for at least three successive weeks prior to the day of hearing, and which shall be served by mail upon the insolvent and upon all creditors entitled to participate in the distribution of the estate, at least twenty days before the time so named for such hearing. Such applications and accounts must be filed before notice is given.

RULE 14.

Applications by creditors for leave to file claims or releases after the time limited by the court therefor has expired, must be made upon affidavit filed, excusing the default, and upon notice of such application served personally upon the assignee or receiver, and by mail upon all creditors who have filed their claims and releases, at least ten days before the hearing.

RULE 15.

Proof of claims and releases shall be substantially in the following forms respectively:

"Proof of Claim.

"State of Minnesota, } ss.
County of ———. }

"District Court, ——— Judicial District.
"In the Matter of the Assignment of ———, Insolvents.

"Proof of Claim of ———

"State of ———, } ss.
County of ———. }

"On this ——— day of ———, A. D. 19—, before me personally came ———, who being by me first duly sworn on his oath doth say that he is one of the members of the firm of ———, which said firm is, and at all times herein mentioned or referred to was, composed of this affiant and ———; that at and before the making of the assignment in this matter by the above-named insolvents (insert name of insolvents) he was (or, they as such copartners were) and now is (are) justly and duly indebted unto the said (anmes of creditors) in the sum of ——— dollars and ——— cents, with interest thereon from and after the ——— day of ———, 19—, for (here insert the true cause and consideration of the indebtedenss), which said sum and interest is due over and above all payments, counterclaims and set-offs whatever. And deponent says that for the said indebtedness the said ——— ha— not nor ha— any person by ——— order, or for ——— use or benefit had, or received any manner of satisfaction or security whatever. That a bill of the items of such merchandise so sold and delivered (or, a copy of said promissory note, or other written evidence of such indebtedness, varying statement as the facts may be) is hereto attached and hereby made a part hereof.

"———.

"Subscribed and sworn to before me this ——— day of ———, A. D. 19—.

Release of Claim.

"State of Minnesota, } ss.
County of ———. }

District Court, ——— Judicial District.
"In the Matter of the Assignment of ———, Insolvents.
"Release.

"Whereas, under and by virtue of the Revised Laws of 1905 of the state of Minnesota, and the several acts amendatory thereof, the above-named insolvents did on the ——— day ———, A. D. 19—, make unto ——— an assignment of all their property and estate for the equal benefit of all their creditors; and whereas, the undersigned (insert names of creditors), creditors of the above-named insolvents, as such creditors, have, under said act, proved ——— claim against said insolvents, which claim has been allowed by said assignee as and for a just claim against said insolvents:

"Now, therefore, (insert names of creditors) the said creditors, in consideration of the benefits to ——— of the provisions of the said act, do hereby release to the said insolvents and debtors, said ———, all claims and demands upon said claim so proved, save and except only such as may be paid to ——— as dividends or otherwise, under the provisions of the said act and assignment.

"In testimony whereof, ——— have hereunto set ——— hand— and seal— this ——— day of ———, A. D. one thousand nine hundred and ———.

"———. [Seal.]
"———. [Seal.]
"———. [Seal.]

Executed and delivered in presence of
"———.
"———.

"State of ———,
County of ———. } ss.

"Be it known that on this ——— day of ———, A. D. 19—, before me personally came ———, ———, and ———, the signers and sealers of the foregoing instrument, and acknowledged the same to be ——— own free act and deed."

RULE 16.

All rules of practice, in so far as the same are applicable, shall govern proceedings in insolvency.

MINNESOTA DISTRICT COURT RULES

ADDITIONAL RULES FOR HENNEPIN COUNTY, FOURTH JUDICIAL DISTRICT.

Revised and Amended, Effective October 1, 1925.

(For District Court Rules in General, see ante.)

RULE 1.

Special terms shall be holden every Saturday (except on holidays), at 10 o'clock in the forenoon. The preliminary call of the calendar will be followed at once by the peremptory call, at which hearing will be had and causes finally disposed of as reached. No hearing will be set down for the afternoon, nor continued beyond the morning session, unless for urgent reasons. Only causes properly on the calendar when the court opens will be heard, unless they have been omitted by mistake or inadvertence of the clerk. All pleadings, orders, notices, affidavits and other papers proper to be filed must be, to entitle them to be read, filed with the clerk before the day on which the special term is held, unless for some reason other than neglect, the paper could not have been sooner filed, or unless the occasion for the use of the paper arises at the hearing from some cause not previously apparent. The strict enforcement of the provisions of this rule may be relaxed in favor of attorneys from other counties.

RULE 2.

Upon the rendering of a verdict of a jury or the filing of a decision by the court in any case no stay of proceedings after the first will be granted without notice to the counsel or consent of counsel for opposite parties.

RULE 3.

(a) Every receiver after his appointment shall forthwith make and file with the clerk an inventory and estimated valuation of the assets of the estate in his hands; and, unless otherwise ordered, appraisers shall then be appointed and their compensation fixed by order of the court.

(b) In all applications for the allowance of fees to assignees, receivers and attorneys, which allowance is asked to be made from the funds of any insolvent estate or estate in the hands of any receiver for settlement, the accounts of said assignees, receivers and attorneys shall be itemized and the amount charged for each item shown; such applications shall be heard by the full bench, or a division thereof consisting of at least three judges, on the last Saturday in each month. Four copies of such account shall be filed with the clerk together with the application. The notices to creditors, stockholders and other persons interested in applications for allowances or compensation shall state the amount of compensation asked for. No Receiver or other Trustee appointed by this court, nor attorneys acting for such Receiver or Trustee, shall withdraw or appropriate any trust funds for services, or to apply on fees for services, except on written order of this court duly made and filed in the proceeding.

(c) When an attorney has been appointed receiver, no attorney for such receiver shall be employed, except upon the order of the Court, which shall be granted only upon the petition of the receiver, stating the name of counsel whom he wishes to employ, the reasons for such employment and the necessity therefor.

(d) Every receiver shall file an annual inventory and report showing the condition of the estate in his hands and a summary of his proceedings to that date.

(e) In any case where an order for compensation to a receiver, or attorneys, would appear necessary or expedient, in the exercise of sound discretion, for the preservation of the estate, pending the next full bench meeting when the matter may be presented, the judge to whom the application is made, may, by written order, make such interim allowance.

RULE 4.

All exhibits offered in evidence shall be placed in the custody of the clerk of the court who shall be responsible for their care and production and delivery to the party to whom the same may belong for a period of 48 hours following a verdict in cases of trial by jury or rendition of decision by the court without a jury. After the expiration of said 48 hours the care and responsibility for such exhibits shall be upon the parties themselves.

RULE 5.

The clerk's fee of $2.00 in civil cases must be paid before the jury is sworn.

RULE 6.

Applications for approval of settlements of actions brought on behalf of a minor child or ward under section 7681, General Statutes 1913 [section 9172, Gen. St. 1923], shall be presented by petition in writing and may be heard ex parte unless otherwise ordered, but will be allowed only upon examination of such minor or of the parent or guardian, and upon satisfactory proof that the settlement is for the best interest of such minor, and upon the execution and filing of such bond as the court may require. Stipulations for judgment in such actions shall be deemed settlements within the meaning of this rule.

Bonds given by parents or guardians ad litem, shall run to the minor as obligee and shall be conditioned that the parents or guardian ad litem duly account for and pay over the sum received by them to the person entitled to receive the same.

As far as practicable the court will require that a general guardian be appointed and the fund turned over to him for administration in the probate court.

RULE 7.

The clerk of this court shall, for each general term thereof, prepare a calendar of civil causes, court and jury, and shall enter upon such calendar: (1) All causes which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other civil causes, originally commenced in the district court, in which notes of issue shall have been filed with said clerk, prior to such term, or during the continuance thereof, as provided by chapter 221, General Laws for 1909 [section 9289, Gen. St. 1923], the same to be so entered in the order of the dates of filing of said notes of issue; and (3) all other actions and proceedings, originally commenced in the district court, or appealed or transferred thereto and required by law to be placed upon said calendar, the same to be entered thereon at the time and in the manner prescribed by law, upon compliance being had with the provisions of the respective statutes, relating thereto, as modified by said chapter 221.

The clerk shall also, for each general term thereof, prepare a calendar, which shall be known as the default divorce calendar, and shall enter therein: (1) Default divorce cases, which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other default divorce cases, in which notes of issue shall have been filed, prior to such term, or during the continuance thereof: Provided, however, that no default divorce case shall be entered for trial at an earlier date than ninety (90) days after note of issue is filed.

RULE 8.

Assignment of Cases. (a) The clerk shall assign a duly appointed deputy clerk from his office to have charge of the assignment of civil cases to the several judges for trial, and such deputy shall be designated as the assignment clerk, and he shall act under the general instructions of the judge presiding in chambers.

(b) It shall be the duty of the assignment clerk to set for trial each day that the court is in session a sufficient number of cases to keep the courts occupied, and he shall be required to have mailed to all attorneys postal cards notifying them as to the day their cases are set for trial, fifteen days in advance.

(c) The clerk shall also assign to each trial court room a deputy clerk who shall be in constant attendance during the sessions of the court, and whose first duty shall be the clerical details of and pertaining to the trial work.

(d) The clerk shall also assign deputy clerks to assist the assignment clerk in such number as from time to time the work may require.

(e) Attorneys shall be required to answer the call of the calendar on the morning of the day their cases are set for trial.

(f) By written consent of all of the attorneys, filed with the assignment clerk before 12 o'clock noon on the day preceding the date such case is set for trial, the case may be reset for the first open date or later date, or dismissed or stricken from the calendar.

(g) In the absence of such stipulation cases may be reset to a later date by application to the judge at chambers, as set forth in rule 9, provided, however, that no such application shall be made later than 12 o'clock noon on the day preceding the date such case is set for trial, and shall be based upon notice of motion or order to show cause. If the judge is satisfied that there is just cause for granting the application for continuance such application shall be decided forthwith by the court.

(h) All cases reported ready for trial shall be placed on the active list, and when the case next in order on such active list is about to be assigned to a court room for trial the assignment clerk shall notify the attorneys by telephone to report at once to the court to whom such case has been assigned for trial.

(i) Attorneys shall be required to keep the assignment clerk informed of their telephone number, and when they have cases on the active list they shall be required to hold themselves within telephone call of their offices, and report to the trial court within fifteen minutes after such notification in person or by representative.

(j) The time at which the assignment clerk has notified the attorneys shall be indicated on the records of the assignment clerk.

(k) Each case in its order shall be assigned by the assignment clerk to a trial court, and thereupon shall be tried, dismissed or stricken, unless for good cause, arising after the closing of court on the preceding day, the case is continued or returned to the assignment clerk. But the cause for continuance under this rule must be entered on the records of the assignment clerk, together with the names of the parties seeking and obtaining such continuance. In subsequent applications for continuance such records shall be examined as to former proceedings, and no case shall be continued or re-set for trial more than three times.

Without any exception save as herein specified cases shall be assigned to the judge trying civil cases who first reports to the assignment clerk that he is ready for a new case; provided, however, that to fill time not otherwise occupied default cases may be assigned out of their regular order to any judge on his request, such cases, however, always retaining their calendar order relative to each other; and provided further, that the judge having the juvenile court assignment may select cases of such probable length as not to interfere with his juvenile court work. Any suggestion made to the assignment clerk, directly or indirectly, to vary from strict compliance with the foregoing shall be promptly reported to the judge presiding in chambers.

(l) All pleadings must be on file in the office of the clerk of the district court, as provided in additional rule 12 of this court, before any case is assigned for trial under penalty of dismissal, continuance, striking from the calendar or such other terms as the court may see fit to impose.

(m) Cases will not be assigned when any attorney therein is actually engaged in another court.

(n) When an attorney has a case on the active list and is actually engaged in another court he shall notify the assignment clerk, and cases in which he is attorney shall be taken from the active list and held in order until such attorney is released from the case in which he is then engaged. Immediately upon becoming released from such case the attorney shall notify the assignment clerk and such cases as are held and are ready for trial shall then be placed again on the active list and sent to the court for trial in regular order.

(o) When a case is reached for trial and a jury is not available the assignment clerk may assign a court case. When juries are available, jury cases shall be given such preference as may be deemed expedient.

(p) When a case is assigned for trial it must be

ready for immediate trial. All motions, demurrers or other proceedings as to pleadings shall be heard prior to the time of trial by the court in chambers.

(q) When a trial is for good reason interrupted and the case is to be returned to the assignment clerk, he shall make such record of its return and forthwith place such case again upon the calendar for trial, for such date as the court may direct.

(r) When the parties to any suit which has reached the active list have settled or dismissed the same, the attorneys shall at once notify the assignment clerk and cause an entry of such settlement or dismissal to be made and entered upon the records.

RULE 9.

Application for the re-setting of any cause shall be made to the court not less than eight (8) days prior to said date of trial except for reasons arising within said period of eight (8) days. Such application shall be made upon affidavit and written notice, served upon opposing counsel at least two (2) days prior to the hearing. When the reason for the application arises within the said period of eight (8) days, an order to show cause shall be applied for with reasonable promptness. Applications for re-settings will be granted only upon a legal showing which would, under the practice heretofore existing, have entitled the moving party to a continuance.

RULE 10.

Divorce cases, in which the time for answering has expired, and default has been made, and in which the summons and complaint, with proof of service thereof, have been filed with the clerk, shall, upon filing with the clerk a note of issue, containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon the calendar and set for trial as provided for in rule 7.

RULE 11.

All causes, other than divorce and tax cases, requiring the taking of testimony, in which the time for answering has expired and default has been made, and in which the summons and complaint, with proof of service, have been filed with the clerk, shall, upon filing with the clerk a note of issue containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon a special calendar and set for trial at chambers or special term for such date as may be specified by the party filing the note of issue.

RULE 12.

In all cases the party filing a note of issue shall at the same time file such of his pleadings and other papers that have been served by him in the cause as have not been theretofore filed. All other parties to the cause shall file their pleadings and other papers served by them forthwith upon receipt of the notice of the date of trial.

RULE 13.

In civil cases called for trial by jury the court shall at the request of any party to the action direct the clerk to draw eighteen names from the jury box in the first instance and that the said eighteen shall then be examined as to their qualifications to sit as jurors in the action and if any of said eighteen be excused for any reason whatever, another shall be called in his place until there shall be eighteen jurors in the box qualified to sit in the action; and the parties shall have the right to exercise their peremptory challenges as to these eighteen. When the peremptory challenges have been exercised, of the remaining men the twelve first called into the jury shall constitute the jury.

RULE 14.

In all cases where persons are placed on probation after conviction for crime, such persons shall not be permitted to leave the state of Minnesota without express leave of the court, and leave shall in no case be granted within six (6) months after date of conviction. No motion for permission to leave the state within said period of six (6) months will be entertained.

RULE 15.

Whenever a motion can be made upon notice, an order to show cause will not be granted, except upon showing of some exigency whereby delay for the time prescribed for the notice of motion will cause injury, or render the relief sought ineffectual.

Such exigency must also be stated in the order as ground for shortening the notice, and if on the hearing it appear that there was no such ground, the order may be discharged.

Such order must be accompanied by notice of motion setting forth the grounds on which the relief asked is sought, and substantially in the ordinary form of such notices, except that the time of hearing, if mentioned in the notice, otherwise than by reference to the order, shall be the time fixed by the order, the only scope of the roder in such case being to shorten and fix the time for hearing the motion.

RULE 16.

On sustaining or overruling a demurrer or granting or denying a motion the court will award costs, not exceeding ten dollars, to the prevailing party, which may be absolute or directed to abide the event of the action, in the discretion of the court.

RULE 17.

In taxation of costs in all civil cases a fee not exceeding $10 per day may be allowed for expert witnesses, except under special circumstances such fee may be increased, but not to exceed $25 per day.

REGISTRATION OF LAND TITLES.

RULE 1.

Applications for registration, before they are filed with the clerk, shall be approved as to form by the court or by an examiner of titles, who shall endorse thereon such approval.

RULE 2.

Any attorney representing an applicant shall file with the clerk written authority from the applicant authorizing such attorney to appear for him in all proceedings connected with the registration.

RULE 3.

Orders for the issuance of a summons may be made ex parte on the records and files of the action, and the verified petition of the applicant or his attorney, which petition shall set out the full name and place of residence of each defendant if known, and if not known, the fact shall be stated. Such verified petition shall stand as the affidavit for publication as to all the unknown defendants.

RULE 4.

Applications, answers, affidavits, motion papers, and other written proceedings, shall be filed with the clerk of court, unless the court shall otherwise direct. When a defendant appears and has filed his answer, he shall serve a copy of such answer upon the applicant for his attorney; and thereafter such defendant shall be entitled to notice of all subsequent proceedings.

RULE 5.

The name and address of the applicant or his attorney, shall appear at the bottom of the published summons.

RULE 6.

The summons shall be served upon a defendant residing or found within the state in the manner provided for the service of summons in civil actions in the district court of this state; except that, whenever practicable, such service shall be made by personally handing to and leaving with the defendant a true copy of such summons. In all cases in which there is a defendant who is not a resident of the state, and whose place of residence is known to the applicant or stated in the petition and order for the issuance of a summons, the applicant, or his attorney, shall within fifteen (15) days after the first publication of the summons, file with the clerk a written request requiring him to mail a copy of the summons to such nonresident defendant at his known address as stated in such petition and order. The applicant shall also furnish to the clerk as many printed copies of the summons as there are nonresident defendants to whom copies of the summons must be mailed.

RULE 7.

No land, the title to which is claimed to be based upon a judgment obtained by default, shall be registered until at least one year has elapsed since the date of such judgment, unless in the action in which such judgment was rendered, personal service of the summons was made upon the record owners, legal or equitable, of the land, at the time of beginning said action.

RULE 8.

Decrees entered in proceedings to register title to land in and by which it is adjudged and determined that the title of the applicant to such land is subject to certain liens for tax sales, shall specify each of such liens, and such decree shall provide that whenever the official receipt showing the payment of any such lien or liens, shall be and is filed with the register of titles, he shall cancel the memorial or memorials thereof made by him in pursuance thereto.

RULE 9.

At the time of the application for a decree, the applicant shall produce to the court official statements as to outstanding delinquent taxes.

RULE 10.

When any of the defendants named in the proceedings are minors, a guardian ad litem for such minors shall be appointed by the court in the manner provided in section 7679, General Statutes 1913 [section 9170, herein].

RULE 11.

When the applicant in any registration proceedings seeks to establish boundary lines, he shall furnish the examiner with properly certified abstracts of title to any adjoining lands affected by such proceedings. Before any final decree of registration is made in such proceedings, the court shall make an order locating the boundaries of the land described in the application, and directing the establishment of permanent landmarks, as provided in section 8097, General Statutes 1913 [section 9592, herein].

RULE 12.

All hearings upon applications for registration where no answer has been filed, shall be had before the court at special terms thereof on Wednesday of each week, and note of issue, together with all other papers relating to such registration, shall be filed with the clerk on or before the preceding Monday. During vacations, hearings shall be had before the court, at chambers, on such days of the week as the court may determine, and the note of issue and all other papers shall be filed with the clerk at least three (3) days before the hearing.

The examiner appointed by the court shall be present at all such final hearings, except as otherwise ordered, and shall take part therein for the purpose of examination of the witnesses and the evidence presented, and for such other purposes as the court may direct; and such examiner shall, prior to such hearing, examine into the sufficiency of all papers filed in such matter.

In all cases where an answer is filed and not otherwise disposed of by order of the court, notice of trial shall be served and note of issue for the general term of court as in civil actions.

RULE 13.

All proceedings subsequent to the initial registration, necessary under chapter 65, General Statutes 1913 [or 1923], shall be independent of the original proceeding for registration, and shall be entitled: "In the Matter of the Application of ——— for the (stating relief prayed for)."

RULE 14.

Petitions in proceedings subsequent to the initial registration, shall be addressed to the judges of the district court of Hennepin county, and shall be filed with the clerk, who shall enter the same in the special register kept for that purpose. The applicant shall present the petition to the court and the same may be referred to the examiner who shall examine into the truth of the allegations of the petition and shall report

to the court what proceedings, if any, in his opinion are necessary, and what persons, if any, should be given notice. If the court is satisfied from the report of the examiner, or otherwise, that all the persons interested in the petition have joined therein, the court, after hearing the proof in support of the allegations of the petition, may make such findings and order as it shall deem best without any other or further notice. If it shall appear from such report, or otherwise, that notice should be given of the proceedings to any person or persons, the court may make its order to show cause why the relief prayed for in the petition should not be granted, and directing the service of such order upon such person or persons, in such manner as the court may direct, and fixing the time of hearing. Upon the return of the order, the court shall hear the proof of the allegations in support of the petition, and shall make such findings or order in the premises as it shall deem proper. A certified copy of the order or decree of the court shall be filed with the registrar of titles.

RULE 15.

In proceedings under Section 6911, General Statutes 1913 [section 8290, herein], to procure the issuance of a new duplicate certificate in place of a lost duplicate certificate, the verified petition of the applicant shall be made in duplicate, and one filed with the clerk and one with the registrar of titles.

RULE 16.

In the following cases the special order of the court need not be required, unless it shall be requested by the registrar or examiner.

(a) When the inchoate interest of a spouse of the registered owner has been terminated by death, the registrar may receive and enter as a memorial a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse; and in case such deceased spouse is a joint tenant, the registrar may issue a new certificate to the survivor or survivors in joint tenancy.

(b) When the registered owner has married since the issuance of the certificate, the registrar may receive and enter as a memorial a duly certified copy of the marriage license and return.

MINNESOTA DISTRICT COURT RULES

ADDITIONAL RULES FOR RAMSEY COUNTY, SECOND JUDICIAL DISTRICT

Revised and Amended, Effective January 1, 1925

(For District Court Rules in General, see ante.)

I. ACTION FOR MINORS UNDER SECTION 7681 OR SECTION 7678, GENERAL STATUTES 1913 [Section 9172 or Section 9169, herein].

RULE 1.

Settlement—Guardian ad Litem—Bond. In making application for the approval of a settlement of any action brought on behalf of a minor child or ward, the parent or guardian ad litem shall present to the court;

A verified petition stating the age of the minor, the nature of the action, if for personal injuries, to what extent the minor has recovered therefrom, the reasons justifying the proposed settlement, the expenses which it is proposed to pay out the amount to be received, and the nature and extent of the services rendered by the attorney representing the minor;

Satisfactory proof that the settlement is for the best interests of the minor;

If the action be for personal injuries, an affidavit of the attending physician showing the nature, extent and probable duration of the injuries caused by the accident and the extent of the recovery which has been made therefrom at the time of the presentation of the application.

The minor shall appear before the court at the time the application is made, and no order approving any settlement shall be made under any circumstances where the action is one for personal injuries until the court has seen and has had an opportunity to examine such minor.

Before any parent or guardian ad litem in any such action shall receive any money he shall file a bond in an amount and with such sureties as shall be approved by the court, running to the minor as obligee and conditioned that he will duly account for and pay over the sum received for the benefit of said minor to said minor upon his coming of age or to his general guardian during his minority, if one shall be appointed.

In all cases where it is practicable a general guardian shall be appointed and the funds turned over to him for destribution in the probate court. Application for approval of all such settlements shall be made ex parte unless otherwise ordered.

(Amendment of March 28, 1924.)

Fees of Attorneys. In applications for approval of settlement of actions brought under section 9169 or section 9172, General Statutes 1923, on behalf of a minor child or ward, when settlement is approved by the court, attorneys fees will not be allowed in an amount in excess of twenty-five per cent. of the recovery.

(Adopted June 13, 1925.)

RULE 2.

Stipulations for judgments in such actions shall be deemed settlements within the meaning of this rule.

(Adopted December 17, 1907.)

ACTIONS UNDER SECTION 8175, GENERAL STATUTES 1913 [Section 9657, herein].

RULE 3.

Distribution—Petition—Notice—Hearing. Every application by an executor or administrator for an order for the distribution of funds recovered under section 8175, General Statutes of 1913 [Gen. St. 1923, § 9657], shall include an application for a settlement of the account of such executor or administrator relative to said fund, and shall be by verified petition, which petition shall set forth the amount received and a detailed statement of expenditures, if any, and if an allowance is claimed for services of the executor or administrator or the services of an attorney, the nature and extent of such services and the amount claimed shall be set forth. Said petition shall also set forth the names, places of residence and post office addresses of the widow and next of kin of the deceased and of all other persons interested, so far as known to the petitioner; whether any and which if any of the next of kin are

minors; the amount of the funeral expenses of deceased and the name of the person or persons with whom such expenses were incurred, and whether said expenses have been paid; whether the time for allowance in Probate Court of Claims or demands for support of the deceased has expired and whether any allowance for such support has been made by said court; and said petition shall not be heard until the time for allowance of such claims or demands by said court has expired.

Upon filing of such petition the court shall by order fix the time for the hearing thereof. Notice of such hearing shall contain a brief statement of the facts set forth in the petition and shall be published once in each week for three successive weeks prior to the day of hearing, in a legal newspaper published in Ramsey county and shall be personally served on all persons interested within the state at least twenty days before the hearing. If any person interested is a minor and has a general guardian, personal service shall also be made upon such guardian.

The court may at any time direct further or other notice to be given.

If any person interested is a minor for whom a general guardian has not been appointed, the court shall appoint a guardian ad litem for such minor before the hearing takes place.

(Amendment to rule of April 29, 1909. Adopted Nov. 25, 1924.)

BASTARDY PROCEEDINGS—NOTICE.

RULE 4.

State Board of Control. Upon certification to and filing of record in the district court of any bastardy proceeding, the clerk of the district court shall immediately notify by mail the state board of control, of the pendency of such proceeding, and such case shall not be heard either upon plea of guilty or not guilty until at least ten days after such service of said notice.

(Adopted April 5, 1918.)

CALENDAR OF CAUSES.

RULE 5.

How Entered. The clerk of this court shall, for each general term thereof, prepare a calendar of civil causes triable by the court, without a jury, and, also, a calendar of civil causes triable by a jury, which shall be known, respectively as the court calendar and the jury calendar, and shall enter in the appropriate calendar (1) all causes which shall have been continued to such term in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other civil causes originally commenced in the district court, in which notes or issues shall have been filed with said clerk prior to such term, or during the continuance thereof, as provided by section 7793, General Statutes, 1913, as amended by chapter 6, General Laws 1917 [Gen. St. 1923, § 9289], the same to be so entered in the order of the date of filing of said notes of issues; and (3) all other actions and proceedings originally commenced in the district court or appealed or transferred thereto and required by law to be placed upon said calendar, the same to be entered thereon at the time and in the manner prescribed by law upon compliance being had with the provisions of the respective statutes relating thereto as modified by said section. (Adopted Sept. 13, 1917.)

RULE 6.

Cases—Setting—Notice. Causes so entered shall be set for trial in the order in which they stand upon the calendar, except as herein provided and except as otherwise provided by statute, or by special order of this court, and may be set for any date except Saturdays, Sundays, legal holidays, and the two calendar weeks in which Christmas and New Years occur, respectively. The dates of trial shall be fixed by the clerk, subject to the requirements of the statute and subject, also, to the direction and order of the court, as follows: At least fifteen (15) days before the opening day of the annual term the clerk shall set causes for trial for the first two weeks of said term, eight jury causes and five court causes being set for each trial day (in addition to divorce causes), and notices, stating the date of trial, shall forthwith be mailed by the clerk to all counsel in each cause, respectively. At least fifteen (15) days before the first trial day of the third calendar week of said annual general term causes shall be set for the second period of two weeks of said term in like manner, and the usual notices mailed, and so on for each succeeding period of two weeks, until the last day of June, except that a less or greater number of causes than above specified may be set for any two weeks period whenever it may seem expedient to do so in order to avoid unnecessary congestion or delay in the work of the court.

Not more than two causes represented on either side by the same attorney or firm of attorneys shall be set for the same day, and rule 5 of this court is modified accordingly.

(Adopted September 13, 1917.)

RULE 7.

Cases—Resetting. Application for the re-setting of any cause shall be made to the court not less than eight (8) days prior to said date of trial, except for reasons arising within said period of eight (8) days. Such application shall be made upon affidavit and written notice, served upon opposing counsel at least two (2) days prior to the hearing. When the reason for the application arises within the said period of eight (8) days, an order to show cause shall be applied for with reasonable promptness. Applications for resettings will be granted only upon a legal showing which would, *under the practice heretofore existing, having entitled* the moving party to a continuance.

(Adopted July 2, 1917.)

RULE 8.

Costs on Demurrer or Motion. On sustaining or overruling a demurrer or granting or denying a motion the court will award costs, not exceeding $10, which may be absolute or directed to abide the event of the action, in the discretion of the court.

(Adopted November 25, 1924.)

CRIMINAL CASES.

RULE 9.

Transcript Narrative Form — No Charge Against County for Transcripts Furnished Counsel. The synop-

sis required under sections 9298 and 9299. Laws of 1913 [Gen. St. 1923, §§ 10797, 10798], shall be furnished in condensed narrative form by the stenographer acting on the trial. Carbon copies thereof shall be furnished without charge to the court acting on the trial and the county attorney. No charge of any kind against the county shall be permitted for copies of transcripts of the testimony of witnesses furnished by said stenographer to counsel for either side during or after trial and attached for convenience of the stenographer as a part of said synopsis required by statute.

(Adopted December 15, 1923.)

DIVORCE CASES.

RULE 10.

Default—Setting. Divorce cases in which the time for answering has expired and default has been made and in which the summons and complaint with proof of service have been filed with the clerk, shall upon filing a note of issue containing the title of the cause, a statement of the foregoing facts and the address of counsel, be placed upon the court calendar in their order and set for trial for Monday of each week.

(Adopted December 11, 1924.)

EXHIBITS.

RULE 11.

Custody. Unless otherwise directed by the court, the exhibits used upon the trial of causes shall be placed in the custody of the court reporter.

When a jury agrees upon a verdict and the verdict is sealed, the bailiff in charge shall before the jury separates take possession of the exhibits sent out with the jury, and immediately upon the reception of the verdict by the court he shall deliver them to the reporter; in case the verdict is not sealed the bailiff immediately upon the reception of the verdict shall take possession of the exhibits and deliver them to the reporter.

(Adopted April 26, 1907.)

RULE 12.

Disposition. At the expiration of a period of six months from and after the final determination of any cause tried in said court, the court reporter shall, in writing and by mail, notify and require the attorneys who have been engaged in such cause to forthwith remove from his office and custody, and from the custody of the court, any exhibits (not a part of the permanent record) offered in such cause by and on behalf of and belonging to the parties for whom they have appeared respectively therein; and unless such exhibits are so removed within thirty days from and after such giving of such notice, the court reporter may and shall destroy or otherwise dispose of them, as he may see fit.

From and after the date of this order all exhibits offered in any cause tried in said court shall be offered and received conditionally and subject to the right of destruction or other disposition, in accordance with the terms of this rule.

(Adopted September 21, 1915.)

JURY.

RULE 13.

Empaneling. When a civil action is called for trial by jury, the clerk shall draw eighteen names from the box in the first instance, and the said eighteen shall then be examined as to their qualifications to sit as jurors in the action. If any of said eighteen be excused for any cause, another shall be called in his place so that there shall be eighteen jurors in place qualified to sit in the action when the parties are required to exercise their peremptory challenges. When the peremptory challenges have been exercised, of those remaining, the twelve first called shall constitute the jury.

Provided, that when there are twelve or more and less than eighteen jurors available at the time the case is called, the clerk shall draw the names of those available, and the examination of the jurors so drawn shall be made, but no party shall be required to exercise his peremptory challenges until the full number, eighteen jurors qualified to sit in the action, shall have been drawn.

(Adopted February 13, 1912.)

JURORS.

RULE 14.

Summoned for Term Day. It is ordered that the petit jurors for the first two weeks in the January general term of this court in the year 1913 be summoned for the first day of the said term, and that the petit jurors for the first two weeks for each subsequent general term be summoned for the first day of such subsequent term.

(Adopted December 18, 1912.)

JUVENILE COURT.

RULE 15.

Woman Assistant — Probation Officer — Referee — Duties. A woman assistant of the probation officer shall be designated as a referee by the judges of this court to investigate all cases involving immorality or improper conduct on the part of girls coming before the juvenile branch of this court. She shall examine any such girl brought before the court and shall appear with her before the judge thereof and shall make such report to him and perform such other duties as the court may require.

(Adopted March 8, 1924.)

NATURALIZATION HEARINGS.

RULE 16.

Pursuant to the provisions of section 6 of the Naturalization Act of June 29, 1906, it is hereby

Ordered and ruled by the court that the following days be and they are hereby fixed as the stated days on which final action shall be had upon all petitions for naturalization:

The third Wednesday of each month (except July, August and September), in each odd-numbered year.

The third Wednesday in each of the months of January, February, March, May, June, November and December, and the last Wednesday in the month of July in each even-numbered year.

Whenever any of such stated days falls on a legal holiday, such final action shall be had on the following day.

This order to be in force from and after its filing, until further order.

(Adopted November 14, 1919.)

ORDER TO SHOW CAUSE.

RULE 17.

Whenever a motion can be made upon notice, an order to show cause will not be granted, except upon showing of some exigency whereby delay for the time prescribed for the notice of motion will cause injury, or render the relief sought ineffectual.

Such exigency must also be stated in the order as ground for shortening the notice, and if on the hearing it appear that there was no such grounds, the order may be discharged.

Such order must be accompanied by notice of motion setting forth the grounds on which the relief asked is sought, and substantially in the ordinary form of such notices, except that the time of hearing if mentioned in the notice otherwise than by reference to the order, shall be the time fixed by the order, the only scope of the order in such case being to shorten and fix the time for hearing the motion.

(Adopted November 25, 1924.)

SPECIAL TERMS.

RULE 18.

A special term of this court shall be held each Saturday that is not a legal holiday, at 10 o'clock in the forenoon, except during the months of July, August and September.

(Adopted March 19, 1924.)

TRIAL.

RULE 19.

Time for Argument. In the argument of any case, neither counsel will be allowed more than one hour.

(Adopted December 18, 1912.)

WORKMEN'S COMPENSATION.

RULE 20.

Note of Issue. Hereinafter in all actions for the recovery of compensation under the Workmen's Compensation Law, the plaintiff shall file with his order of the court fixing the day of trial, a note of issue, for the information of the clerk, stating that the action is under the Compensation Law, and the date which the court has fixed for the trial thereof.

Upon receipt of such note of issue it shall be the duty of the clerk to place such cause upon the calendar of court cases for the day fixed in the court's order of hearing.

(Adopted November 20, 1917.)

REGISTRATION OF LAND TITLES.

RULE 21.

Application—Approval by Examiner. Applications for registration, before they are filed in the clerk's office, shall be approved as to form by an examiner of titles, who shall endorse thereon such approval, and the clerk shall not receive any application without such endorsement.

RULE 22.

Summons—Petition—Order. Orders for the issuance of summons may be made ex parte on the records and files in the action and a verified petition of the applicant or his attorney, which petition shall set out the full name and place of residence of each defendant, if known, and if not known, it shall be so stated.

RULE 23.

Summons—Manner of Service in State. Upon defendants residing or found within the state the summons shall be served by the sheriff of the county wherein the defendant resides or is found. Wherever practicable such service shall be made by personally handing to and leaving with defendant a true copy of such summons. If such service cannot well be made, then the sheriff may make return of said summons showing why such service cannot well be made and the court may order service thereof by leaving at the house of defendant's usual abode as in other cases.

(Adopted June 27, 1911.)

RULE 24.

Summons—Manner of Service out of State. When the defendant is not a resident of the state and cannot be found therein, of which a return of the sheriff of the county in which the proceeding is pending that such defendant cannot be found in said county shall be prima facie evidence, the applicant shall cause the summons to be personally served on said defendant at his place of residence or wherever he can be found, if such personal service is practicable. Such service shall be made in the same manner, as if made in the state, save that it need not be made by an officer, the proof thereof shall be made by the affidavit of the person making the service, stating the time, place and manner of the service, which affidavit shall be taken before the clerk of any court of record, or a notary public or other officer having a seal and authorized to administer oaths or take acknowledgments in the state where such service was made. Such personal service out of the state shall be in addition to the service by publication and mailing required by law. If such personal service is impracticable and cannot well be made, the applicant or his attorney shall make and file an affidavit setting out the facts in that regard before any order is made confirming applicants' title.

(Adopted June 27, 1911.)

RULE 25.

Papers to be Filed—Answer, How Served—Defendant's Right to Notice. Applications, answers, affidavits, motion papers and other written proceedings shall be filed with the clerk, unless the court shall otherwise direct.

When a defendant appears and files his answer, he shall serve a copy of such answer upon the applicant and thereafter shall be entitled to notice of all subsequent proceedings.

RULE 26.

Title From Tax or Assessment Sale Not to be Registered Within One Year After Judgment—Exception. No land, the title to which is derived from any tax or local assessment sale shall be registered until at least

one year has elapsed since the date of the decree, by which such title has been adjudged to be valid unless in said action to determine the validity of said tax or local assessment sale or in the action to register the title to such land personal service of the summons was made upon the person or persons who could alienate the fee title.

RULE 27.

Decree Shall Specify Liens for Tax or Local Assessments, and Require Memorials Thereof to be Canceled by Registrar Upon Filing Receipt. Decrees entered in proceedings to register the title to land, in and by which it is adjudged and determined that the title of the applicant to such land is subject to certain liens for tax or local assessment sales, shall specify each of such liens and such decree shall provide that whenever the official receipt showing the payment of any such lien or liens shall be and is filed with the Registrar of Title, he shall cancel the memorial, or memorials, thereof made by him in pursuance thereto.

(Adopted June 27, 1911.)

RULE 28.

Abstract to be Certified to Date of Application for Decree—Statement of Local Assessments and Delinquent Taxes. At the time of the application for a decree, the applicant shall produce to the court a certificate of a competent abstractor indicating instruments, if any, affecting the title of the land desired to be registered, which shall have been filed for record in the office of the register of deeds since the date of the last certificate on the abstract filed in the matter. At the same time, the applicant shall also produce official statements as to outstanding local improvement assessments and delinquent taxes.

(Adopted June 27, 1911.)

RULE 29.

Title of Proceedings. All proceedings taken in this court subsequent to the initial registration and necessary under either of paragraphs 3412, 3413, 3426, 3427, 3429, 3435, 3436, 3437, 3438, 3439 and 3441. Revised Laws 1905, sections 6911, 6912, 6925, 6926, 6928, 6934, 6935, 6936 6937. 6938, 6940, Gen. Statutes 1913 [Sections 8290, 8291, 8304, 8305, 8307, 8313, 8314, 8315, 8316, 8317, 8319, herein], shall be entitled, "In the matter of Application of ——— for the issuance to him of a Certificate of Title for Lot ———, Block ———, of ———, in lieu and in place of a certificate number ——— originally registered by decree entered in file number ———."

(Adopted June 27, 1911.)

PROCEEDINGS RELATING TO CERTIFICATES.

RULE 30.

Lost Duplicate, New, Amendment, Affecting Trust Deeds, Adverse Claims, or Eminent Domain—Petition, Approval, Notice, Decree. In proceedings necessary under the paragraphs referred to the preceding rule, being Sections No. 6911, 6912, 6925, 6926, 6928, 6934, 6935, 6936, 6937, 6938 and 6940, General Statutes of Minnesota 1913 [Sections 8290, 8291, 8304, 8305, 8307, 8313, 8314, 8315. 8316, 8317, 8319, herein], the petition for relief shall, before it is brought to the court, be first presented to the examiner of titles for approval, who shall endorse his approval thereon. The examiner shall make such examination as to the truth of the statements contained in such petition as to him may seem necessary, or as he may be directed by the court. The final order or decree made in such matters shall, before it is presented to the court, be approved as to form by the examiner. In all such proceedings the registrar shall be made a party. Also, two weeks published notice shall be given of hearing of an application for the issuance of a new certificate in place of one lost, destroyed, or which cannot be produced, the last publication to be at least seven days prior to the date of hearing of such petition.

(Adopted June 24, 1918.)

RULE 31.

Hearings—Note of Issue—Filing Papers. Initial applications and proceedings subsequent to the initial application where no issue has been raised, shall be heard by the court at special term. All such matters shall be upon a special calendar, which shall be called at 10 a. m. In the months of July, August and September such hearings shall be had at such times as the court shall determine. During the term time note of issue and all necessary moving papers shall be filed at least three days before the hearing. The examiner shall attend all hearings and participate in the same. He shall advise the court and approve all orders and decrees as requested. This rule shall become operative February 1, 1924.

(Amended November 25, 1924.)

RULE 32.

Storing Duplicate Certificates. The registrar of titles is hereby authorized to place in storage in a suitable place in the court house at St. Paul, Minnesota, all duplicate certificates of registration of title that have been canceled five years or more.

(Adopted December 15, 1923.)

RULE 33.

Assignment Clerk. (a) The clerk shall assign a duly appointed deputy clerk from his office, to have charge of the assignment of civil jury cases to the several judges for trial. Such deputy shall be designated as the assignment clerk and shall act under the general instructions of the judge presiding at jury call.

(b) It shall be the duty of the assignment clerk to set for trial each day that the court is in session a sufficient number of cases to keep the courts occupied, and shall be required to have mailed to all attorneys postal cards notifying them as to the days their cases are set for trial at least fifteen days in advance, as per rule 6.

(c) The clerk shall assign deputy clerks to assist the assignment clerk in such number as from time to time the work may require.

(d) Attorneys shall be required to answer the call of the calendar on the morning of the day their cases are set for trial.

(e) Application for resetting of any cause shall be made to the court in chambers, as per rule 7.

(f) All cases reported ready for trial shall be placed on the active list, and when the case next in order on such active list is about to be assigned to a court room for trial the assignment clerk shall notify the attor-

neys by telephone to report at once to the court to whom such case have been assigned for trial.

(g) Attorneys shall be required to keep the assignment clerk informed of their telephone number, and when they have cases on the active list they shall be required to hold themselves within telephone call of their offices, and report to the trial court within fifteen minutes after such notification in person or by representative.

(h) The time at which the assignment clerk has notified the attorneys shall be indicated on the records of the assignment clerk.

(i) Each case in its order shall be assigned by the assignment clerk to the trial court next ready for a case and thereupon shall be tried, dismissed, or stricken, unless for good cause, arising after the closing of court on the preceding day, the case is continued or returned to the assignment clerk. But the cause for continuance under this rule must be entered on the records of the assignment clerk together with the names of the parties seeking and obtaining such continuance. In subsequent applications for continuance such records shall be examined as to former proceedings and no case shall be continued or reset for trial more than three times.

(j) In all cases the party filing a note of issue shall at the same time file such of his pleadings and other papers as have been served by him in the cause as have not been theretofore filed. All other parties to the cause shall file their pleadings and other papers served by them forthwith upon receipt of the notice of the date of trial. All pleadings must be on file in the office of the clerk of the district court aforesaid, before any case is assigned for trial, under penalty of dismissal, continuance, striking from the calendar, or such other terms as the court may see fit to impose. If defendant has failed to comply with this rule by the time the case reaches the clerk for assignment, it shall be assigned and tried as a default case.

(k) Cases will not be assigned when any attorney therein is actually engaged in another court in a trial.

(l) When an attorney has a case on the active list and is personally engaged in actual trial in another court, he shall notify the assignment clerk, and cases in which he is such attorney shall be taken from the active list and held in order until such attorney is released from the case in which he is then engaged. Immediately upon becoming released from such case the attorney shall notify the assignment clerk and such cases as are held and are ready for trial shall then be placed again on the active list and sent to the court for trial in regular order.

(m) When a case is assigned for trial it must be ready for immediate trial. All motions, demurrers or other proceedings as to pleadings shall be heard prior to the time of trial at special term.

(n) When a trial is for good reason interrupted and the case is to be returned to the assignment clerk, he shall make such record of its return and forthwith place such case again upon the calendar for trial, for such date as the court may direct.

(o) When the parties to any suit which has reached the active list have settled or dismissed the same, the attorneys shall at once notify the assignment clerk and cause an entry of such settlement or dismissal to be made and entered upon the records.

(Adopted October 10, 1925.)

RULE 34.

Judgments and Orders—Ex Parte Application. No order or judgment shall be granted ex parte unless there shall be presented with the application therefor an affidavit showing whether any previous application has been made for the order or judgment asked for or for a similar order or judgment; and if there has been a previous application, to what court, or judge, it was made and the determination made thereof and what new facts, if any, are shown upon such subsequent application that were not previously shown. For a failure to comply with the provisions of this rule, the order, or judgment, made on such subsequent application, may be vacated

(Adopted October 29, 1925.)

RULE 35.

Receivers—Extra Counsel—Application. No receiver shall have power to employ more than one counsel, except under special circumstances and in particular cases requiring the employment of additional counsel, and in such cases only upon special application to the court, showing such circumstances by his petition or affidavit, and on notice to the party or person on whose behalf or application he was appointed. No allowance shall be made to any receiver for expenses paid or incurred in violation of this rule.

(Adopted October 29, 1925.)

RULE 36.

Receivers—Sequestration—Application. All motions for the sequestration of the property of corporations, or for the appointment of receivers thereof, must be made in the judicial district in which the principal place of business of said corporation respectively is situated, except that in actions brought by the Attorney General in behalf of the state, when it shall be made to appear that such sequestration is a necessary incident to the action, and that no receiver has already been appointed, a motion for the appointment of one may be made in any county within the judicial district in which such action is triable.

(Adopted October 29, 1925.)

MINNESOTA DISTRICT COURT RULES

ADDITIONAL RULES FOR ST. LOUIS COUNTY, ELEVENTH JUDICIAL DISTRICT

(For District Court Rules in General, see ante.)

It is hereby ordered that the following be and they are hereby adopted and approved as rules of this court, in addition to the rules which are applicable generally to district courts through this state, viz.:

I.

Jury cases will be first tried in their order on the calendar; then court cases will be heard in their order

on the calendar; but on the preliminary call of the calendar the order of trial of cases may be changed by the order of the court upon good cause being shown upon affidavit.

II.

Special terms will be held every Saturday (except on holidays), at 9:30 o'clock in the forenoon, for the hearing of issues of law, applications, motions and all matters except the trial of issues of fact, as provided by a former order of this court.

The preliminary call of the calendar will be followed at once by a formal call, at which hearing will be had in cases in their order in which both parties are ready, and that will be followed at once by the peremptory call, at which hearing will be had and causes finally disposed of as reached.

III.

Divorce cases in which the defendant does not appear will be placed upon the general term calendar upon filing notes of issue with the clerk, as in other cases.

IV.

No default divorce case will be placed upon the calendar or heard at any term of this court unless the default of the defendant shall have been complete at least eight (8) days before the term.

V.

When a jury fails to agree to a verdict in any case and is discharged, the said case shall be placed at the foot of the civil jury calendar for further trial at the same term.

VI.

When judgment is entered in an action upon a promissory note, draft or bill of exchange under the provisions of section 210 of chapter 66 of the General Statutes of 1878, the same being section 5354, General Statutes 1894, such promissory note, draft or bill of exchange shall be filed with the clerk and made a part of the files in said action.

VII.

Rule 29 of the District Court Rules shall as to this court be amended by striking out the words "within ten days after issue joined," and inserting in place thereof the words "five days before the term of court at which the case is set for trial."

VIII.

Attorneys are hereby required to designate upon each and every note of issue filed in the office of the clerk of said court whether the case mentioned therein is triable by the court or by the jury.

IX.

In making up the calendar the clerk of said court will note thereon, in each cause, how said cause is marked on the note of issue, using either the word "court" or "jury," provided that when more than one note of issue is filed and the designation of court or jury is not the same on all of such notes of issue, in which case the clerk may omit such designation from the printed calendar.

X.

The petit jury will not hereafter be summoned to appear until the morning of the first Monday after the first day of the term, and the first, second and third days of the term will be devoted to the calling of the calendar, hearing motions, actions in divorce, ex parte proceedings and such other business as may properly come before it.

XI.

All exhibits, introduced in evidence by any party in the trial of all actions, shall be marked by the stenographer and shall be left in custody of the stenographer until the close of the trial of said cause, and when the trial of any cause is completed, the stenographer shall deliver all exhibits introduced in evidence in each case, to the clerk of the said court, and the said clerk shall cause the same to be filed and kept in a proper and safe place, and shall cause to be made and shall keep a proper index or reference book, wherein shall be kept a list of all such exhibits, with reference to their place of deposit, so that they can be readily found by any parties interested therein, and no person or persons shall be permitted to remove any of such exhibits from such depository, except upon the written order of the court, provided that all attorneys and interested parties shall have an opportunity to examine the same in the office of the said clerk, under reasonable provisions to be provided therefor.

XII.

All pleadings and other papers filed in the office of the clerk of said court in any case, matter or proceeding now or hereafter pending in said court shall be plainly endorsed on the outside thereof with the title of the case, matter or proceeding in which they are so filed, and the name or character of the paper shall be endorsed thereon below the title of said case, matter or proceeding, so that the same may be clearly identified without opening such pleading or other paper, and the clerk of said court will not receive for filing nor file any such pleading or other paper until the same is so endorsed: Provided, however, that this shall not apply to pleadings or other papers filed by attorneys residing in other counties, and in case non-resident attorneys mail or otherwise deliver, to the said clerk papers not so endorsed the clerk shall, before filing, endorse the same as herein provided.

XIII.

All persons other than the person in whose favor a judgment is entered in any action or proceeding, or his successor in interest, or his or their attorney of record therein, who shall apply for the issuing of an execution on such judgment within the period of two years after the entry thereof, and all persons other than the person in whose favor a judgment is entered or his successor in interest, applying for such execution after the expiration of such period, shall produce and file with the clerk of court where such judgment is entered, at the time of making such application, written authority from the owner of such judgment, duly executed and acknowledged by him, and authorizing the person so making such application to appear and act in said matter and to make the same. And no execution shall

issue in such cases until such authority shall be filed as herein provided.

XIV.

In proceedings under chapter 76 of the Statutes of the State of Minnesota for 1878, and the acts amendatory thereof. (Mason's Minn. St., 1927, ch. ——.)

(1) Any creditor of such corporation who desires to become a party to such action so brought and to participate in the benefit of the judgment which shall be rendered in said action, shall file his verified complaint with the clerk of the court, stating his cause, or causes, of action, and attach thereto a verified statement of his account, or copy of the note or notes, bill of exchange, contract or contracts, or other evidence of indebtedness, upon which his cause or causes of action are based.

(2) After the filing of such complaint he shall serve a notice upon the defendant corporation or the receiver if any has been appointed, as the case may be, and the plaintiff, or his, their, or its attorneys, stating that he will at a time and place, not less than 10 days from the date of the service thereof, move said court for an order making him a party to such action.

(3) That upon hearing of said application, the court shall make such applicant a party plaintiff to such action, provided he is entitled upon the face of his complaint, to be made such party.

(4) If there is a defense to such claims or any part thereof the receiver or corporation shall, within 20 days after notice of the filing of such order, serve an answer to said complaint upon said creditor and all the allegations in the complaint so filed by such creditor shall stand and be deemed controverted or denied by each and all of the other defendants, the plaintiff, and all other creditors who shall be made parties to the action.

APPEALS FROM MUNICIPAL COURT OF DULUTH.

And it is further ordered that the following be and they are hereby adopted and approved as the rules of this court governing appeals from the municipal court of the city of Duluth, viz.:

RULE I.

The clerk of this court shall file all cases appealed from the municipal court of the city of Duluth, and enter the same in all respects upon the various required books in his office as other cases in this court are filed and entered.

RULE II.

Appeals from said municipal court will be heard at the special term held on the last Saturday of each month except the month of July, and in case said Saturday shall be a holiday, then on the next succeeding Saturday not a holiday. On such days the hearing on such appeals shall take precedence of regular special term work. Such appeals shall be submitted on typewritten briefs, and, at the option of counsel, upon oral argument not exceeding forty-five minutes upon each side. The appellant may, if he so desires, consume strictly by way of reply not to exceed fifteen minutes of the time allotted to him.

RULE III.

Motions except for orders of course shall be brought on upon notice, and when not made upon the records and files of the court shall be accompanied with the papers on which the same are founded.

RULE IV.

Upon an appeal from a judgment or order the clerk of the municipal court, in addition to the copies of the notice of appeal, judgment roll or order, shall, upon the request of either party to such appeal, and at the expense of the party applying, certify and transmit to this court copies of any papers, affidavits or documents on file in the municipal court in the action in which the appeal is taken, which such party may deem necessary to or proper for the elucidation and the determination of any question expected or intended to be raised on the hearing of the appeal.

RULE V.

If the return made by the clerk of the municipal court is defective, or if all copies of all the orders, papers or records necessary to the understanding of the decision of the case in this court are not certified or transmitted, either party may, on an affidavit specifying the defect or omission, apply to one of the judges of this court for an order that such clerk make a further return and supply the omission or defect without delay.

RULE VI.

Whenever it is necessary or proper in the opinion of any judge of this court that original papers or exhibits of any kind should be inspected in this court on appeal, such judge may make such order for the transmission, safe-keeping and return of such original papers or exhibits in connection with the transcript of the proceedings.

RULE VII.

The appellant shall cause the proper return to be made and filed with the clerk of this court within thirty (30) days after the appeal is perfected. If he fails to do so the respondent may, by notice in writing, require such return to be filed within ten (10) days after the service of such notice; and if the return is not filed in pursuance of such notice the appellant shall be deemed to have abandoned the appeal, and on affidavit proving when the appeal was perfected and the service of such notice and the certificate of the clerk of this court that no return has been filed the court shall make an order dismissing the appeal for want of prosecution.

RULE VIII.

At least three days before the commencement of said special term the party giving the notice of argument shall furnish the clerk with a note of issue containing the title of the action, specifying which party is appellant and which respondent, the names of the attorneys and the parties respectively, and the date of the notice of appeal. The party upon whom such notice of argument is served may also file a note of issue, in form as above described, and the appeal shall then stand for argument the same as if such note of issue

had been filed by the party serving the notice of argument.

RULE IX.

(1) The appellant or party removing the cause to this court shall, at least five days previous to the argument thereof, furnish to each of the judges a copy of the record and his assignment of errors and points and authorities; and within the same time the respondent shall furnish to each of the judges a copy of his points and authorities.

(2) Prefixed to the brief of the appellant, but stated separately, shall be an assignment of the errors intended to be urged. Each specification of error shall be separately, distinctly and concisely stated, without repetition, and they shall be numbered consecutively. When the error specified is that the finding of the court below is not sustained by the evidence, it shall specify particularly the finding complained of.

(3) The points and authorities of the appellant shall contain a concise statement of the case so far as necessary to present the questions involved and shall state separately the several points relied on for reversal of the order or judgment of the court below, with the list of authorities to be cited in support of the same.

RULE X.

Motions in causes on the calendar to strike from the calendar, or to dismiss, affirm or reverse, may be orally noticed in open court and will be heard at the special term at which the said cause will be heard.

RULE XI.

Within thirty (30) days after the appeal is perfected the appellant shall deliver to the adverse party a copy of the record and of his assignment of error and points and authorities; and within ten (10) days after such service, the return being filed, the respondent shall furnish the appellant a copy of his points and authorities.

RULE XII.

In cases where it may be necessary for the court to go into an extended examination of the evidence each party shall add to the copies of his points furnished the court the leading facts which he deems established with reference to the portions of the evidence where he deems the proof of such facts may be found; and the court will not hear an extended discussion upon a mere question of fact.

RULE XIII.

Either party may apply to the court for an order of affirmance or reversal, or for a dismissal, as the case may be, if either party shall neglect to appear and argue or submit the cause or shall neglect to furnish and deliver records or copies thereof or points, as required by these rules.

RULE XIV.

Upon the reversal, affirmance or modification of any order or judgment of the municipal court by this court, or upon the dismissal of any appeal, there shall be a remittitur to the municipal court. The remittitur shall be transmitted by the clerk immediately upon the expiration of the period of thirty days after written notice to the losing party of the order of the court upon such appeal, except in case of a dismissal under rule 7 or 13, in which case the remittitur shall be issued and transmitted at once. But the clerk shall not be required to transmit such remittitur until his fees therefor have been paid. The clerk shall attach to such remittitur certified copies of all orders made and proceedings had upon appeal, and at the time of transmitting such remittitur said clerk shall transmit to the clerk of the municipal court the record theretofore transmitted to him by said municipal court clerk.

RULE XV.

Costs in all cases shall be taxed in the first instance by the clerk upon two days notice, and judgment entered therefor, subject to the review of the court. The taxation by the clerk will be reviewed by the court upon five days notice at the next term of this court for hearing appeals occurring not more than five days after such taxation. The court will only review the items objected to, and upon the grounds specified, before the clerk.

RULE XVI.

The records, the assignments of errors and briefs shall be neatly and legibly typewritten on white writing paper, properly paged at the top and bound in book form.

RULE XVII.

Applications for re-hearing shall be made ex parte on petition setting forth the grounds on which they are made and filed within five days after notice of the decision.

DISTRIBUTION OF FUNDS RECEIVED AS DAMAGES ON ACCOUNT OF WRONGFUL DEATH.

(Eleventh Judicial District)

It is hereby ordered that the following be and they are hereby adopted and approved as rules of this court governing the distribution of funds received as damages on account of wrongful death:

Whenever there is a fund for distribution arising under Revised Laws 1905, section 4503, as amended [Section 9657, herein], of which the court has jurisdiction, the procedure shall be as nearly as may be as follows:

I.

An application for distribution may be made by the executor or administrator, upon a verified petition, filed with the clerk of the court in the action in which a recovery was had or a settlement was made; or if a settlement was made without the commencement of an action, a case shall be opened under an appropriate title, in which the petition and all papers in connection with the proceeding shall be filed.

II.

The petition shall state:

1. The official capacity of the petitioner, and the time when and by whom appointed.

2. The date of death of decedent, his residence, in whose employ he was at the time of receiving the injuries resulting in his death, and a brief description of the manner in which such injuries were received.

3. The amount which has been received, and whether upon judgment or by settlement.

4. All expenses incurred by the executor or administrator and his attorney in his behalf.

5. The amount, if any, claimed by the executor or administrator, and by his attorney, for services, the nature of the services rendered, and any contract or order of court under which such compensation is claimed.

6. The names of the surviving spouse and next of kin of the decedent, their residences and relationship to the decedent.

7. Whether the probate court has determined who are the heirs of the decedent, and if so, their names, places of residence and relationship as so determined.

8. Whether any of the beneficiaries are minors, and if so, their names and ages.

9. Whether any of the beneficiaries are not English speaking and if so, their names.

10. Whether any funeral expenses or demands for the support of the decedent have been presented to or allowed by the probate court, whether the time for presentation and allowance has expired, and whether payment thereof has been made.

11. If one of the beneficiaries is a surviving widow, whether an allowance has been made to her under subsection 1 of section 3653, Revised Laws of 1905 [Section 8726, herein].

III.

Upon the filing of the petition, the court shall fix the time of hearing, which shall be at a date far enough in the future to permit all parties interested to appear and be heard. Such notice may be substantially in the following form:

"Notice.

"(Title of case)

"To ——— [here name all persons known to be interested in the distribution of such fund, including creditors preferred by statute], and all other persons interested in the estate of ———, decedent:

"Pursuant to order of the above named district court duly made and filed in the above entitled matter, notice is hereby given you:

"That the undersigned, ———, as administrator of the estate of ———, decedent, has in his possession a certain sum of money received by him as damages on account of the wrongful death of said decedent.

"That an application has been made to the district court of St. Louis county, Eleventh judicial district of Minnesota, for an order allowing and adjusting all attorneys' fees and other expenses incurred in connection with the collection and distribution of said fund, determining the lawful heirs and next of kin of the decedent and other persons entitled to share in the distribution of said fund as creditors or otherwise, and authorizing and directing the undersigned representative to distribute said fund in accordance with such determination.

"That said application will be brought on for hearing before said court at a special term thereof, to be held in the county court house in Duluth, Minnesota, on the ——— day of ———, 19—, at 9:30 o'clock in the forenoon of said day, or as soon thereafter as counsel can be heard, at which time and place all persons interested in the distribution of said fund may assert their claims and will be heard therein.

"Dated this ——— day of ———, 19—.

"———,

"Administrator of the Estate of ———, Decedent.

"———, Attorney for Administrator."

IV.

Notice of such hearing shall be given in the following manner:

1. By publishing a copy of such notice, as above provided, in a legal newspaper to be designated by the court of the county in which the court has jurisdiction, for a period of three weeks, the last publication to be not less than twenty days prior to the day set for hearing.

2. A copy of the petition and notice shall be personally served on all persons named as beneficiaries, or who might be interested in the distribution of such fund, if they can be found within the state, at least twenty days before the hearing and in the manner provided for the service of summons in actions commenced in a district court of this state.

3. If a beneficiary is a non-resident of the state of Minnesota, copies of the petition and notice of hearing shall be mailed to him at a time prior to the hearing, which the court shall determine, and the court may in its discretion, require personal service to be made out of the state.

4. If a beneficiary is not English speaking, the petition and notice of hearing shall be translated into the language of the beneficiary, and copies of such transactions shall be attached to the copies of the petition and notice to be served upon or mailed to such beneficiary as herein elsewhere provided. Proof of the translation shall be made by affidavit and a copy of the translation shall be attached to a copy of the petition and notice of hearing and shall be filed in the proceeding.

5. If a beneficiary is a minor, and has a general guardian, copies of the petition and notice shall be served upon such guardian in the same manner as provided for service upon adult beneficiaries.

6. If a beneficiary is a minor for whom a guardian has not been appointed, the court may appoint a guardian ad litem, who shall be served in the same manner as beneficiaries are served.

7. Those having demands for funeral expenses or for support of deceased, shall be served in the same manner as beneficiaries are served.

8. If the decedent was of foreign birth, copies of the petition and notice shall be mailed to such consular or other official representatives of such foreign countries as may be designated by order of court.

9. Any person claiming any interest in the distribution of such fund and desiring to be heard upon such claim, may serve written notice there of upon such executor or administrator, and thereupon he, or his attorney designated by him in such notice, shall be served in the same manner as beneficiaries are served.

V.

Proof of service of petition and notice shall be by certificate or affidavit of such character as is required in the proof of service of summons in actions commenced in the district court.

VI.

If an attorney has been employed by the executor or administrator, in bringing suit for the death of the deceased, or in making settlement, and he appears for the executor or administrator upon the application for distribution, he shall join in the petition and thereby submit to the jurisdiction of the court; or he may file a separate paper submitting to the jurisdiction of the court, and if he does not appear for the executor or administrator upon the application for distribution, he shall be served with the petition and notice in the same manner as beneficiaries are served.

VII.

All fees for the services of executor, administrator and attorneys shall be reasonable in amount and such as shall be allowed by the court.

VIII.

No executor nor administrator should receive any money as damages on account of wrongful death, and no settlement or proposed settlement shall be approved, nor executor's or administrator's or attorney's fees in connection therewith shall be allowed by the court until such executor or administrator shall file in the office of the clerk of court a good and sufficient bond or undertaking, approved by the court, conditioned for the prompt and full compliance by the executor or administrator with all the provisions of the statute and rules of this court regulating the distribution of such fund.

IX.

If a petition for distribution is not made by the executor or administrator immediately upon the receipt of the fund, a petition may be made by one of the beneficiaries or by anyone having an interest in seeing that the distribution is made; and in such event the petition and notice of hearing shall be served upon the executor or administrator personally and further proceedings shall correspond as nearly as possible with the procedure hereinbefore set forth.

X.

The court may in a special case alter or modify the procedure herein provided, and may require further or additional service to be made, or may dispense with the doing of the things herein required to be done; but in no case shall an order for distribution be made without the publication of the notice of hearing in a legal newspaper of the county in which the court has jurisdiction, nor without service by mail or otherwise upon all interested in the distribution, in the manner directed by the court.

XI.

When the petition comes on for hearing the court shall proceed therewith as speedily as may be; and it shall adopt such practice as will accord a full hearing to interested parties and as will result in a prompt distribution of the fund.

XII.

Upon the filing of an order directing the distribution of such fund, the executor or administrator shall proceed with all due diligence and make distribution in accordance with such order, and shall file full receipts for all payments in the office of the clerk of the court. Whenever such receipts are so filed, showing full compliance with the order of distribution, said clerk of court shall certify that fact to the probate court of his county, and such executor or administrator and his bondsmen shall, upon motion be entitled to an order of this court discharging and releasing such representative and his bondsmen from further liability in the premises, except for fraud or gross negligence.

REGISTRATION OF LAND TITLES.

(Eleventh Judicial District)

I.

Application for registration and abstracts of title to be filed therewith, before they are filed in the clerk's office, shall be approved as to form by the examiner of titles who shall indorse thereon such approval, and the clerk shall not receive any application or abstract without such indorsement.

II.

Abstracts of title originally filed, shall in all cases be brought down or continued at the expense of the applicant to and including the record of the certified copy of the application in the register of deeds office, and shall be accompanied by the certificates of the proper officers, showing the status of the property described in the application as to all taxes, assessments, or outstanding tax title, or assessment deeds, or certificates. The usual certificates of the clerk of this court and of the United States Circuit and District Courts as to judgments to the time of the record of certified copy of application in the register of deeds' office shall also be attached to the abstract.

No order referring the application to the examiner of titles shall be made until the foregoing requirements are first complied with. The clerk of court may, in all cases, allow the applicant or his attorney, upon leaving a receipt therefor, to withdraw from the files the abstract or abstracts of title for the purpose of having it continued, as above provided.

III.

Orders for the issuance of summons may be made ex parte on the records and files in the action, on the suggestion of the applicant or his attorney.

IV.

In all cases in which additional parties defendant are recommended by the report of the examiner of titles and ordered to be made parties defendant in the order for the issuance for summons, the applicant or his attorney, shall, before the first publication of the summons, file in the clerk's office an affidavit setting out the full name and place of residence of each such additional defendant, if the place of residence of such defendant is known, and if not known, it shall be so stated, but in any such cases where it is stated that the residence of such defendant or defendants is not

known, the affiant shall also state that upon diligent inquiry he has been unable to ascertain the same.

V.

In all cases in which there are any nonresident defendants, whose place of residence is known, or stated in the application, or in the affidavit of residence required by rule 4, of these rules, the applicant or his attorney shall within five days after the first publication of the summons, file with the clerk of court a request in writing directed to said clerk, requesting him to send a copy of the summons by mail to the defendants who are not residents of the state, whose place of address is known or stated in the application or the affidavit of residence aforesaid, and whose appearance is not entered and who are not in person served with summons. Such request shall also set out in full the names and places of residence of all the defendants so to be notified by the clerk.

VI.

When a defendant appears and files his answer, he shall serve a copy of such answer upon the applicant or his attorney, and thereafter shall be entitled to notice of all subsequent proceedings.

VII.

In all default cases, before the decree of registration is presented for signature of one of the judges of said court, the form of the decree shall, together with the proofs of service and all the files in the cause, be first submitted to the examiner of titles for inspection and approval.

VIII.

In all default cases, in addition to the usual affidavit of no answer, and no appearance, to be made and filed as required in other cases, the applicant, or his attorney, shall procure and file in the cause a certificate of the clerk of this court, to the effect that no answer or appearance by any person or corporation, as the case may be, has been filed in his office in said cause. Said certificate shall be entitled in said cause and shall be made, dated and filed on or before the day of the entry of the decree of registration.

IX.

It is hereby ordered that the following be and they are hereby adopted and approved as rules of this court, governing the issuance of a new certificate of title in lieu and in place of a certificate of title to land which has been torrensed.

Whenever an applicant desires a new certificate of title in lieu of and in place of a certificate of title to land which has been torrensed, under the laws of Minnesota providing for torrensing land, and found in General Statutes of Minnesota 1913, sections 6868 to 6950, inclusive [Gen. St. 1923, §§ 8247-8329], the procedure shall be, as nearly as may be, as follows:

1. In all cases where the court does not order notice to be given and hearing had, on the petition for a new certificate, at a special term of the court, and in all cases where it is unnecessary that the matter be brought on for hearing for any reason, the necessary papers shall be filed with the registrar of titles.

2. In all cases where the court does require notice to be given and a hearing had on the petition for a new certificate of title at a special term of this court, or otherwise, the necessary papers shall be filed in conformity to the laws of this state for filing documents in civil actions with the clerk of the above named court, and procedure followed as in any civil action, provided, however, that the petition for a new certificate of title, and all other documents, shall be filed in the file of the case in which the land to which a new certificate of title is desired was torrensed.

3. The order of the court decreeing that a new certificate of title be issued shall also provide what disposition shall be made of the documents filed in the proceeding to obtain a new certificate of title, and the said order shall state whether these documents shall be removed from the files of the clerk of the above named court and filed in the office of the registrar of titles, or whether they shall remain in the files of the original torrens action in regard to the land to which a new certificate of title is desired.

Any of these rules may be relaxed or suspended by the court or by a judge thereof in particular cases as justice may require.

MINNESOTA PROBATE COURT RULES.

At a meeting of the probate judges of the state of Minnesota, held on the 9th day of January, 1924, pursuant to chapter 400, Laws 1923, the following general rules of practice were duly formulated and adopted:

RULE I—PAPERS.

Every paper used in any proceeding shall be legible, properly entitled, and so indorsed as to show the character of the paper.

RULE II—INHERITANCE TAX.

In every estate subject to an inheritance tax, the petitioner or representative shall, in addition to filing the originals, furnish the court with two copies of the initial petition, of the will, if there be one, and of the inventory.

RULE III—CUSTODY OF FILES.

No file nor any part thereof shall be taken from the custody of the court.

RULE IV—WITHDRAWAL OF PAPERS.

No part of any file shall be withdrawn, except upon petition and order.

RULE V—ATTORNEYS.

No person not duly admitted to practice law shall appear as attorney or counsel in any action or proceeding in this court, except in his own behalf, when a party thereto: Provided, that only a person beneficially interested as an heir, devisee, legatee, or as a creditor in relation to his own claim, shall be considered such party.

Upon a showing of necessity therefor, the judge may appoint an attorney for any party. Attorneys so ap-

pointed shall serve without compensation, unless it be thereafter otherwise ordered by the court.

No attorney shall appear for, or represent, conflicting interests. No attorney shall become a surety upon a bond in any proceeding.

RULE VI—PETITIONS.

Every petition for administration or for probate of a will shall contain the exact names, ages, residences and post office addresses, so far as can be ascertained, of the heirs, devisees and legatees, and the citizenship of the decedent.

Every petition by a creditor for administration or for probate of a will shall be accompanied by an itemized and verified statement of his claim or account.

RULE VII—MAILED NOTICE IN ESTATES OF DECEDENT.

In every case where published notice of hearing is required by law, a copy of such notice shall be mailed by the petitioner, his agent or attorney, at least fourteen days before the day of hearing, to each of the heirs, legatees and devisees of the decedent, whose names and addresses are known or appear from the files of the court.

Proof of such mailing shall be made by affidavit, filed before the time of hearing.

RULE VIII—HEARINGS.

In every case where a hearing is required by law upon a petition, the petitioner shall first introduce evidence; the adverse party, if any, shall then introduce evidence in opposition; and the petitioner may then introduce evidence in rebuttal or avoidance of new matter offered by the adverse party. The petitioner shall have the opening and closing of the argument.

RULE IX—INVENTORY AND APPRAISAL.

All property shall be described in detail and with such certainty that it can be identified and so that only the interest of the estate therein shall be appraised. The description of any note or other obligation, the property of the estate, shall include names and addresses of parties thereto, the amount, date of maturity, rate and time of payment of interest, accrued interest to date of death of the decedent, indorsements and credits, if any. The description of any mortgage, in addition to the foregoing, shall include date and place of record, if any, and description of property covered. The description of any bond, share of stock, or other evidence of interest shall include numbers and other marks of identification. Property specifically bequeathed or devised shall be listed and appraised separately. Whenever household goods shall have a value of more than five hundred dollars ($500), the items thereof shall be separately listed and appraised. Incumbrances against the property of the decedent shall be set forth in detail. Upon the return of the inventory, the court may, on its own motion, or at the request of any interested person, examine the representative on oath in regard to the property of the estate.

Every special representative shall file an inventory within five (5) days after his qualification.

RULE X—SALES.

No property of an estate shall be sold until after an inventory and appraisal is filed.

RULE XI—CLAIMS.

No claim objected to in writing by the representative or by an interested party shall be allowed against an estate except upon competent evidence adduced at the hearing. Claims of the representative against the estate shall be allowed only upon such evidence. In all such cases any interested party shall be entitled to have the time for hearing such claim adjourned to a definite date.

RULE XII—EX PARTE ORDERS.

Any party applying to the court for an order to be granted without notice, except an order to show cause, shall state in his petition whether he has made any previous application for such order.

RULE XIII—MONEY RECOVERED FOR DEATH BY WRONGFUL ACT.

Money recovered in any action for death by wrongful act shall be inventoried by the representative, with the notation that such funds are not a part of the estate.

No representative shall be discharged until a certified copy of the order of distribution is filed in the probate court, together with proper proof of compliance therewith.

RULE XIV—CONFIRMATION OF SALE.

In case of private sale of any interest in real property under license, the representative shall, before confirmation thereof, give to all persons interested in the estate such notice as the court shall direct: Provided, however, that the court may, in its discretion, proceed without such notice.

RULE XV—REPORT OF MORTGAGING OF LAND.

Upon mortgaging land, the representative shall make a verified report, setting forth the description of the land mortgage, the name of the mortgagee, the date, amount, terms, and conditions of the mortgage.

RULE XVI—RETURN ON APPEAL.

On appeal to the district court or upon certiorari, before the return is made the moving party shall pay for the return required by statute at the same rate as is provided by law for other certified copies.

RULE XVII—FINAL SETTLEMENT.

Every petition for final settlement shall recite the performance by the representative of all acts required by law. The petition and account shall show the amount of property of the decedent which has come into the hands of the representative and the disposal thereof. The petition shall also show, with the same detail as is required for the description of property in the inventory under rule IX, the kind and nature of the property remaining in his hands for distribution.

REVISED LAWS 1905

Reports of the Statute Revision Commission, to accompany its draft of a proposed revision of the General Laws, submitted to the legislature of Minnesota at the session of 1905.

Daniel Fish, Minneapolis, Chairman Thomas J. Knox, Jackson, and Milton R. Tyler, St. Paul, Commissioners.

To the Honorable Senate and House of Representatives:

The undersigned, commissioners appointed by the Honorable Justices of the Supreme Court, under chapter 241, Laws of 1901, "to revise, codify and annotate the public statutes of this state," respectfully present herewith a proposed revision of the general statutes, prepared by authority of the act aforesaid, as supplemented by chapter 157, Laws of 1903.

Hon. Hiram F. Stevens, chairman of the commission as originally organized, whose legal learning, ripe scholarship, and long experience as a member of the Legislature peculiarly qualified him for the work, died on March 9, 1904. By his protracted illness and widely lamented death the work of the commission was seriously embarrassed and correspondingly delayed.

On March 24th ensuing Daniel Fish was named by the Justices as chairman, and M. R. Tyler, who had been in the service of the commission from the first, was added as a member. In May, 1903, Hon. Lyman B. Everdell, of Breckenridge, was employed as an assistant, and continued to render valuable aid until his fatal illness supervened, in the spring of 1904. On the 11th of September in that year his his useful and honorable career ended in death. In May, 1904, Messrs. Francis B. Tiffany and Charles W. Farnham, of the St. Paul bar, were engaged, and thereafter labored with great diligence and success in the completion of our task. Miss Elizabeth M. Baker, from the beginning until January 1st of the present year, and Miss L. A. Hallowell from April, 1904, to the present, served faithfully as stenographers and clerks. To all of these competent helpers we desire to express our grateful appreciation. We are indebted also to many members of the bench and bar of the state, and especially to the officers and committees of the State Bar Association, for valuable co-operation; nor should we forget important aid contributed by officials and other citizens, not lawyers, but, by reason of practical experience in the working of the laws, well prepared to assist in our work.

The acts under which we have proceeded required the revisers to examine and compare the existing general laws in force, together with the judicial interpretation and construction thereof, and to prepare and recommend such revision and codification thereof as should "in their opinion simplify, harmonize, and complete said public statutes." Obviously the codification here referred to is not a codification in the sense in which the term is used in the so-called code states, but only a rearrangement of the existing statutes in a more compact and convenient form—not a legislative enactment of the rules of law in general, but a restatement of the existing statute law.

But as thus construed, the commission is a very broad one. The work of rearranging and condensing the thousands of pages of statutory matter which have grown out of the needs of the people during nearly forty years necessitates many changes. The compression of the substance of this vast accumulation within manageable limits has required the rewriting of nearly every section. The purpose kept constantly in mind has been to present the existing statutory system with such changes only as seemed necessary to make it more simple, consistent, and effective. In the subjoined comment upon the several chapters we endeavor to call attention to such material alterations as are proposed, all of which we believe to be within the scope here indicated. No one can know so well as ourselves how imperfectly our task has been accomplished. In extenuation of such faults as may be found to exits we beg leave to say that the work has been one of great difficulty. Nothing short of actual experience in such work can disclose more than a bare hint of of the perplexities with which we have had to deal. The absence of a familiar provision from its accustomed place is not proof that it has been omitted. In the present statutes many such are often repeated in varying phraseology. Those of general application we have endeavored to state in an appropriate place, once for all. The introduction of so many new subjects of legislation since the last revision has necessitated a rearrangement and recombination of chapters. Without pretending to have accomplished a perfectly logical arrangement, we have sought to adhere to a plan, adopted upon much consideration and with a view to the general convenience.

We have used the term "Revised Laws" as an appropriate name by which the proposed revision may be distinguished, in citation, from the official volumes of 1851 and 1866, and from the various private compilations now and formerly in use.

The report is submitted in the form of a single act for the adoption of the revision as an entirety. In view of Sec. 27, Art. IV, of the Constitution, which at that time had not been fully construed, the Revision of 1866 was presented and adopted in a series of acts, one for each chapter. Being ourselves convinced that the safer and more convenient method now proposed would not contravene the Constitution, the great importance of the question lead us to seek the advice of the State Bar Association thereon. The report of a special committee appointed for the purpose by the Hon. E. C. Sringer, its president, agreed upon after mature deliberation, is given below. The brief therein referred to will be submitted when desired:

"St. Paul, Minn., Oct. 10th, 1904.

"Hon. Daniel Fish,

"Chairman, Commission to Revise Statutes:

"Dear Sir: The undersigned, special committee on revision of statutes, appointed at your suggestion by the president of the State Bar Association, have had under consideration the question you submitted as to whether the proposed revision can be enacted in a single act.

"Upon a careful examination of the authorities, we answer the question in the affirmative, and are of the opinion that it is safer and better so to do than to adopt by chapters or topics; and in support of our view submit a brief prepared by one of the committee which fully covers the whole ground, with ample citations of authorities.

"Adoption by classified topics might invalidate the act for want of an adequate title, or because of improper classification. Adoption by chapter might, as you suggest, destroy the harmony of the revision and tend to confusion. We therefore recommend that the revision be adopted as a whole, with an introductory act of the character you have submitted to us, and that the same be entitled, as you suggest, 'An Act to Revise, Consolidate and Codify the General Statutes of the State.'

"Respectfully submitted,

"Chas. E. Otis,
"Fred V. Brown,
"H. W. Childs,
"Special Committee on Revision."

For the purposes of the report, the sections have been numbered by chapters instead of consecutively throughout. The handling of so large a quantity of manuscript, in parts of which changes were necessary as the work progressed, has been much facilitated by this method. It should be remembered that the report is to serve only the temporary purposes of a legislative bill. If a revision is adopted, the statutes must be edited and printed, with the annotations, for general use. A provision should be made by a separate act, in connection with such printing and publication, for the numbering of the sections consecutively, and also for the correction of such typographical errors as may be found to exist.

Because of the temporary character of the volume submitted, we have not deemed it proper, even if the time at our disposal had been sufficient, to insert therein references to the decisions. The acts providing for the appointment of the commission make it their duty not only to revise, but to annotate, the public statutes; but it would manifestly be improper to include the annotations in this report, as they form no part of the statute, and could not be enacted into law. When the statutes are printed, the annotations can be readily inserted after the sections in the volume to which they have reference.

The citations at the end of the sections refer to the General Statutes of 1894 and to the session laws of subsequent years. We have not deemed it advisable to cite the chapters or sections from which the aforesaid compilation was made; for, in reviewing the report, the refer-

ence to the '94 Statutes will supply the earlier citations if needed. These references are intended to indicate only the sources of the sections to which they are appended. So many merely verbal changes are necessary, that no typographical method of indicating them is practicable. Wherever material additions to the law are proposed, the word "New" has generally been appended to the section. In a few instances no citations are given. These are mainly cases where familiar provisions are assembled from many places in the existing statutes. Occasional references to reported cases indicate changes of form made necessary or deemed advisable as a result of judicial decision.

It should be distinctly understood that changes in language do not necessarily indicate an intention to change the meaning of the law. Superfluities and contradictions could not be eliminated without changes in the forms of expression. It is a well-settled rule of statutory construction "that in the revision of statutes neither an alteration in phraseology, nor the omission or addition of words, in the latter statute, shall be held necessarily to alter the construction of the former act." 11 Ohio St. 1. See, also, 101 N. W. Rep. p. 484.

Except in the case of very recent legislation in respect to conveyances, legalizing or curative acts have been omitted from the revision and from the chapter on express repeals. These all refer to circumstances occurring prior to their passage, and therefore are not general laws in the proper sense. They will stand unrepealed, and may be printed as an appendix to the published volume, either in full or in the form of a digest. In omitting such acts we have followed the examples of Wisconsin, Iowa, and other states in which recent revisions have been made.

There are many suggestions of a general nature which we might properly add, but we assume that opportunity for oral explanation will be given. Having labored to discharge the responsible duties imposed by our assignment to this great task, as well as to justify the confidence implied therein, we submit all to the wisdom of your honorable body.

St. Paul, January 31, 1905.

DANIEL FISH, Chairman,
J. T. KNOX,
M. R. TYLER,
Commissioners.

PART ONE.

Chapter 1—SOVEREIGNTY AND JURISDICTION.

Sec. 1 is new, but is common to codes of the several states. There seems to be now no direct legislative assertion of concurrent jurisdiction over the waters forming a common boundary. Sec. 2 covers various acts granting federal jurisdiction over post-office sites, etc., and with the remaining sections obviates the necessity of future acts of like character.

Chapter 2—TERRITORIAL DIVISIONS.

The various political divisions of the state are here assembled.

Sec. 1. **Counties.**—The statutory boundaries of counties are omitted for the reasons (1) that the county lines are no longer fixed by the statute, but by popular vote; (2) that several of those bounded by existing laws have been changed by such vote, and others may be altered at any election; and (3) the questions relating to boundary lines so seldom arise that, even if now accurately defined, and no early changes should occur, the space can be more profitably occupied. None of the statutes fixing county lines are recommended for repeal, and can be referred to when necessary. In this particular we follow the Iowa code.

Sec. 2. **Legislative districts.**—Since a reapportionment must be made at the next session, and every five years thereafter, it seems idle to encumber the general statutes with the present boundaries.

Secs. 3 and 4. **Judicial and congressional districts.**—These being of more permanent character, are retained.

Chapter 3—THE LEGISLATURE.

The method of paying members, officers, and employés of the two houses is made statutory instead of resting upon joint resolution. '94—238 to 243. A majority of the revisers think that the auditor's warrant should be made payable to the treasurer, instead of his deputy, and this change is proposed in Sec. 10. Section 15 contains only so much of the present law as is not covered by the act of Congress relating to the election of Senators.

Chapter 4—EXECUTIVE DEPARTMENT.

Since Sec. 1, Art. V, of the Constitution expressly declares that this department "shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, and Attorney General," we have included no other state officers in this chapter. The duties of the Lieutenant Governor, as such, being wholly legislative, and sufficiently defined in the Constitution, he also is omitted.

The Governor.—Sec. 4 is expanded to cover the general powers of appointment and removal conferred by numerous statutes. By this means we are enabled to avoid many repetitions.

Secretary of State.—A change suggested here should be carefully noted. The assistant secretary of state is now, ex officio, commissioner of statistics, with a separate salary as such. It is agreed on all hands that the system provided for the collection and dissemination of statistics is worthless. Statistics of population are provided for in the successive census acts. The information compiled and printed by the assistant secretary are necessarily fragmentary, and afford no ground for comparison, one year with another. With the tacit approval of the secretary's office, we have omitted the whole subject. A more efficient method should be provided, the execution of which, in our judgment, might well be committed to the appropriate departments of the State University.

The Auditor.—Though not strictly pertinent here, we may say that the ex officio title of "Land Commissioner," as applied to the Auditor, is omitted. As in the case of the public examiner and some other officials, we agree that one title is sufficient and preferable.

Chapter 5—JUDICIAL DEPARTMENT.

The attempt is made to assemble in this chapter the general provisions touching the various courts and court officers, except those relating to the probate and justices' courts, which remain as heretofore. See Sec. 83. The state library, which is administered under the direction of the Supreme Court, is also included; likewise, the reporter and the reports. The clerks and reporters of the district courts follow the provisions relating to such courts.

Sec. 29 is a wholly new provision, to which we call special attention. Following the precedent of Iowa and other states, it authorizes the judges to prescribe, biennially, the times of holding the terms of court in their respective districts. There seems to be no reason for requiring a special act of the Legislature every time a change in this respect is desired. This section has been submitted to the district judges, and is heartily approved by all except one.

Municipal Courts—These courts are now very generally provided for in villages and cities of all classes. There are at least five separate acts for their establishment, and it is held that they may be created by the provisions of a home-rule charter. Plainly, there should be uniformity in their powers, and in the practice therein. We have therefore inserted a subdivision intended to govern them all. This has been compiled from the various existing acts, which do not greatly differ. The present salaries continue until changed by a four-fifths vote of the municipal council. Sec. 58.

The practice as to appeals (whether to the District or Supreme Court) varies. We harmonize the conflict by providing that all appeals shall go to the former. This is preferred as a measure of relief to the Supreme Court, but, if not approved, the substitution of a word or two will effect the desired change. Sec. 77.

Chapter 6—ELECTIONS.

In writing the election law various chapters have been combined, so as to present in a single chapter the entire law upon this matter, including the different methods of making nominations prescribed by law. First, we have written the times of holding elections, the election districts, description of ballots, etc. Then the methods of nomination: (1) By primaries; (2) by convention; (3) by voters—that is, by petition. Then follows the method of conducting elections, election officers, etc., in different classes of cities and in villages and towns, the canvass by the different canvassing boards, and the returns. Then comes the law respecting voting machines, the corrupt practices act, and, lastly, penal provisions relative to all of the foregoing laws.

Chapter 7 ('94, Chap. 8.)—COUNTIES AND COUNTY OFFICERS.

This chapter has been rewritten with a view to condensation and a more orderly arrangement, but without material change except as here noted.

Subdiv. 1, relating to change of boundaries, has been modified so as to provide for the submission of but one proposition at a time. Certain provisions of this subdivision relating to elections have been eliminated, and the provisions of the general election laws made applicable.

Sudbiv. 2. **Changing County Seats.**—No substantial change has been made except in two instances. To Sec. 24 a provision has been added for published notice of time when change will take effect. To Sec. 25 a provision has been added that in subsequent elections the petition be signed by a larger percentage of the voters. These changes are suggested by recent legislation in other states and as desirable.

Subdiv. 3. The only material change is found in Sec. 35, which changes the name from "The Board of County Commissioners" to "The County Board."

Subdiv. 4, Sec. 40. The law now provides for seven members of the county board in certain counties; in most others, five; a few, and the number constantly growing less, still have but three. But two classes are retained—one to have seven commissioners; the other, five.

Sec. 660, Gen. Stat. of '94, is omitted as unnecessary.

Sec. 664 of said statutes is covered by a general provision.

Sec. 44. This section places the compensation of the commissioners on a salary basis. This change was recommended by the public examiner, and is deemed advisable for the purpose of simplifying and harmonizing the existing law.

Sec. 668, Gen. Stat. of '94, is repealed.

Secs. 673, 674, 675, and 676, Gen. Stat. of '94, are transferred to the chapter on Juries.

Sec. 678 of said statutes is repealed.

Sec. 56. There has been so much recent legislation relating to, and conferring power upon, the county board, that it was deemed advisable to rearrange this section, and bring together in it the various laws relating to the powers and duties of the board. By such arrangement, supplemented by Sec. 72 (report), providing a method for submitting questions to vote, a large saving of space is effected, and it is believed the arrangement will be found convenient and satisfactory.

Secs. 682 and 683, Gen. Stat. of '94, are recommended for repeal. They seem to have been temporary and of doubtful constitutionality.

Secs. 702 to 706, Gen. Stat. of '94, inclusive, are repealed as no longer necessary.

Secs. 73 to 79, relating to organization of towns, have been transferred to this chapter from the chapter on Towns, this being deemed their appropriate place. They include Secs. 914 to 919, Gen. Stat. of '94, with the amendments thereto.

Sec. 114 (subd. 6) and Sec. 150 (subd. 7), relating to salaries of the Auditor and Treasurer, change the law so as to pay these officers fixed salaries. This change was recommended by the public examiner, and is made for the purpose of simplifying and harmonizing the existing laws on the subject.

Sec. 199. At the suggestion of many members of the bar, some additional provisions were included in this section, the purpose being to prevent abuses said to exist in certain portions of the state.

Sec. 256 is new, and designed to protect counties against unnecessary lawsuits.

The titles "Clerk of the Court" and "Court Commissioner," in Gen. Stat. of '94, have been transferred to chapter 5 of the report, and that of "Judge of Probate" to chapter 76, a majority of the commission being of the opinion that they appropriately belonged in such chapters.

Sec. 806 is transferred to chapter 77, as Sec. 48 thereof.

Sec. 807 is transferred to chapter 5.

Sec. 808, same title, is transferred to subdivision 9 of this chapter, as Sec. 174.

Sec. 805 should be preceded by a subhead as follows:

In Counties of 200,000 Inhabitants.

Chapter 8—TOWNS AND TOWN OFFICERS.

The first seven sections of Chap. 10, Gen. Stat. '94, seem appropriately to belong with counties, and have been placed there.

'94—929 is omitted.

The first part of Sec. 925—'94 is combined with Secs. 1006 and 1008, and covered by Sec. 74 of this chapter.

'94—928 has been slightly altered to cover the provisions of '03, c. 64.

Sec. 929 is covered in chapter on Partition Fences, therefore omitted.

Sec. 930 has been changed by omitting certain obsolete matter, and incorporating other provisions found elsewhere in the statutes, and placed here for convenience as well as to economize space. The added paragraphs are 8, 9, and 10; 8 being new matter, 9 and 10 chapter 264, Laws of '99, and 36 of Laws of '03, respectively.

Sec. 941 is omitted as obsolete.

Sec. 961 has been changed by incorporating provisions of '03, c. 64.

Sec. 961 has been changed by incorporating provisions of '03, c. 64.

Sec. 962 has been slightly changed, making the town board the board of appointment, bringing towns, in reference to such appointments, into harmony with the general rule.

Sec. 966 is omitted.

Sec. 31 ('94—968). The powers and duties of the supervisors have been greatly extended and enlarged since the enactment of Sec. 968, and for convenience and to economize space we have brought the several acts together in one section, Sec. 981—'94, being also incorporated therewith.

Secs. 970 to 979—'94, are omitted, the subject-matter being covered by chapter 29 of the report.

For convenience and to economize space we have brought together the several sections and provisions relating to the duties of town clerks and treasurers, and they are to be found in sections 40 and 44, respectively.

Secs. 1014 to 1018—'94 relating to guideposts, have been condensed into one section, which it is believed contains all that is essential on the subject.

Secs. 1031 to 1044—'94, are omitted and repealed, the subject-matter, so far as to be retained, being covered by chapter 10 of the report.

A few new sections have been added. These are sections 6, 7, 20, 28, 29, 41, 57, and 75. The provisions of the remaining sections have not been substantially changed, although the entire chapter has been rearranged. For convenience it is thought advisable to change the title "Board of Supervisors" to "Town Board."

Chapter 9—VILLAGES AND CITIES.

No part of our task presents more difficulties than this. The unwise restrictions placed upon special legislation affecting municipalities by the constitutional amendment of 1891 has led to almost hopeless confusion. Until the so-called home-rule plan was devised, the peculiar needs of localities were sought to be met by acts general in form. These overlap and conflict in a most bewildering fashion. Nothing like harmony could be evoked without resorting to somewhat heroic treatment.

The plan adopted was, first, to eliminate from this chapter all matter relating to the power to issue bonds, treating this under the separate head (Chap. 10) of "Public Indebtedness"; embracing also the like provisions appertaining to counties, towns, and school districts. Next, to preserve one scheme (there are now several) for the organization and government of villages. This constitutes the first subdivision of the chapter. Next (Subdiv. 2), to preserve the plan for organizing and governing cities, adopted under the home-rule amendment, and to bridge over the interval that will elapse before all cities are thus organized. Lastly, to retain in Subdivs. 3 and 4 such general provisions relating to all cities and villages as seem to be of a permanent nature, recommending the repeal of all others.

1. Villages and boroughs operating under special charters are left undisturbed, with liberty to adopt at pleasure the general charter herein provided. Such general charter has been compiled from the several statutes now in force, and, if adopted, will operate uniformly upon all villages not organized under special laws. Many special powers, granted by various acts, will be found embraced in Sec. 30. If experience shows that anything is lacking, the want can be supplied by amending this section, and thus the confusion resulting from separate and unrelated acts will be avoided.

2. Cities are first classified for legislative purposes in conformity to the home-rule amendment. By referring to these, in future legislation, as cities of the first, second, third, or fourth class, as the case may be, much will be gained in brevity and clearness. No general city charter is included in the revision. At time of writing this chapter, there were but six cities in the state not organized under either special or home-rule charters. Two of these were under the "Howard Charter," so called, being Chap. 8, Laws of 1895. Two of the other four were then preparing to reorganize under the home-rule act, and all, it is thought, can conveniently be governed by the Howard act until their citizens see fit to frame a charter for themselves. For this temporary purpose, sections 41 to 358 of the act referred to are incorporated by reference (Sec. 48), and these sections, with all amendments thereto, are omitted from the list recommended for repeal. The first 40 sections are not thus retained, for the reason that they pertain only to the original formation of cities, and are no longer practically operative. State ex rel. v. O'Connor, 81 Minn. pp. 84, 85.

As to the acts of recent years not incorporated in the last two subdivisions, we think all were in fact special, and have served their purposes. At all events, any city may now assume, in its charter, all powers which the Legislature does not expressly prohibit, and the logical method is to leave them to be so assumed.

Chapter 10—PUBLIC INDEBTEDNESS

The form of this chapter is largely new, being a condensed restatement of many widely separated enactments. Existing charter powers, and all outstanding bonds, remain undisturbed. See Secs. 3 and 17. Sec. 8 attempts to cover all the objects for which the several municipalities are now authorized to issue bonds, except those for railroad aid. If the era of taxation for such purposes is not ended in this state, a new act should be drawn for that purpose, carefully framed and guarded.

As originally prepared, this chapter contained another section (following Sec. 1), defining the phrase "net indebtedness," and being that referred to in lines 11 and 12 of Sec. 8. Two of the revisers deemed it inadvisable, while the third thinks it should be retained—with such modification of its fourth subdivision as may be deemed wise. If reinstated, it would read:

§ 1½. **Net indebtedness defined.**—The words "net indebtedness," as used therein, shall mean the sum of all outstanding money obligations of the corporation referred to, after deducting:

1. Orders or warrants drawn upon the treasurer, and payable forthwith.

2. Certificates of indebtedness and bonds issued for the creation or maintenance of a permanent improvement revolving fund.

3. Obligations incurred in acquiring land for streets, parks, or other public improvements, and

payable from the proceeds of assessments levied upon property especially benefited by such improvements.

4. Bonds issued for the purchase or construction of public waterworks, or for the enlargement, protection, or distribution of the water supply, for the establishment of public lighting, heating, or power plants, and for the acquisition and equipment, by purchase or otherwise, of street railways, telegraph or telephone lines, or any other public convenience from which a revenue is or may be derived.

5. The amount of all money, and the face value of all securities, held as a sinking fund for the extinguishment of corporate debts other than those enumerated in this section. (NEW.)

Chapter 11—TAXES.

In view of the consideration given to this subject by the Legislature in 1902, the commission has deemed it beyond its province to propose substantial changes. The phraseology with which the taxing officers have become familiar is closely adhered to, but an attempt has been made to arrange the sections in logical sequence.

The new sections are few, and speak for themselves. Secs. 37-39, 108, 133, 235.

The following changes may be noted:

In Sec. 10 the exclusion of omitted real property from liability for interest is based upon the decision in 40 Minn. 512.

The addition to Sec. 42, Subdiv. 14 ('94—1524) and the omission from Sec. 45 ('94—1531) were dictated by the decision in 76 Minn. 96.

In Sec. 66, Subdiv. 1 ('94—1552; '01, c. 298), a provision for notice, similar to that required by Subdiv. 3, has been inserted.

In Sec. 71 ('94—1556) the requirements of the abstract have been enlarged to conform with the change in the preceding section introduced by Laws 1897, c. 134.

In Sec. 87 ('94—1564) the provisions for the attendance of a deputy away from the county seat to receive payment of taxes are omitted as obsolete.

A departure has been made from the existing law in respect to the right of redemption of land bid in for the state and not assigned by it, or redeemed, within three years. By Laws 1902, c. 2, s. 52, the land in such case becomes the absolute property of the state, which may dispose of it as provided in Secs. 53 and 54. The effect of this is to deny to the owner the right to notice of expiration of redemption, which must be given only when the land is assigned by the state before expiration of the three years. Believing that the denial of the right to such notice, which was introduced in 1902, discriminates unjustly against the owner of land so disposed of after expiration of the three years, all the provisions of Title V of chapter 2, Laws 1902, relating to the sale of unredeemed lands, have been dropped.

By Sec. 142 it is provided that at any time after land has been bid in by the state, the same not being redeemed, the county auditor shall assign it to any person who will pay the amount for which it was bid in, with interest thereon, and the amount of all subsequent delinquent taxes, penalties, costs, and interest. By Sec. 143 it is provided that, at any time after the expiration of three years after land has been bid in by the state, the county auditor may assign it for an amount less than that provided by the preceding section, to be fixed or approved by the State Auditor. In case of an assignment under either section, notice of expiration of redemption must be given. To guard the interest of the state, it is provided by Sec. 150, Subdiv. 3, that, if the right of the state has been assigned pursuant to Sec. 143, the redemptioner must pay the full amount for which the land was bid in by the state, with interest thereon, and all subsequent delinquent taxes, penalties, costs, and interest. If the money so paid for redemption exceeds the sum paid on the assignment, the excess is to be retained by the state. Sec. 144. The subdivision of the provisions above referred to in lieu of Title V of Chap. 2, Laws 1902, has made it necessary to introduce slight changes in Secs. 141, 144, 146, 149, 160, and 196. In Sec. 160 a requirement for notice to the person in whose name the title to the land appears of record, when the land is assessed to the holder of the certificate, has been introduced.

Sec. 207 provides that railroad companies shall be taxed as provided in chapter 253 of Laws 1903. This act was submitted to a vote of the people, pursuant to Const. Art. IV, s. 32a, and was ratified at the general election of 1904. This can be amended only by popular vote, and should be inserted in a note if the revision be adopted.

The provision in Sec. 329 ('03, c. 386, s. 5), that the rate shall be fixed by the auditor, expresses what was doubtless implied.

Secs. 236-238, providing for the taxation of telegraph companies, follow G. S. '94, ss. 1682-1687 ('91, c. 8), as amended by Laws 1901, c. 180. Laws 1891, c. 8, included telephone companies, but in view of Laws 1897, c. 314, which provides for the taxation of telephone companies, Secs. 236-238 of the proposed revision have been confined to telegraph companies, and the provisions of Laws 1897, c. 314, have been embodied in Secs. 239-241.

Sec. 1670, G. S. 1894, is transferred to Chap. 28, where it appears as Sec. 75.

Chapter 12—MILITARY CODE.

The revision is much shorter than the existing code, but we think all that is important is covered. After it was in type, a committee of National Guard officers offered many suggestions for amendment, some of which have been adopted. They wish, however, to substitute the existing code as recently compiled and published; not, as we understand them, because of serious objections to the revision, per se, but mainly for reasons of convenience in the use of the new compilation. They will doubtless desire to be heard in favor of such substitution.

Chapter 13—ROADS.

Free turnpikes and steam traction roads are omitted, as we are unable to find that either has been or is likely to be used. One material change is recommended, viz.: The appointment of one road overseer in a town, instead of dividing towns into road districts and appointing an overseer for each district. Road work has come to be done so largely by machinery that one overseer can direct the use of machinery for the entire town more advantageously than several, and at less expense.

Chapter 14 ('94—36)—EDUCATION.

Much of the existing legislation on the subject of education is of comparatively recent origin, and is not altogether harmonious or consistent.

We have endeavored to bring the law on the subject together, harmonize conflicting provisions, arrange it more methodically, and eliminate superfluous matter without change of substance. For the purpose of condensation we have combined provisions applicable to common and independent school districts, thus avoiding the necessity of repeating the same.

The name "director," as a district trustee in common school districts, and that of "president" in independent districts, are changed to "chairman," as being an equivalent term, and by its use we avoid unnecessary repetitions.

The provisions relating to women voting at school elections is omitted, for the reason that the matter is fully covered by the constitutional amendment adopted in 1898. See pages 111, Laws of 1899.

Sec. 27, line 2. "1" should be changed to "7."

Sec. 30. After "district," line 7, add "the polls to remain open for that purpose for one hour"; and to citations at foot of section add "'03, c. 38."

Sec. 42. After "purpose," in line 5, strike out "lease or purchase necessary schoolhouses and sites," and insert "may acquire necessary sites for schoolhouses by lease, purchase, or condemnation under the right of eminent domain, erect, lease, or purchase necessary schoolhouses or additions thereto"; the object of this proposed change being to provide for obtaining sites by condemnation, a provision which was inadvertently omitted.

Sec. 154 ('94—3863), we suggest be stricken out.

Sec. 156. Change "10,000" to "20,000," the error being typographical.

Chapter 15—RELIEF OF THE POOR.

Includes matters embraced in chapter 15 of the General Statutes and in some later laws. G. S. 1894, Secs. 1970, 1971, have been omitted as unnecessary; and sections 1987-1989, for the reason that the subject to which they relate is included in Chap. 10 of the Revision.

Secs. 1, 2 ('94—1951—1953, 1979). These are slightly modified to include both county and town systems.

Sec. 4. The special provisions for determining the settlement of a married woman ('94—1954) are omitted as superfluous.

Sec. 5. The last sentence has been substituted for the provision for an appeal within ten days to the district court.

Sec. 6. Laws 1897, c. 291, ss. 11, 12, making it a misdemeanor to transport a poor person unless a certificate is attached to his ticket, have been omitted, in the belief that they are impracticable and that the present section is sufficient.

Sec. 7. The machinery for changing from one system to the other has been simplified.

Sec. 14. The provision for relief in subdivision 2 has been simplified. The requirement that a blank form shall be provided by the auditor has been made in lieu of setting out the form at length.

Sec. 18 ('94—1966). The former section has been modified in view of the omission from the Revision of the chapter relating to apprentices.

Sec. 21. The provisions of Laws 1899, c. 251, ss. 5, 7, regulating commitments to the district poorhouse, have been omitted, the preceding sections regulating commitments being applicable thereto.

Sec. 27 ('94—1976; '03, c. 298). The remark made with reference to section 18, supra, is applicable to this section. Section 1979, so far as it provides for a recovery from another county, town, city or village, was superseded by Laws 1903, c. 298.

Sec. 29. The requirement that the clerk shall certify that no tax is necessary, if such be the case, is new.

Chapter 16 ('94—10)—INTOXICATING LIQUORS.

It was found necessary to an orderly arrangement of the various laws relating to this subject to rewrite and

rearrange the entire chapter. In doing this it is believed that, while the structure and arrangement have been radically changed, the substance of the law has been retained in all cases, except as here noted.

Sec. 13, making it a misdemeanor for an official to knowingly vote for an illegal license, and Sec. 17, permitting a transfer of license in certain cases, are new.

Sec. 18, relating to annulment of licenses, has been modified so as to permit a return of the license money in certain cases where the license is revoked without fault of the licensee.

Secs. 25 and 26 add provisions defining and regulating public drinking places, and Sec. 30 provides a penalty for violation of law relating to the same.

Sec. 47 is new.

These additions are designed to cover apparent defects in the present statutes, and to add to their efficiency.

Chapter 17 ('94—17)—BASTARDS.

This chapter has been rewritten without material change.

Chapter 18—PUBLIC EXAMINER.

As in other cases of duplicate official titles, the additional designation of "bank examiner" is dropped. No good purpose seems to be advanced by giving different names to the same officer when exercising differing functions: on the contrary, some confusion and much increase of verbiage result.

Chapter 19—INSURANCE.

The chapter arrangement was altered by inserting this subject in Chap. 60 on "Corporations" (see subdivision 4). Since there are numerous references from one chapter to another by numbers, it was impracticable to renumber the succeeding chapters without taking time to search out and correct all such references. A similar hiatus occurs at Chap. 48, "Bonds and Sureties," Chap. 56, "Indians," Chap. 83, "Confessions of Judgment," and Chap. 93, "Actions Respecting Corporations." In preparing the completed revision for use, the editor should be authorized by an appropriate act to make the necessary corrections (see Chap. 17, Gen. Laws 1866).

As to this topic ("Insurance"), one of the commissioners is of the opinion that it should form a separate chapter. If that view is approved, but slight verbal alterations will be necessary to effect the change.

Chapter 20—INSPECTOR OF OILS.

The provision for the inspector's salary is inadvertently omitted. This important defect may be cured by adding to Sec. 1 the words: "And shall receive, in full for his services, a salary of $2,400 per year, payable monthly."

In other respects, the chapter is believed to restate the existing law in much shorter and simpler terms.

Chapter 21—FOOD INSPECTION.

As in other cases, various sections relating to this subject are divided, and others combined, both with a view to brevity and clearness. The chapter has been reviewed by the dairy and food officials of the state. Secs. 36 and 37, realting to linseed oil and paints, seem hardly appropriate in this place, but, the enforcement of them being committed by law to the Dairy and Food Commissioner, no change is proposed.

Chap. 163, Laws of 1903 (called the "Blind Law"), is omitted, for the reason that its purposes seem to be better served by the provisions of other statutes contained in Chap. 102, s. 7—"Offenses against Public Health and Safety."

Chapter 22—FORESTRY AND FIRE WARDENS.

A slight change is here proposed, but in form rather than in fact. By the existing statute ('03, c. 363), the State Auditor is made the Forestry Commissioner, and is charged with the duty of preserving the forests and preventing and suppressing forest and prairie fires. The incongruity between such duties and those of the head bookkeeper and accounting officer of the state is obvious. The law also provides for the appointment of a deputy auditor, to be known as "Chief Fire Warden," another instance of an officer designated by one name, with ex officio duties under another. In practice, this deputy auditor or chief fire warden, whichever be his proper title, is the real forest commissioner. Sec. 1 of the revised chapter proposes, therefore, that he be named as such, and charged by law with the duties of that office, now nominally imposed upon the auditor. His appointment and removal remains in the hands of the auditor, and he is made a member of the Forestry Board (see Chap. 40, s. 98). The remainder of the chapter is brought into harmony with the change thus suggested.

Chapter 23—REGULATION OF LABOR.

The provisions governing the bureau of labor, employment bureaus, and arbitration, and many other enactments relating to labor, are here brought together. As in many other cases, the matter has been largely rewritten, in order to fit the parts into a harmonious arrangement. No changes are intentionally proposed in the substance of the law.

Chapter 24—SOLDIERS' HOME.

To the existing law on this subject we have appended, under an appropriate heading, various scattered provisions enacted in the interest of ex soldiers and sailors and their families. The propriety of bringing together all legislation of this class is apparent.

Chapter 25—BOARD OF CONTROL.

This law was so recently enacted that there has hardly been time to determine from its workings what changes may be necessary to its highest efficiency. Chap. 335, Laws of '03, made an addition which has been included in Sec. 3. Chap. 308 of '03 appears as Sec. 43. The Board of Corrections and Charities was abolished by this law, 1901, Chap. 122. Its powers and duties have devolved on this board, which has made it necessary to add several sections not originally in said chapter. Chap. 291, Laws of 1897, determines the legal residence of insane and dependent persons, and defines certain duties of the Board of Corrections and Charities toward them, and, the Board of Control being substituted for that board, these provisions are placed here in connection with its other powers and duties (see Sec. 41). Additional powers of the Board of Corrections and Charities contained in the General Statutes have been written here as Sec. 42. Secs. 45 and 46 are inserted for the same reasons.

This board also takes the place and performs the duties formerly belonging to the managers of the institutions under its care in placing insurance and purchasing fuel for such institutions. While this duty does not include insurance or fuel for the Capitol, or the buildings of the State Agricultural Society, yet as a matter of fact this board, by request, has included them. It has been thought advisable to give to this practice the sanction of law.

The present law provides for insurance not exceeding two-thirds of the value of the buildings. The Board of Control suggests that 50 per cent. is sufficient, and heretofore insurance has never reached that minimum (see Sec. 44). This chapter also embraces (2) the State Training School, (3) School for Feeble-Minded, (4) Hospitals and Asylums for the Insane, and (5) Sanatorium for Consumptives, all of which contain in substance the present law.

Chapter 26—SCHOOLS FOR DEAF AND BLIND.

The schools for the deaf and blind and for the feeble-minded formerly made up the Institute for Defectives at Faribault. The latter being now under the sole management of the Board of Control is included in Chap. 25 (subdivision 3). The two former, though managed as to finances by the Board of Control, are otherwise independent. The statutory provisions relating to the general administration of them are therefore assembled in a separate chapter.

Chapter 27—STATE CHILDREN'S HOME.

Relates to the institution at Faribault now called the "State Public School." Because it is primarily an asylum or temporary home for abandoned or neglected children, rather than a school, and in order to distinguish it more clearly from the State Training School at Red Wing, the change of name is suggested. It is so named in Chap. 25, where its financial management by the Board of Control is provided for. Except as to the name, no intentional change in the law relating to it is proposed.

Chapter 28—RAILROADS, WAREHOUSES AND GRAIN.

The law which has been brought together in this chapter consists in the main of legislation of comparatively recent origin, found in many different independent acts, widely scattered through the various statutes and session laws. In bringing it together in a single chapter, it has been found necessary to make considerable changes in arrangement and structure, but in doing this no change of substance is intended.

The name "The Railroad and Warehouse Commission of the State of Minnesota" is changed to "The Railroad and Warehuose Commission," as shorter and more appropriate, and the provisions relating to the procedure before the commission (Secs. 11 to 16) have been changed so as to provide more uniform rules under which proceedings may be instituted and conducted.

Secs. 88 and 89 are new, and their purpose and necessity are apparent.

Sec. 109 is added in the belief that the power to make rules as therein provided will add to the efficiency of the commission, and in many cases obviate the necessity of new legislation.

Sections 7707, 7708, an d7709—'94 are omitted, it being believed that the subject-matter can be better covered by rules made by the commission.

Chapters 225, Laws of '99, and 403, Laws of '03, are also included in this chapter, as subdivisions 4 and 5, respectively. While these chapters have been rewritten with a view to condensation, no material change has been made.

Chapter 29—PUBLIC HEALTH.

The brevity of this chapter is in inverse ratio to the time spent in its preparation. The present law is almost hopelessly confused. Many of its provisions are condensed in Sec. 5. enumerating the subjects concerning which the State Board of Health is authorized to make

and enforce rules. This power, we think, is properly guarded by the requirement that such rules shall be examined and approved by the Attorney General. At any rate, the chapter, as compiled from the heterogeneous mass of existing laws, will afford the means of intelligent amendment, a condition now lacking. The law relating to subjects for dissection is included in the chapter, under a distinguishing subhead.

Chapter 30—LIVE STOCK SANITATION.

Under this caption, the existing legislation for the suppression and control of communicable animal diseases is condensed into 12 sections. The provisions of Chap. 141, Laws of 1903, for paying to owners the value of diseased animals killed, were repealed by Chap. 352; but since the repeal was clearly an inadvertence, we have retained the substance of them in Secs. 7 and 8. Appended, in a single section, is the act of 1893 (Chap. 26), concerning live stock detectives.

Chapter 31—INSPECTION OF STEAM VESSELS AND BOILERS.

This chapter is written with only such changes as seemed necessary to clearness, and to reconcile apparent inconsistencies.

Chapter 32—PRESERVATION OF GAME.

The law on this subject was revised in 1903 (see Chap. 336), but in such form as to admit of much condensation. As so condensed, it has been reviewed by members and employés of the Game Commission, and some criticisms have appeared in the press. No suggestions for amendment, however, have been made to the revisers. We have not consciously proposed any material alteration in the law, nor done anything to impair its efficiency.

Chapter 33—PUBLIC LIBRARIES.

Recent expansion of library activity and of the legislation on the subject makes a separate chapter desirable. Subdivision 1 embraces the law of 1899 (Chap. 353), creating the Library Commission and prescribing its duties. Under another heading are gathered up so much of the existing legislation touching public libraries and reading rooms as seems to be operative. And in Sec. 15 is preserved the Act of 1903 (Chap. 7), for establishing law libraries in the larger counties. The charter powers of the various municipalities are, of course, undisturbed.

Chapter 34—STATE PRINTING.

Great care has been taken to "simplify, harmonize, and complete" the law on this important subject. There seems to be now no explicit provisions governing the publication of the session laws. Sec. 12, marked as "new," conforms to the practice as we understand it.

Chapter 35—EMPLOYMENTS LICENSED BY STATE BOARDS.

Under the 11 subdivisions of this heading are arranged the various state boards having to do with licensed trades and professions. The Acts of 1899 and 1901, relating to plumbers, are omitted, having been held void, as we interpret the decision in State ex rel. v. Justus, 90 Minn. 474.

Since the membership of the Board of Law Examiners has grown by the increase of judicial districts to the point of unwieldiness, we have suggested that the number be limited to seven (see Sec. 1). For purposes of convenience, the provisions relating to attorneys' liens are retained here rather than placed in the chapter on "Liens." The designation "attorney" is used, omitting the additional title of "counselor."

The terminology of some of the sections relating to physicians and surgeons is somewhat modified at the suggestion of the Examining Board, but only in the direction of greater simplicity. Upon like suggestion, Sec. 20 has been added, to which we refer.

No special comment is deemed necessary touching the other subdivisions, as the existing law in each case is believed to be closely followed.

Chapter 36—PROTECTION AGAINST FIRE.

As against the many instances of sections consolidated, this chapter presents an example of the opposite. Secs. 2, 3, 4, 5, 6, 7, and 8 are all drawn, wholly or in part, from Gen. Stat. s. 8007. Either method has been resorted to, whenever greater clearness could thereby be achieved.

Chapter 37—NOXIOUS WEEDS.

The somewhat crude enactments under this head have been simplified and brought into harmony with one another.

Chapter 38—INSECTS AND PLANT DISEASES.

Mainly the Act of 1903 (Chap. 237). The State Entomologist, Prof. Washburn, has reviewed this chapter with approval.

Chapter 39—BOUNTIES AND AWARDS.

Gathers up various scattered enactments appropriate to this head.

Chapter 40—PUBLIC LANDS.

Includes most of what was embraced in G. S. 1894, c. 38, and amendments thereto, and some new subjects. Laws 1891, c. 132, relating to the state capitol lands, which was Title 4 of that chapter, was repealed by Laws 1895, c. 394. These lands having been sold pursuant to Laws 1901, c. 177, nothing of this title remains. Title 7 of the same chapter, relating to the condemnation of land for the use of the state and of the United States, is transferred to Chap. 41. Title 8, relating to jurisdiction ceded to the United States, is transferred to Chap. 1. Secs. 3958-3964, prescribing the duties of the State Auditor, appear in Chap. 4.

Sec. 2 (94—4026). The other sections of Title 2, Chap. 38, are omitted. The provisions for investment have been superseded by subsequent legislation. See Secs. 29-32.

Sec. 4. In view of Const. art. 8, s. 2 (amended 1881), G. S. 1894, ss. 4028-4031, are omitted. The other sections of Title 3 ("Swamp Lands", Secs. 4032-4038) have also been omitted, although the acts on which they were based have been left unrepealed.

Sec. 13 ('94—3981). This section, as well as those relating to the appraisal and sale of lands in charge of the Auditor, renders section 3980 superfluous, and it has been omitted.

Sec. 14 ('95, c. 163, s. 8). Laws 1895, c. 163, s. 2, regulating extension of time of payment, have been omitted, no power to extend being expressly given. Such power in certain certain cases was given in G. S. 1894, s. 3967, which was repealed by Laws 1895, c. 163, s. 43. The provision for separate appraisal of timber is new.

Sec. 18 ('95, c. 163, s. 2). G. S. 1894, s. 3987, seems to add nothing, and has been omitted.

Sec. 30 ('95, c. 163, s. 10; '97 c. 83; '03, c. 183). The remaining provisions of the acts cited are placed in chapter 10, on "Public Indebtedness."

Sec. 37 ('95, c. 163, s. 7). G. S. 1894, s. 3990, has been omitted, as covered by this section.

Sec. 55 ('95, c. 163, ss. 23, 24). The provision that not *more than one 40-acre tract or fractional lot, instead of* "no more than one section or the fractional part thereof," as in Laws 1895, c. 163, s. 23, harmonizes this section with Sec. 47.

Sec. 61 ('95, c. 163, s. 27). The provision for a separate report for each tract covered by a permit is new, but seems required by the intent.

Sec. 66 ('95, c. 163, s. 31). Laws 1895, c. 163, s. 32, has been omitted, as sufficiently covered by Sec. 61.

Sec. 67 ('95, c. 163, s. 34). This section simplifies the the procedure of discharge of a deputy.

Sec. 69 ('95, c. 163, s. 35). "Timber"-sales book, to distinguish from land-sales book.

Sec. 71 ('95, c. 163, s. 36). Omits provision for "sight draft."

Sec. 80 ('94—4076; '95, c. 105, s. 1). The terms "Prospecting permit" and "lease" and "contract" respectively in the following sections.

G. S. 1894, ss. 4059—4075, regulating mining on the public lands of the United States, have become obsolete and are omitted. 17 St. 465 (U. S. Comp. St. s. 2345). See Deffeback v. Hawke, 115 U. S. 392.

Sec. 85 ('94—4079; '95, c. 105, s. 4). G. S. 1894, s. 4081, amended by Laws 1895, c. 105, s. 6, is omitted, as being covered by the terms of the lease.

Sec. 91. The annual appropriation (Laws 1901, c. 354) has been left unrepealed.

Sec. 94 ('95, c. 169, ss. 1, 3). This park having been acquired, the remaining provisions of Laws 1895, c. 169, are not included.

Sec. 105 ('99, c. 214, s. 9). The last sentence is new.

Chapter 41—EMINENT DOMAIN.

In nearly every instance where the power of eminent domain is now granted by statute, a distinct method of exercising the right is prescribed. Much space is therefore wasted upon unnecessary duplications. The attempt is here made to provide one mode of procedure to be *followed in all cases. The chapter is drawn from* a study of all the various provisions referred to, which differ very slightly except in mere matters of detail, most of which differences are obviously accidental. It is believed that the one method here written will prove sufficient and easily worked. Nevertheless we invite close inspection, with a view to possible defects.

The procedure contained in city and village charters and in the road and drainage laws is not affected (see Sec. 1).

Chapter 42—MILLS AND DAMS.

Under this title are placed the statutes relating to water powers, logging dams, and the raising of the water level of lakes, now widely separated .

Chapter 43—LOGS AND LUMBER.

Designed to include so much of G. S. 1894, c. 32, as is not covered by other chapters. The lien of the Surveyor General for his fees is preserved in Chap. 71 on "Liens." Sec. 2406 is dropped, in view of the decision in 69 Minn. 194. Secs. 2409 to 2412, being of local application only, are omitted; but the chapter from which they are taken is not recommended for repeal (see Chap. 111, s. 5).

Secs. 2415 to 2418 are dropped, as having no doubt served the purposes of their enactment.

Secs. 2424 to 2471, with various subsequent acts relating to liens on logs and lumber, are placed in condensed form

in Chap. 71, providing one method to operate uniformly in all the districts.

Secs. 2474 to 2480 are covered by Chapters 42 and 71.

Chapter 44—DRAINAGE.

The law as to drainage is contained in Chap. 258, Laws of 1901, where it was first enacted and the previous laws repealed, and in Chap. 38, Laws of 1902, where it was amended and new sections added. These, with certain amendments in 1903, constitute the present drainage law. The law of 1901 provides for drainage in counties, upon petition to county commissioners. The act of 1902 amends and rewrites a large portion of this law, and adds six new sections, providing that when it is desired to construct a drain extending into or through part or the whole of more than one county, or, if entirely within one county, it is so located that it will probably result in benefit or damage, or both, to lands in an adjoining county, then the petition shall be addressed and presented to the judge of the district court of the district in which one of the counties is located, with a different procedure in such case. Neither of these laws make any provision for the maintenance of such ditch after its construction, and therefore it may be allowed to become useless. The law as so written combines two separate laws, having different provisions, and different tribunals before whom proceedings are to be had: (1) The petition to the county commissioners and proceedings before them. (2) The petition to a district judge and all proceedings before him. And in this last case, when in one county only, before any petition can be made, it must be ascertained whether lands outside such county are likely to be benefited or damaged. In some cases it may be impracticable, if not impossible, to determine this until much of the work has been done.

These drainage laws were found to be very imperfect, and the meaning of much very uncertain. The broadest rules of construction are required to give any definite meaning to them, as appears from State v. Board of County Commissioners, 87 Minn. 325, where these laws were sustained with great difficulty, and evidently as a matter of public policy, in view of the large expenditures which had been made under them. The court in its opinion (page 337) says: "In case of imperfectly drawn statutes, the courts, rather than presume them unconstitutional and void, will draw inferences from the evident intent of the Legislature, as gathered from the law taken as a whole, supplying technical inaccuracies in expression, and obviously unintentional mistakes and omissions, by implication from the necessity of making them operative and effectual as to specific things which are included in the board and comprehensive terms and purposes of the law."

The court use many other expressions in the opinion, which indicate very clearly that the law was not clear or definite in its language, and could only be sustained by reading into it what the court thought, from its general scope and purpose, must have been its real intent and purpose. In view of this, and of the fact that it was a recent law, its workings not yet fully tested, and its provisions not rendered sacred by antiquity, we examined various laws upon this subject in other states, and endeavored to rewrite in clear and concise terms such a law as would cover in unmistakable terms the purpose of the existing law, providing also for the maintenance of such ditches, and, after careful examination and study, we have recommended this chapter in lieu of the present acts.

Chapter 45—SEALS.

The legal effect of Chap. 86, Laws 1903, as we understand it, is embodied in Sec. 1. Sec. 2 of that act is obscure, but, whatever its meaning, it cannot be necessary to enact that a writing which expresses a consideration shall be deemed to import a consideration. The section as proposed conforms in substance to similar enactments in other states which have discarded the use of seals. The last clause is designed to clear up the uncertainty as to whether or not corporate seals are abolished. We are advised that such abolition was not intended.

Chapter 46—NOTARIES PUBLIC.

No alterations are intended herein, except the omission of words deemed superfluous.

Chapter 47—RESIGNATIONS, VACANCIES, AND REMOVALS.

The 23 sections of this chapter are condensed into 11, with some gain, it is thought, in perspicuity. All matter omitted is covered elsewhere by general provisions.

Chapter 48—BONDS AND SURETIES.

Transferred to Chap. 88. See note to Chap. 19.

Chapter 49—OATHS AND ACKNOWLEDGMENTS.

Many widely separated provisions are here brought together, as will appear from the citations at the end of the several sections. Great care has been taken to retain the existing law, in an orderly arrangement. Some superfluous words have been omitted from the forms of oath. See Sec. 3. Sec. 7 is new in form, but based, in the main, upon existing statutes.

Chapter 50—FEES.

Fees not prescribed in connection with special duties in other parts of the revision as here set forth as in Chap. 70, Gen. St. 1894. The special fee bills for Ramsey, Hennepin, and other counties are omitted as being special or local. In editing the Revised Laws, these should be added in the form of notes. Secs. 2 and 5 (Clerks and Sheriffs) except such counties from the operation of this chapter. The design has been to retain the present scale of fees substantially unchanged.

Chapter 51—WEIGHTS AND MEASURES.

Embraces Chap. 21 of the General Statutes and acts amendatory thereof.

Sec. 1 ('94—2195, 2196) modifies Sec. 2195.

Sec. 2 ('94—2197, 2198). A general authority to appoint deputies has been substituted for the requirement that the county treasurer shall appoint a deputy sealer for each railroad station and wheat market.

Sec. 3 Laws 1903 (Chap. 368), on which this and the two following sections are based, have been much shortened, in the belief that it is unnecessary to enact the tables of weights and measures.

Sec. 7 ('94—2203, 2204; '97 c. 31). G. S. 1894, s. 3199, has been dropped, in view of the definition of "bushel" in sales of charcoal, contained in this section.

Sec. 8 ('94—2205; '03, c. 43). The offense has been made a misdemeanor, in lieu of the provisions of former section.

Chapter 52—INTEREST AND NEGOTIABLE INSTRUMENTS.

Embraces titles 1 and 3, G. S. Chap. 23, and amendatory acts. So much of title 3 as is retained has been transferred to Chap. 10 of the revision, except Sec. 2220, which is Sec. 8 of the present chapter. Sec. 2216 is omitted as useless.

Sec. 7 ('94—2230; '97, c. 51; '03, c. 261, s. 2). Thanksgiving Day and Good Friday are added, in deference to commercial usage. They were probably inadvertently omitted in 1903.

Chapter 53—PARTITION FENCES.

Section 1, as written, prescribes who shall be fence viewers, and is added to save unnecessary repetitions. The provision making aldermen and village trustees fence viewers is new here. It tends to uniformity, and permits the elimination of '94—2078 and 2079, which it seems unnecessary to retain.

The provisions exempting certain counties ('94—2056, 2076, and 2077) are omitted. Their re-enactment would be of doubtful validity, and it is assumed that the reasons for their original enactment have ceased to exist.

Secs. 2078 and 2079—'94 are omitted. The provision making aldermen and village trustees fence viewers makes the other provisions of the chapter applicable to the cases covered by these sections, and render them unnecessary.

Chapter 54—ESTRAYS, BEASTS DOING DAMAGE, ETC.

Included in Chap. 9 of Gen. Stat. of 1894 is also the title "Unclaimed Property," but it seemed out of place in that chapter, and is made a separate chapter in this report.

In rewriting this chapter some liberty has been taken with the text in order to eliminate superfluous matter, but it is believed no material change has been made, except as here noted.

Sec. 8 ('94—2113) is modified so as to permit confinement of beasts distrained on the premises of the landowner, or in a public pound.

Section 2122—'94, is omitted. The first clause is declaratory of the common law. The other provisions seem practically obsolete and no longer necessary.

The statutes relating to mischievous dogs have been brought together, and included in this chapter as Subdiv. 3.

Subdiv. 4, relating to the running at large of certain animals, has been rearranged and much condensed, but, we believe, without material change of substance.

Chapter 55—UNCLAIMED PROPERTY.

This is substantially Title 2 of Chap. 19, G. S. 1894, and is separated from the preceding chapter, as being hardly germane to that subject.

Chapter 56—INDIANS.

Transferred to Chap. 106. See note to Chap. 19.

Chapter 57—HOTELS AND PUBLIC RESORTS.

Secs. 7997 to 8004, G. S. 1894, except those included in the penal chapters.

Chapter 58—AUCTIONEERS.

No material change is made in this chapter, except to incorporate the later amendments and to transpose provisions for the purpose of condensation and clearness.

Chapter 59—LIMITED PARTNERSHIP.

This chapter is rewritten without material change, except to eliminate superfluous matter.

Chapter 60—CORPORATIONS.

The immense increase of corporation law since the last revision in 1866 has rendered condensation and systemizing of the laws relating thereto a necessity. In 1866 the

entire subject comprised 172 sections. In 1894 this had grown to 844 sections, and the session laws since then have added 193 sections, making the present number 1037. This does not include banks, saving banks, or actions respecting corporations, the present chapter 76, G. S. 1894, which has been placed as a logical part of this chapter, coming at the end thereof. These additional matters contain 146 sections, making the whole number written therein 1,183.

Eminent Domain has been left out of the chapter, and written in a chapter by itself. Plank Roads and Turnpikes, now in this chapter, have been omitted. So far there has been no use for these, and, their formation being provided for in the general chapter, it seems unnecessary to do anything more to provide for a future possible need, and we have omitted any specific provisions in this revision. In order to reduce the mass of laws embraced under this title and place them in logical order, they have been written in eight subdivisions. (1) General provisions which continue existing corporations, provide the kinds of corporations and purposes for which they may be formed, the method of their organization, their powers, duties, and rights, obviating the necessity of repetition by providing for the organization of each kind separately. The general rules of law governing all are here stated once for all, as to both domestic and foreign. The present law has been retained, gathering it from many existing provisions and writing together. This method saves a large amount of space, and leaves it easy to find the law governing the formation and organization of every class of corporations. Where several laws upon the same subject have been found, evidently enacted for the same purpose and differing only in phraseology, they have been combined and written once only. In all cases our purpose has been, without attempting to change the law in any essential particular, to arrange it logically, dispensing with unnecessary verbiage, which tends only to confusion. Under title of Public Service Corporations (Subdiv. 2) have been written all those having the power of eminent domain. Among these are cemeteries, because of their having this power. Instead of two methods of organization of cemetery associations, as now—one under title 3 and the other under title 5—all are to be organized under the same provisions and governed by this subdivision.

The other corporations written under this head are (1) railroad corporations; (2) telegraph and telephone companies; (3) cemetery associations, including private cemeteries.

Duration of Corporations.

The existing law provides that railway corporations may continue for the length of time specified in their certificates of incorporation, other corporations with power of eminent domain for not more than 50 years, and all other corporations for profit, for 30 years, each having the right of renewal for another like period.

Believing that with the right of renewal 30 years was sufficient for any corporation, and to save repetition, both of these classes of corporation were allowed 30 years.

Subdiv. 3. Financial Corporations, consisting of banks, savings banks, trust companies, and building and loan associations, have been placed together; and under general provisions have been written all matters common to them all, and such matters have been omitted in writing the special features of every such corporation. Each corporation under this subdivision is organized under the general provisions contained in Subdiv. 1, and, where the methods of operation are similar, each is governed by the general provisions at the beginning of this subdivision. In this entire chapter, "articles" of incorporation is termed "certificate" of incorporation. In banks, savings banks, and trust companies the existing statutes have been followed, with the combination and condensation before referred to, and changes of phraseology necessary to clearness.

Building and Loan Associations

The present law provides for two classes of building and loan associations, one authorized to do a general business throughout the state, and the other, local associations, whose field of operation is limited to the county of its principal place of business and those contiguous thereto.

The general associations incorporated from time to time, with a single exception, have been short-lived and of no benefit to the community, and one after another have gone into liquidation. The one exception is a vigorous company, depending upon other lines of business than building and loan for its existence and prosperity. There is nothing now to indicate what it is except its certificate of incorporation. It is now called "The State Saving Association." In 1901 and 1903 its provisions were written.

The real and only purpose of a building and loan association is to aid in acquiring homes, and, to be effective for that purpose, must be confined to small areas of contiguous territory.

It appears evident that the real purposes of such corporations was limited to the local associations. We have therefore written a local building and loan association law, using the material now in the statute and such additions as would make a complete law. This is the only building and loan association we have provided for in the future, but we have preserved this one general association and such part of the laws governing it as seemed to be necessary, which the officers of the corporation examined and were satisfied with. This corporation, and other general ones, could better be formed under other laws which would better indicate their business; therefore we made no law for the organization of any other such corporation hereafter.

The building and loan associations provided for, we have placed under the supervision of the public examiner, but have not increased the fees required of them.

Subdiv. 4. Insurance has been written so as to retain existing laws, condensed, combined, and arranged in a systematic order, with certain omissions and additions hereinafter specified.

Insurance on the stipulated premium plan has been omitted. We find but one company in the state doing business on this plan, and it was contemplating a change. The insurance commissioner deemed it necessary to retain any special laws for this kind of insurance, and after a conference with the representative of that existing company, who did propose to change his plan of insurance, the provisions relating thereto were omitted.

Co-operative life, endowment, and casualty companies were found to be taking no insurance except life and casualty, and were not likely to do so hereafter; therefore, after like conference with the commissioner and insurance men, we put down the provisions referring to this, to those relating to co-operative life and casualty insurance.

Some sections have been enlarged, as, for instance, retaliatory provisions (Sec. 335) in reference to conditions precedent. This is done to allow regulation to go to the same extent as in other states; that is, to treat them as they treat us.

The penalties provided for in the entire chapter are placed together at the end.

One or two changes in existing law are proposed. Sec. 225 fixes the salary of the insurance commissioner at $2,500. Sec. 237 provides for computing the net value of policies, and the next section provides that the commissioner shall receive a fee equal to one cent for each $10,000 of its insurance in force. The present law provides for the payment of this fee, only it is now one cent on every $1,000, to the actuary, and does not provide for its disposition, while the revision provides that all such fees shall be paid into the state treasury, from which shall be drawn out enough to pay actual expenses of doing the work. The valuation is made compulsory, and would make a heavy tax upon many companies. We make no provision for any fees to go to the commissioner. While this is undoubtedly the correct method, if these provisions are carried out the salary of the commissioner should be increased. But this matter should rest entirely in the judgment of the Legislature, and we only call attention to it that it may be considered.

Subdiv. 5. **Other corporations for profit.**—Under this is written manufacturing corporations, those for mining and other purposes, mortgage and loan companies, and cooperative associations, which, in addition to the method of organization, powers, and duties, required very few provisions.

Subdiv. 6. **Social and charitable corporations.**—First have been written general provisions applicable to all such corporations, and then the existing corporations in this class; (1) corporations to administer charities; (2) State Agricultural Society; (3) county agricultural societies; (4) chambers of commerce, etc.; (5) camp meeting associations; (6) societies for securing homes for children; (7) societies for prevention of cruelty; and (8) fraternal societies.

Subdiv. 7. **Religious societies.**—In this, in addition to the general provisions for organization, we have included all special provisions in detail, substantially as they are now. Under this is written Young Men's Christian Associations.

Subdiv. 8. **Actions respecting corporations.**—This subject is now contained in G. S. 1894, Chap. 76, and in Chap. 272, Laws of 1899. It has to do exclusively with corporations, and clearly ought to be written in connection with that subject. Chap. 272 of 1899 consists of detailed provisions of practice. It has sometimes been questioned whether or not it did not take the place of certain parts of 76, rather than being supplementary thereto, but on careful examination it has been thought advisable to retain the provisions for equitable procedure in such cases.

Cumulative Voting.

We desire to call attention to Sec. 25, "Cumulative Voting." Two of the states have adopted cumulative voting as the only method of voting. Several others have put this provision in as optional with incorporators in the organization of a corporation. In Sec. 24 we have written the existing and most usual method of voting, and then added Sec. 25, providing that whenever incorporators

shall desire the method of cumulative voting, and provide for it in the certificate, that shall be the lawful method, leaving it entirely optional with them to adopt that method or not.

Errata. Two typographical errors are here noted:

Sec. 36, line 10, for "10,000" read "2,000."

Sec. 51, line 4, for "institute, maintain, or defend," read "institute or maintain."

Foreign Corporations.

Sec. 3, Chap. 70, Laws of 1899 (Sec. 52, Chap. 60, of the revision), provides for the payment of a fee by every foreign corporation authorized to do business in the state, based upon the proportion of the property of such corporation located in the state and the business done herein. This law relates not only to foreign corporations doing business here at the time of the passage of the act, but to those afterwards asking admission. So far as it relates to the latter, there is at the outset no data upon which to base the required statement. It is then impossible to determine its proportion of business done here, because none has yet been done, and, in order that the state may receive the full fees intended by the Legislature, it seemed necessary to make some provision by which these fees could be ascertained, and the section as written seemed to be a feasible plan by which to carry out the evident purpose of the act, and was therefore adopted. Under this the state loses no revenue, but makes a gain.

PART TWO.

Chapter—61—ESTATES IN REAL PROPERTY.

Corresponds with G. S. c. 45, which has not been changed. Secs. 45-49 ('94—5875—5878, as amended) have been transferred from G. S. c. 74.

Sec. 45 ('94—5875. The exception of six lots, etc., has been changed to 90,000 square feet. The exclusion of Anoka county is dropped.

Sec. 46 ('94—5877;. '99, c. 129). The proviso introduced in 1899 is dropped, as having doubtless accomplished its purpose.

Chapter 62—USES AND TRUSTS.

G. S. 1894, c. 43, unchanged except as here explained.

Sec. 10 ('94—4284; '97 c. 80; '01, c. 95). Subdivision 5 is based on Laws 1897, c. 80. Subdivision 5 of Sec. 4284 is dropped, in the belief that it is fully covered by the new subdivision. Laws 1903, c. 132, is omitted, having been held void.

Sec. 26 ('94—4300). "Deceased," in the first line of Sec. 4300, is omitted, as covered by Sec. 23, and "resigned" has been substituted for "released."

Chapter 63—POWERS.

This is Chapter 44 of the General Statutes, without change.

Chapter 64—LANDLORDS AND TENANTS.

This Chapter is new in title. The matter embraced in it is part of Chap. 75, Gen. St. 1894.

Chapter 65—CONVEYANCES OF REAL ESTATE.

Secs. 4172—4178, providing for proof of an unacknowledged deed, are omitted, in the belief that they are of no practical value; a more convenient remedy, in the rare cases where an unacknowledged deed is delivered, being an action to determine adverse claims. Sec. 4203 has been dropped, as being merely curative.

Sec. 2 is designed to set at rest the questions as to the power of a wife by separate deed to relinquish her rights in her husband's land previously conveyed by him by deed in which she has not joined, and of her power separately to appoint an attorney to join with her husband in a conveyance.

Sec. 5 takes the place of various conflicting sections on the subject covered. See G. S. ss. 4161, 4603, 5532, 5535.

Sec. 12 ('94—4195). *Wording changed in view of 34* Minn. 382.

Sec.13.—The provisions designating the persons before whom acknowledgments may be taken, and otherwise regulating acknowledgments, are transferred to chapter 49.

Sec. 15. Since this section provides for record of a power of attorney, and since "conveyance" includes an executory contract for sale or purchase (see Sec. 1), G. S. s. 4186, has been dropped.

Sec.25 ('94—4180). The provision for recording in unorganized counties has been omitted, none now existing. See Sec. 28.

Sec. 31 provides for discharge of a mortgage by filing for record a certificate of its satisfaction, and for a notation thereof by the register on the record of the mortgage, instead of a discharge upon the record by the register upon presentation of a certificate specifying that the mortgage has been satisfied. The change is merely formal.

Chapter 66—PLATS.

Chap. 29, G. S. 1894, with amendments, omitting the legalizing acts there inserted.

Chapter 67—REGISTRATION OF TITLES.

Little has been attempted here beyond some slight condensation, and the correction of an obvious error resulting from the insertion of Sec. 10 in Chap. 234, Laws 1903. If this section does not repeal all of the amended sections, it certainly abrogates all but one subdivision of Sec. 30 of the original chapter. Since no such result could have been intended, we retain this with the other sections referred to (see Sec. 29 of the Revision.) The substitution of an entirely new chapter has been suggested, but the commission have not considered the proposal, which came after the chapter was in type. Secs. 10, 71, 74, 83, 85, and 88 are slight modifications of the original sections, as will appear by comparison. Secs. 90, 91, 93, and 94 of '01, c. 237, are omitted, as sufficiently covered by the Criminal Code.

Chapter 68—HOMESTEAD EXEMPTION.

It is hoped that the first two sections will help to clear up the confusion which now exists concerning this important subject. So long as the exemption is measured by area, instead of value, the extent of it should be made certain, whereas the decisions disclose extreme uncertainty. The original section (G. S. 1894, s. 5521) is involved and indefinite. The proposed restatement can at least be understood. Sec. 3, marked as "New," is designed to preserve the rights of both debtors and creditors under liabilities existing when the Revision takes effect.

Chapter 69—CHATTEL MORTGAGES AND CONDITIONAL SALES.

Embraces (1) chattel mortgages; (2) conditional sales and seed grain notes—all of which contain the substance of the present law, harmonized and made consistent.

Chapter 70—FRAUDS.

Embraces Titles 1, 2, and 3 of Chap. 41, G. S. 1894, and some subsequent acts. No modifications of the former sections have been made. So much of Titles 4 and 5 as are retained have been transferred to Chap. 92 of the Revision.

Chapter 71— LIENS FOR LABOR AND MATERIAL.

Subdiv. 1, with some of the general provisions of Subdiv. 5, is meant to restate the lien law of 1889 (Chap. 200) as left by the decisions and the subsequent amendments. Great difficulty arose in construing the conflicting provisions (1) that each lien claim should "attach" from the date of the first item in the account, (2) that all should be "co-ordinate" as to one another without regard to the time of attaching, and (3) that the rights of bona fide mortgagees, etc., should be preserved. After various ineffectual attempts to administer the law without doing violence to its terms, the Supreme Court, in Gardner v. Leck, 52 Minn. 522, surmounted the difficulty by holding that all liens should attach, not from the date of furnishing the first labor or material by the claimant, but from the beginning of the improvement on the ground. This, of course, subordinated the rights of bona fide incumbrancers accruing after the improvement began, though prior in many cases to the making of the contract under which liens might arise.

Thus the matter rested until the act of 1895 (Chap. 101) reaffirmed the original statutory rule, viz., that incumbrances of which the lien claimant had notice before any work or material was furnished by him should not be affected by his lien.

This act of 1895 is incorporated with Sec. 4, to which a new provision is added, under which notice may be given of any contract made under which liens may subsequently accrue. The impossible provision that all lien claims shall be co-ordinate is omitted, but all claims must still be asserted and enforced in one action. And in such action the court is empowered to determine the relative rights to all the parties, direct the manner of sale, and distribute the proceeds all according to the circumstances and equities of the case.

We know of no better means of bringing the terms of this statute into harmony with its purposes, and with the theory upon which it was framed.

Liens against water craft are omitted here, being easily and more appropriately enforceable under Chap. 91, "Actions against Boats and Vessels."

Subdiv. 2 aims to cover the various statutory liens upon personal property in possession, and the modes of their enforcement.

Subdiv. 3 combines into one system several diverse and fragmentary methods of securing and enforcing liens upon logs and lumber. The recent Act of 1899 (Chap. 342) is preserved, substantially intact.

Under Subdiv. 4 certain special liens are brought together. The lien for shoeing animals ('01 c. 228) is omitted, as being, in the opinion of the revisers, unnecessary, or, at least, too cumbrous and costly to be of practical value. If the right to hold the animal as security be insufficient, a much simpler mode of collection would better serve the purpose.

Provisions applicable to all classes of liens are found in Subdiv. 5, completing the subject, it is hoped, in convenient form.

Chapter 72—MARRIAGE.

This chapter is rewritten without material change, except to incorporate later amendments, and as here noted.

'94—4773 prohibits the performance of the marriage ceremony if the person officiating is satisfied there is a legal impediment. As written, this provision is modified so that such person is required to be satisfied there is no legal impediment.

Chapter 73—DIVORCE.

No material change is made in this chapetr, except to incorporate later amendments, and as here noted.

To Sec. 9 ('94—4794) is added a provision for change of the place of trial in certain cases. This was deemed advisable in view of the decision of the Supreme Court in Hurning v. Same, 80 Minn. 373.

Chapter 74—MARRIED WOMEN.

Contains G. S. 1894, c. 69, with amendments passed in 1897 and 1899, so arranged as to make a harmonious whole.

Chapter 75—ADOPTION AND CHANGE OF NAME.

Secs. 8016 to 8030, G. S. 1894, with amendatory and complementary acts, are made a separate chapter.

Sec. 5 includes G. S. s. 8021, and suggests a material change. As revised, an adopted child becomes the heir of the adopting parents, without a special provision to that effect in the decree. Such seems to be the usual and natural purpose of an adoption, and otherwise great injustice might result from mere oversight in the conduct of the proceeding. If a different intention exists, some course other than adoption can be followed. This change is advised by an eminent district judge.

Secs. 8 and 9 cover G. S. ss. 8025 to 8030, relating to change of names.

PART THREE.

Chapter 76—PROBATE COURTS AND THEIR JURISDICTION.

Subdiv. 2 relates to practice in probate courts. While new in this form, its provisions are all found somewhere in the law, and are here put together so as to make the practice uniform in the different courts. The descent of property has been left in this chapter as heretofore. Under revocation of wills, we have recommended one change to which attention is called. In Sec. 43 it is proposed that the marriage of a testator shall revoke his will. Heretofore we have retained the common law upon this subject. New York and other states made the change some time since.

In Sec. 13 we have defined the word "representative," as used in the chapter, as including executors, administrators, special administrators, administrators with the will annexed, administrators de bonis non, and guardians, and have thereafter used this word instead of constant repetition of such other words, and thereby saved much space. Except as herein mentioned, we have retained the existing law with such combination and condensation as seemed advisable.

Chapter 77—COURTS OF JUSTICES OF THE PEACE.

This chapter corresponds with chapter 65 of 1894. Although rewritten for the purpose of eliminating superfluous matter and harmonizing the arrangement, no change of substance has been made.

Title 5, Chap. '94, relating to witnesses and evidence, has been transferred to the chapter relating thereto, as it seemed out of place here.

Secs. 50 and 51 are new, and have been added rather to clarify than to add to the existing law.

Secs. 65 to 68 ('94—5038 to 5041), relating to stay of executions, have been simplified and changed in form, but without change of substance.

The last part of Sec. 5029. '94, has been transferred to chapter on evidence.

Sec. 101 ('94—5069). The provision for appeals on questions of fact alone has been omitted as unnecessary.

Some of the provisions of '94, Title 12, Chap. 65, are found also in our chapter on Contempts, and are therefore omitted here.

Sec. 124 is new here.

Sec. 127 is new.

5120—'94 is omitted, being inconsistent with the provisions of Criminal Code.

Chapter 78—FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

Sec. 5 G. S. 1894, s. 6127, requires the substance of the complaint to be inserted in the summons. The present section requires a copy of the complaint to be attached. See Sec. 16.

Sec. 6110 provides that the return day shall not be less than six nor more than ten days after issuing the summons, while Sec. 6111 rsquires the summons to be served not less than three days before the return day. Sec. 6113 (Amend. '03, c. 383) provides that if, at the time of making the complaint, it appears that the defendant is absent from the county, the summons shall be returnable not less than six nor more than ten days after its issuance, and shall be served not less than six days before the return day. It has seemed better to provide that the return day shall not be less than three nor more than ten days after issuance of the summons; thus enabling the plaintiff to secure an early return day in a case when the defendant is within the county and can be served on the day the summons isuses.

Sec. 8. "Unless by consent of parties." See 72 Minn. 100.

Chapter 79—CIVIL ACTIONS.

This chapter corresponds with chapter 66 of the General Statutes. Chapter 82 has also been included. See Secs. 225-227.

In view of the existing provisions governing the liability of persons jointly indebted, and the right of creditors to bring several actions, title 22 of chapter 66, relating to proceedings supplementary to judgment, is omitted

Sec. 4 ('94—5148). Places a guardian, as respects his capacity to sue, upon the same footing as an executor or administrator. It was pointed out in 48 Minn. 82, 87, that there would seem to be no good reason why this should not be done.

Sec. 6 ('94—5160, 5161). Insane persons have been included in this section, in view of the decision in 55 Minn. 22.

Sec. 14 ('94—5175, 5176). The provision that the court may disallow any part of such expenses is new.

Sec. 23 ('94—5136; '95, c. 126; '01, c. 357). In subdiv. 5, "contract" is substituted for "obligation." In Subdiv. 7, "claims to have fully performed it" is substituted for "has fully performed it."

Sec. 24 ('94—5137). Subdiv. 2 omits "or to such party and the state of Minnesota," contained in the former section. See 48 Minn. 349.

Sec. 32 ('94—5148, 5149). The order of the original sections has been transposed, and the section rewritten in the light of the decision in 75 Minn. 527.

Sec. 42. G. S. 1894, s. 5189, has not been retained.

Sec. 49 ('94—5194, 5195; '01, c. 27). Subdiv. 2 of Sec. 5195 has been omitted, and the section modified accordingly.

Sec. 55. This section simplifies, and in some respects modifies, the rules for service upon foreign corporations.

Sec. 58 ('94—5205). Subdiv. 4 has been modified to bring it into harmony with the divorce law.

Sec. 61. "Unless the same be made for the sole purpose of attacking the jurisdiction" is new. See 53 Minn. 129. Secs. 5210, 5211, have not been overlooked, but have been omitted, as adding nothing to the foregoing provisions.

Sec. 65. The last sentence is intended to clear up the obscurity of Sec. 5213 respecting double time.

Sec. 67 ('94—5220). Adds a sanction to the requirement that pleadings must be filed on or before the second day of the term.

Sec. 71 ('94—5227). The time for which a stay may be granted ex parte has been lengthened from 20 to 60 days.

Sec. 99. "And shall so allege in his complaint" is new.

Sec. 110. See 86 Minn. 46.

Sec. 114. Includes Dist. Ct. Rule 39. The clause beginning, in the sixth line, "but if actions," is new.

Sec. 115. In Subdiv. 4, the proviso is from Dist. Ct. Rule 40.

Sec. 119. The last sentence is new.

Sec. 126. The last sentence is new.

Sec. 131 ('94—5388). "The clerk shall forthwith mail notice." Personal notice is omitted. The provision that the judges may appoint special terms is transferred to chapter 5; the provision on clerk's fees to chapter 50.

Sec. 135 ('94—5392). In Subdiv. 1, "in a case of an equitable nature" has been inserted in view of the decision in 35 Minn. 380.

Sec. 137 ('94—5394). "They shall not entertain a motion for a new trial" is new, but states the existing law.

Sec. 138 ('94—5401). Sec. 5402 has been omitted, as superfluous.

Sec. 140 ('94—5405). "At least ten days before the term" has been inserted as a reasonable limitation. See 23 Minn. 61.

Sec. 142. In Subdiv. 6, "or clearly assigned in the notice of motion" is added, in view of Laws 1901, c. 113. See Sec. 144.

Sec. 143. The last sentence is new.

Sec. 145. The definition of "case" is new.

Sec. 146 ('94—5400; '01, c. 26). The last sentence is new. See 51 Minn. 337.

Sec. 146½. "Or stenographer" is new.

Sec. 147 ('94—5275). The last sentence of Sec. 5275 has been omitted, as superfluous. Secs. 5281-5283, relating to the qualifications, justification, and approval of sureties, are covered by chapter 88, on Bonds.

Sec. 158 ('94—5287, 5288, 5289). The last sentence is new. It is intended to set at rest the question whether the lien of an attachment survives notwithstanding delay in serving the summons.

Sec. 162 ('94—5293, 5302). For the provisions for levy of execution on personal property, see Secs. 239 et seq.

Sec. 164 ('94—5298). So much of Subdiv. 2 of Sec. 5298 as is not here included has been made Sec. 248. Subdiv. 3 is Sec. 167.

Sec.168 ('94—5302, 5303). The last paragraph is new.

Sec. 172. Secs. 5313, 5314, relating to exemptions, have been transferred to Sec. 258.

Sec. 178 ('94—5317). It is believed that the effect of Sec. 5317, which was not clear, has not been changed.

Sec. 180 ('01, c. 96). The provisions for notice to the garnishee and defendant in the proviso have been slightly changed.

Sec. 186 ('94—5321). Sec. 5321 has been somewhat changed.

Sec. 203 ('94—5345, 5346, 5348). The provision for a restraining order instead of a temporary injunction is new. Secs. 5349, 5350, have been omitted in consequence of the change.

Sec. 207 ('94—5413). Sec. 5419 has been omitted as superfluous.

Sec. 212 ('94—5417, 5418). The former sections have been slightly modified in respect to the time within which the retraction must be published. The more appropriate term "special damages" has been substituted for "actual damages." See 40 Minn. 117. For this reason the definition contained in Sec. 5418 has been omitted.

Sec. 213 ('94—5422). "As if allowed by the probate court," etc. See 27 Minn. 422.

Sec. 214 ('94—5423, 5424). In Subdiv. 1, "decision or order filed in the case" is new.

Sec. 218 ('94—5426). The last sentence is new.

Sec. 221 ('94—5435). The provision for satisfaction by entry on the register is new.

Secs. 225-227. These embrace chapter 82 of the General Statutes.

Sec. 231 ('94—5444). In Subdiv. 2, the first sentence expresses the existing law, but is new. See Wisconsin St. 1898, s. 2969, subdiv. 2. The rest of this subdivision was part of Subdiv. 1 of Sec. 5444.

Sec. 232 ('94—5445, 5446). The provision that, if the officer has levied before expiration of the 60 days, he may retain the execution until he has sold the property, expresses the existing law. 24 Minn. 20. In view of this being the law, and of the fact that an alias execution may issue (29 Minn. 87), the provision for renewal of execution contained in Sec. 5445 is superfluous, and has been omitted.

Sec. 233 ('94—5447). Has been modified in view of the decision in 62 Minn. 136.

Sec. 236 ('94—5457). The provision of Sec. 5457, that "if the same does not * * * circulate at par," the officer shall sell, has been omitted, as obsolete.

Sec. 246 ('94—5455). The provision for serving copy of notice of sale is new.

Sec. 250 ('94—5476). Sec. 5477 has been transferred to chapter 85, Actions Relating to Real Property.

Secs. 253, 254 ('94—5474). For both uniformity and brevity, the corresponding provisions of chapter 86, relating to foreclosure of mortgages, are incorporated by reference.

Sec. 254. The remarks made in reference to the preceding section apply here.

Sec. 257 ('94—5480-5485). Reduces the rate of interest from twelve to eight per cent. and makes other slight changes.

Sec. 258. Subdiv. 13 is transferred from subdiv. 5 of Sec. 5459, and made generally applicable, such being the apparent intent. The words "or other" have been added to include tornado and other insurance. Subdiv. 16 is based on Sec. 5314, which is substituted for Subdiv. 11 of Sec. 5459. See 54 Minn. 366. Sec. 5461 is omitted, as superseded by the section retained.

Sec. 260 ('94—5486). Sec. 5494, providing for enforcement of orders, has been omitted, as covered by chapter 94. The provision in Sec. 5489 for appeals has been transferred to chapter 82.

Chapter 80—JURIES.

This chapter is rewritten without material change. The drawing and summoning of juries in the counties of Ramsey, Hennepin, St. Louis, and Washington seem to be covered by special laws, which are therefore omitted from the report.

Sec. 11 was transferred to this chapter from that on Counties.

Chapter 81—COSTS.

Chap. 67, G. S. 1894, somewhat condensed.

Chapter 82—APPEALS IN CIVIL ACTIONS.

Embraces the right of appeal to the Supreme Court, the powers of the appellate court, bonds required, and all matters connected therewith, being the substance of the present law, with one exception. Sec. 4 provides for sending up the original record instead of a copy. In most cases, the expense of a transcript is sheer waste. If for any reason it is necessary or desirable to retain a record in the court below pending the appeal, the court is authorized to direct copies to be transmitted.

Chapter 83—CONFESSIONS OF JUDGMENT.

Transferred to Chap. 79. See note to Chap. 19.

Chapter 84—ARBITRATION AND AWARD.

Condenses the nineteen sections of Chap. 89, G. S. '94, into seven, and its four pages into less than two, yet without intentional modification of the law.

Chapter 85—ACTIONS RELATING TO REAL PROPERTY.

Combines Chap. 74 of G. S. 1894, with so much of Chap. 75 as relates to actions concerning real property. Chap. 85 (Sec. 66 hereof), and one or two other sections formerly placed elsewhere, have also been included. Secs. 5865, 5868-5873, have been transferred to chapter 64, and Secs. 5874-5878 to chapter 61, of the Revision. The subject of foreclosure by action might logically have been made part of this chapter, but for reasons of convenience has been retained in the chapter on "Foreclosure."

In Sec. 2 ('94—5839, 5840, 5841, 5842) the provision for notice of lis pendens has been inserted, to bring it into conformity with the practice in actions to determine adverse claims against unknown defendants (Sec. 38). The phraseology of the last sentence has been changed in view of the construction placed upon G. S. 1894, s. 5842, in 44 Minn. 392, 394.

Sec. 6 ('94—5770; '97, c. 299). The amendment to the original section made by Laws 1897, c. 299, which provided for partition between owners of land within the meander line of a lake the waters of which have receded, appears to have misconceived the nature of the action, and has been omitted. A remedy in such cases is given by action to determine boundary lines (Sec. 67).

Sec. 7 ('94—5771, 5773). Publication of a copy of the notice of lis pendens has been substituted for the corresponding provision of G. S. '94, s. 5773, in order to conform to the practice in actions to determine adverse claims against unknown defendants (Sec. 38).

Sec. 12 ('94—5777). In Subdiv. 3, "unknown" has been substituted for "known," to correct an apparent error.

Sec. 21 ('94—5788). "Unincumbered" has been omitted from the first line of the section, and "if any" inserted in the first line of Subdiv. 3, to express the apparent intention.

Secs. 29, 30, 31, 32, 34. The provisions relating to curtesy and dower in these sections are omitted, as obsolete.

Sec. 34. In the fourth line, "including" has been substituted for "subject to," this appearing to be required by Sec. 31.

Sec. 5823, G. S. 1894, is omitted, the subject being fully covered by Chap. 76 of the Revision.

Sec. 45 ('94—5847). "Use of the" is inserted in lines 1 and 2.

Sec. 48 ('94—5850, 5856; 97, c. 38). The interest rate is changed from 7 to 6 per cent.

Sec. 53 ('97, c. 223; '01, c. 294). The provision for recording in new.

Sec. 61 ('94—5477). Transferred from G. S., Chap. 66, and its scope enlarged to include sales under judgment and mortgage.

Sec. 63 ('94—5862). The scope of this section has been enlarged, like that of the preceding.

G. S. 1894, ss. 5821, 5822 (Amend. '97, c. 266), providing for an action to test a tax title, has been omitted, in the belief that the ground is fully covered by Chap. 17, "Taxation."

Chapter 86—FORECLOSURE OF MORTGAGES.

Corresponds with chapter 81 of the General Statutes.

Sec. 9 ('94—6030, 6031) has been modified to conform to the construction given in 26 Minn. 338.

Sec. 15, and Secs. 13 and 38 (both curative), are new.

In Sec. 16 ('94—6047, 6048; '95, c. 216) the provision for an affidavit of sale has been omitted, in the belief that such an affidavit serves no purpose that is not accomplished by the certificate of sale.

In Sec. 18 (('94—6051) the ten days for filing the affidavit of costs is made to run from the filing for record of the certificate of sale, in conformity with the decision in 63 Minn. 517.

In Sec. 19 ('94—6052) the provision for "three times the amount of any bonuses or interest, over and above 12 per cent.," is omitted, as superfluous.

In Sec. 25 ('94—6044) the phraseology has been slightly amplified for the sake of clearness, following Sec. 3533a of the General Statutes of Wisconsin.

In Sec. 26 ('94—6042) a provision for producing the original deed or mortgage, with the certificate of record indorsed thereon, has been added to Subdivision 1. Subdivision 3 has been amplified, in conformity with the suggestion made by the court in 70 Minn. 380, 390, that a redemptioner proceeding under an assignment of a judgment should be required to file such assignment as provided in G. S. 1894, s. 5431.

In Sec. 37 ('94—6062) the second sentence is new.

Chapter 87—ACTIONS FOR OR AGAINST PERSONAL REPRESENTATIVES AND HEIRS.

Chap. 84, G. S. 1894, combined and condensed, with a view to clearness and compactness.

Chapter 88—OFFICIAL AND OTHER BONDS.

Contains the present law, taken from various portions of the statutes, and so written as to bring the entire law of the subject into a single chapter. The word "new," cited after several sections, does not indicate new law, but a new manner of writing existing law so as to bring similar provisions together and harmonize them. Modes of justification of sureties taken from other portions of

the statutes are inserted here in order to give the entire law upon this subject in one place. The few lines of Sec. 3 contain the substance of over a page of the General Statutes. Then comes a provision from the Laws of '95, rewritten so as to harmonize the other provisions. The section in reference to undertakings in lieu of bonds is inserted, and then cost of surety bond which may be allowed to certain officers. We have also inserted here by whom bonds are to be approved when no direction is otherwise given. This is cited as new, not because we have proposed a new provision, but because the law found in various places is here brought together.

Chapter 89—ACTIONS TO VACATE CHARTERS, ETC.

Embraces G. S. 1894 in condensed form.

Chapter 90—SPECIAL PROCEEDINGS.

Embraces (1) mandamus; (2) prohibition; (3) writ of habeas corpus—in all of which the substance of G. S. 1894, Chap. 84, has been retained, except that in Subdiv. 2, Sec. 17, we have recommended the abolishment of the antiquated "writ of consultation," never needed and no longer used.

Chapter 91—ACTIONS AGAINST BOATS AND VESSELS.

This corresponds with Chap. 83, G. S. 1894. The sections giving cognizance of such actions to justices of the peace are omitted, in the belief that the jurisdiction should be confined to the district court. Other slight changes have been suggested by a study of similar chapters in Wisconsin and elsewhere. The enforcement of labor and material liens upon vessels is provided for here; hence the subject is omitted from the chapter on Liens.

Chapter 92—ASSIGNMENT FOR BENEFIT OF CREDITORS.

Embraces Title 4 of Chap. 41, G. S. 1894, or so much of the present law as regulates common-law assignments. In view of the existence of a federal bankruptcy act, it has been deemed unnecessary to retain title 5, which consists of the Insolvent Law of 1881 and its amendments. This act is recognized by judges and lawyers as imperfect in many respects. In the event of the repeal of the bankruptcy act the Legislature will doubtless see fit to enact a new law upon this subject. No material changes in title 4 as construed by the Supreme Court have been proposed.

Chapter 93—ACTIONS RESPECTING CORPORATIONS.

Transferred to Chap. 60. See note to Chap. 19.

Chapter 94—CONTEMPTS.

Embraces contempts in the different courts, including those of justices of the peace, except some special provisions are retained in the chapter on justice courts. Contempts are divided into direct contempts and constructive contempts, as classified by the Supreme Court. See State v. Ives, 60 Minn. 478. The present definitions as to the different acts or omissions which constitute contempt are placed under the proper class of contempts. The remainder of the chapter contains the present law, condensed and harmoniously grouped.

Chapter 95—WITNESSES AND EVIDENCE.

Title 2 of Chap. 73 has been omitted as no longer necessary. Some changes in the arrangement have also been made; otherwise, there is no material change except to incorporate later amendments and as here noted.

Sec. 3 ('94—5653). The words "with a person of suitable age and discretion" have been added.

Sec. 5 ('94—5655) is slightly changed to cover the case of witnesses in justice courts.

Sec. 6916—'94, is transferred to this chapter as Sec. 9 thereof, and slightly altered to conform to the law as held by the United States Supreme Court.

Sec. 10 ('94—5695) is so changed as to provide that a person called for cross-examination thereunder may be re-examined by his own counsel. This is added for the purpose of securing uniformity in practice, as we understand the rule is not uniform under the statute as it now stands.

Sec. 5661—'94 is omitted. Its provisions seem to be fully covered by Secs. 7, 8, and 13 of this chapter ('94—5685—5666).

Title 2, Chap. 77, G. S. 1894, is omitted as no longer needed. The arrangement of the various provisions relating to depositions has been changed, for the purpose of simplifying and making consistent the different existing provisions and to eliminate superfluous matter.

Sec. 48 ('94—5719; '02, c. 65). To this section has been added a provision making printed copies of municipal ordinances conclusive evidence of the regularity of their adoption after three years.

Secs. 5708-5714-'94, relating to certain compilations of the statutes, are repealed.

Sec. 5765—94, is omitted, the subject-matter being covered by Secs. 3 and 25, Chap. 101, of this report.

PART FOUR.

Chapters 96 to 109—CRIMINAL LAW, PROCEDURE, PRISONS, ETC.

The present criminal law was found in much confusion. First were found the provisions contained in the Revision of 1866, and mixed therewith were the various laws passed thereafter down to 1885, when the Penal Code was adopted, and we now have the Penal Code, laws enacted before the Penal Code, and laws enacted since the Penal Code. There having been no revision since 1866, these laws were necessarily without logical arrangement or system. In 1885, the committee appointed to revise the criminal law reported substantially the criminal Code of New York, certain provisions appropriate under the Constitution and laws of New York, but entirely inappropriate here, being inadvertently left unchanged. Then came the laws enacted at the different sessions of the Legislature down to the present. It therefore became necessary to sort out these laws, rearrange them in logical order, and endeavor to reconcile inconsistencies. Such portions as have been covered by more recent enactments, are of course, omitted. The entire criminal law, including procedure, has been written consecutively. Many general provisions have been taken from other parts of the statute and placed in this chapter, while penal provisions relating to particular subjects have been left with the law where found, as being more convenient.

Only one material change has been proposed, and that not a change of law, but of definition. Under present laws, crimes are divided into felonies and misdemeanors. These are defined as crimes punishable by death or imprisonment in the state prison, and crimes not so punishable. Many misdemeanors are punishable by fines or jail sentences beyond the jurisdiction of a justice of the peace. As a convenient mode of distinguishing between the two classes of misdemeanors, we have designated those beyond the jurisdiction of a justice as "gross misdemeanors."

Chap. 96 contains all general provisions, definitions of words and terms, rules of construction, and all other provisions applicable to the entire subject, collected from all parts of the criminal law.

Chap. 97, "Rights of Accused," embraces all matters pertaining to the rights and privileges of the accused.

Chap. 98 includes crimes against the sovereignty of the state, gathered from various places in the statutes.

Chap. 99 contains Title VIII of the Criminal Code, and acts found elsewhere in the session laws. Under this are (1) bribery, (2) rescues and escapes, (3) public records, (4) perjury, etc.

Chap. 100, "Crimes against the Person," contains (1) definitions, (2) suicide, (3) homicide, (4) maiming, (5) kidnapping, (6) assault, (7) robbery, (8) duels, (9) libel and slander of women.

Chap. 101, "Offenses against Morality, Decency, etc.," contains: (1) Rape, abduction, carnal knowledge of children, and seduction; (2) abandonment, crimes against children, etc.; (3) abortion, etc.; (4) bigamy, adultery, etc.; (5) lotteries; (6) gaming; (7) pawnbrokers; (8) rights of sepulture; (9) Sabbath breaking, etc.

Chap. 102, "Offenses against Public Health and Safety." Some sections of this chapter have been covered by the pharmacy law enacted since the Criminal Code, with some additions and changes; as, for instance, G. S. 1894, ss. 6620 to 6624. We have therefore left them in the pharmacy law, and omitted them here.

Chap. 103, "Crimes against Public Peace," contains substantially the present law, subsequent session laws being inserted.

Chap. 104, "Crimes against Property," under the following heads: (1) State property and revenue; (2) other property definition; (3) arson; (4) burglary; (5) counterfeiting; (7) larceny; (8) extortion and oppression; (9) false personating, etc.; (10) fraudulent injury to vessels; (11) false weights and measures; (12) fraud in the management of corporations; (13) fraudulent issue of documents of title to merchandise; and (14) malicious mischief and other injuries to property.

Chap. 105, "Cruelty to Animals." Present laws of 1894 and subsequent session laws.

Chap. 106, "Other Offenses," embraces crimes not classified under the foregoing heads.

Chap. 107, "Criminal Procedure." The 17 existing chapters under procedure have been written together, separating them by subheads corresponding with the present chapter titles.

Forms of indictments for the different offenses are omitted. Under the provisions of the Criminal Code, their insertion is deemed inadvisable.

In many parts of the Criminal Code there are more than one section upon the same subject which have been covered by a single section. For instance, Secs. 6891 and 6892 of '94 are covered by 6772, 6893 by 6791, and 6896 to 6901 are covered by the chapter on noxious weeds. Sec. 6907 is written with offenses against state property, 6913 to 6915 is in definitions, 6917 and several subsequent sections are written with bureau of labor. Secs. 6985 to 7045 are included in Chap. 21 of the revision, and 7045 to 7074, inclusive, with health laws. Overlapping provisions have been written once only, and in an appropriate place.

Subdiv. 18 of Chap. 107, "The Board of Pardons," is the substance of Chap. 23, Laws of 1897. One change only is suggested, found in Sec. 234. The following has been inserted: "But if an application for a pardon or com-

mutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members indorsed thereon."

Chap. 108, "State Prison and State Reformatory," and 109, "Jails and Lockups," are placed under the board of control, as provided for in its organization. These contain the substance of the present law, harmonizing inconsistencies and omitting superfluities. Chap. 109 also contains the provisions of law relating to juvenile offenders, taken mainly from Chaps. 270 and 387, Laws of 1903.

Some change is proposed in sections 20 and 21, "Jails, Lockups, etc." County boards, when about to build or repair jails at an expense of more than $250, are required first to pass a resolution to that effect, and transmit a copy to the board of control. Within 30 days, such board is required to furnish advice and suggestions; and after the county board has obtained plans and estimates it shall submit the same to the board of control for approval, so far as relates to safety and sanitary conditions; that is, the county board must take some definite action before calling on the board of control. This seems to make the matter more intelligible and definite.

PART FIVE.

Chapter 110—STATUTES.

This and the following chapter constitute a separate title, the omission of the heading being overlooked in the hurry of the final proofreading. It should be preceded thus:

PART FIVE.

CONSTRUCTION OF STATUTES AND EXPRESS REPEALS.

Sec. 1. The blanks should be filled with a date which will give time for careful editing, annotating, and printing the revision for public use. The remaining Secs. of Subdiv. 1 are important, and follow very closely the precedents of 1866. They are designed to cover the transition from the old forms to the new, and have been found adequate in the past, both here and in other states.

Subdiv. 2 is considerably expanded, and should receive more attention in the drafting of new legislation than has been given in the past to the corresponding provisions of the former revision. Much useless verbiage might be saved by relying upon these statutory definitions.

Sec. 7 reverses the rule of the existing law in this: that all laws shall take effect from and after their passage, unless otherwise specified, instead of 30 days after approval. Since it is now the constant practice, under the awkward terms of G. S. 1894, s. 257, to specify the time when each act shall take effect, we see no reason why it may not be done once for all. If adopted, the familiar final section of all session laws may hereafter be omitted, except in the rare cases where the law is not intended to go into immediate effect. The money unnecessarily spent since 1866 in writing, engrossing, enrolling, printing, and reprinting these words would go far towards paying the entire cost of this revision.

Sec. 8 is a new provision, restating a rule adopted by the Supreme Court in various cases. Its uniform observance, both in drafting and construing statutes, will save much confusion.

Sec. 11 gathers up many existing statutory definitions, and adds some new ones. More might have been done in this direction with profit.

We call attention, in particular, to Subdiv. 14. Lawyers will recall the wearisome reiteration of the details of time, place, and manner of printing in cases of notice by publication. In the scores of instances wherein publication is authorized or required, all these retails, in varying forms, are set out in full. The same is true of notice by posting copies. In all such cases we have substituted the phrase "published notice" or "posted notice," adding only the number of weeks or days. In this subdivision will be found a definition of these phrases, and in the following section the requirements of a newspaper as a medium of notice are set forth. Many pages are thus condensed into a few lines, with even more saving in time and patience.

Subdiv. 21 also saves much repetition, and makes uniform a rule for computing time, already in very general use.

Chapter 111—EXPRESS REPEAL OF EXISTING LAWS.

It is the uniform and necessary practice, upon the adoption of revisions, to repeal the laws as originally enacted. In construing revisions, however, the original laws are assumed to be continued in force unless an intention to alter is clearly shown. A late expression of the rule is found in Eastwood v. Crane (Iowa) 101 N. W. Rep. 481, as follows:

"A mere change in phraseology in the revision of a statute will not work a change in the law previously declared, unless it clearly appears that such was the intention of the Legislature." Page 484.

A clear apprehension of this settled canon of interpretation would quiet many unfounded alarms.

In the list of acts recommended for repeal are included many already expressly repealed. The last three lines of Sec. 1 are designed to guard against misapprehensions which might arise therefrom. It was thought advisable to show in this chapter all the session laws since 1866 which will be abrogated in case the revision prevails.