CHAPTER 484

DISTRICT COURTS

484.01 JURISDICTION.

HISTORY. R.S. 1851 c. 69 art. 2 s. 3; P.S. 1858 c. 57 s. 1; G.S. 1866 c. 64 s. 1; G.S. 1878 c. 64 s. 1; G.S. 1894 s. 4833; R.L. 1905 s. 90; G.S. 1913 s. 143; G.S. 1923 s. 154; M.S 1927 s. 154.

NOTE: In 1866, the Constitution, Article 6, Section 4, provided six judicial districts, one judge in each district. The heavy calendars in the two metropolitan districts required additional judges. The legislature, Special Laws 1867, Chapter 84, created a Court of Common Pleas for Ramsey County, with one judge, which was increased to two, and had the same jurisdiction as the district court within the county. The jurisdiction was both civil and criminal, with appellate jurisdiction from the justice courts. This court continued to function until the 1875 Amendment to the Constitution, permitting more than one judge in each district. The legislature, 1876 Special Chapter 209, provided for three district court judges and named the two sitting judges of the Common Pleas Court as district judges, and repealed Laws 1875, Chapter 69, relating to the jurisdiction of the Court of Common Pleas.

A Court of Common Pleas was established in Hennepin County and was later merged as in Ramsey County.

Any equities in favor of a defendant in an action at law, upon which a court of equity before the blending of the two jurisdictions would have prevented a recovery at law, may now be set up in defense, and such relief may be given in the action, as either or both courts could have given on the same facts and equities. Gates v Smith, 2 M 30 (21).

The district court is a court of general jurisdiction without regard to the amount in controversy, unless where the constitution directs actions to be brought elsewhere. It has jurisdiction to enforce a mechanic's lien though the amount be less than $100.00. Agin v Heyward, 6 M 110 (53); Cressey v Gierman, 7 M 398 (316); Thayer v Cole, 10 M 215 (173).

Except over estates of deceased persons and persons under guardianship, the district court has original jurisdiction whatever the amount involved, and where one is sued in the court of a justice of the peace, and has an equitable defense, he has a right of appeal to the district court where he may set up his equity. Fowler v Atkinson, 6 M 503 (350).

The district court, concurrent with other courts, has jurisdiction as a criminal court of offenses against the liquor laws. State v Kabe, 26 M 148, 1 NW 1054; State v Bach, 36 M 234, 30 NW 764; State v Russell, 69 M 499, 72 NW 832.

The district court has jurisdiction to issue writs of certiorari to probate courts, to review their judgments and decrees not appealable. State ex rel v Willrich, 72 M 165, 75 NW 123.

Mandamus will lie compelling the district court of Lyon county to try an action against a railway, although it is an action in tort in which the federal court has concurrent jurisdiction, and the plaintiff is a resident of Wisconsin where the accident occurred. State ex rel v District Court, 156 M 380, 194 NW 780.

A citizen of a foreign state has the legal right to prosecute in the courts in this state an action against a common carrier, who is engaged in business in this state, to recover personal injuries received by him in another state as an employee of such carrier while engaged in interstate commerce. Frye v Railway, 157 M 52, 195 NW 629.

The probate court has exclusive jurisdiction of claims against the estate of decedents arising under contracts involving the payments of money, but in the instant case the complaint states a cause of action in equity to trace a certain

specific fund, and is within the jurisdiction of the district court. Klesseg v Lea, 158 M 14, 196 NW 655.

By following the course prescribed by statute, a defendant, entitled to remove a cause to the United States district court, arrests the jurisdiction of the state court and effects a removal to the federal court. No action by the state court is necessary. Jurisdiction of the state and federal courts in actions arising under the federal employees liability act is concurrent. Removability of a case when commenced is determined by the allegations of the complaint. Voluntary subsequent action of the plaintiff may make the case removable, although it was not removable when commenced. Kowalski v Railway, 159 M 388, 199 NW 178.

The courts of this state will not decline to entertain an action of a transitory nature, brought by a citizen of another state against a railway company subject to the service of process in that state, merely because the statute of the foreign state prohibits the solicitation of the business of prosecuting such an action without the state. Hovel v Railway, 165 M 449, 206 NW 710.

An action in the district court to recover for destruction by fire. Plaintiff is an Indian. The case was dismissed for want of jurisdiction. The United States was the proper party to maintain the action, and such an action having been brought in the federal court, this action in the state court was properly dismissed. Laveirge v Davis, 166 M 14, 206 NW 939.

Where the president of a bank misappropriated funds in violation of a federal statute, the offense thus charged is within the exclusive jurisdiction of the federal courts. State v Thornton, 171 M 466, 214 NW 279.

While usually the question whether a widow has elected to accept or renounce the will is for original decision by the probate court, neither the district court nor the supreme court is without jurisdiction to decide it in this case. Having jurisdiction of the action, a court of equity will inquire into and decide all questions of law upon which depends the right of the parties or any of them to equitable relief. Butler v Butler, 180 M 134, 230 NW 575.

It is the law of the state that it will not deny to citizens of sister states the right to maintain in its courts such actions as its own citizens may maintain; that its courts will not discriminate between resident and non-resident plaintiffs nor resident defendants and non-resident defendants; and that transitory actions are triable if the jurisdiction of the defendant is acquired and the defendant doing business within the state. Boright v Railway, 180 M 52, 230 NW 457.

The Wisconsin statute is not so different from our public policy as to cause our courts to decline jurisdiction, and a right of action accruing to a party under a foreign statute will as a matter of comity be enforced in the courts of this state when jurisdiction can be had and justice done between the parties if such statute be not contrary to the public policy of this state. Chubbuck v Halloway, 182 M 225, 234 NW 314; Kertson v Johnson, 185 M 591, 242 NW 329.

In an action to secure a permanent writ of injunction to restrain defendant from prosecuting a cross-action in Texas in a case pending therein to foreclose a mortgage on Texas land. Held, (1) The judgment was proper and not extra judicial, and (2) the power of granting or refusing is vested in the trial court and calls for the exercise of judicial discretion. Child v Henry, 183 M 170, 236 NW 202.

Our district courts are courts of concurrent jurisdiction. When one first acquires jurisdiction over an action and the parties thereto, it is an excess of jurisdiction for another, by injunctional proceedings against the parties, to attempt to restrain further proceedings in the court first acquiring jurisdiction. State ex rel v District Court, 195 M 169, 262 NW 155.

A suit by third parties against the surviving partners of a firm, to recover on liabilities of the firm and of the surviving partners, is within the jurisdiction of the district court, and money and property in the hands of representatives of an estate are subject to garnishment. Fulton v Okes, 195 M 247, 262 NW 570.

The mortgage moratorium law construed as having created an enlargement of the equity of redemption of a mortgage of real estate. To the extent it is procedural in case of foreclosure by action in the federal court relief under the statute cannot be had in the state courts. Any new or substantive right created may be protected as well by the federal as by the state court. Weisman v Massachusetts, 196 M 577, 265 NW 431.

Inasmuch as the whole field of domestic relations, including those between parent and child, is reserved to the states, state courts have jurisdiction over a statutory fileation proceeding. State v Flores, 197 M 590, 268 NW 194.

Provisions of the constitution of a voluntary, nonprofit organization requiring as a condition precedent to a resort to the courts in any matter in which a member feels aggrieved by the action of the organization or its officers that such member first exhaust all remedies open to him within the organization, are valid if the remedies so provided are reasonable. Skrivanek v Brotherhood, 198 M 141, 269 NW 111.

In an injunction case, which defendants claim presents a labor dispute within the meaning of Laws 1933, Chapter 416, the first question for decision is whether that claim is well founded. If it be erroneously decided and, without findings of fact, an injunction issues upon the ground no labor dispute is presented, the decision, even though erroneous, is not subject to collateral attack in proceeding to punish a violation of the injunction for contempt. In certiorari to review relator's conviction for contempt in violating a temporary injunction, the latter is under collateral attack which must fail unless the injunction is shown to be a nullity. Reid v Independent Union, 200 M 599, 275 NW 300.

In matters involving jurisdiction of the court where the mode of acquiring such is prescribed by statute, compliance therewith is essential and when the court's attention is called to the absence of a jurisdictional fact it must refuse to exceed its powers, and the court cannot appropriate to itself a jurisdiction by permitting a correction of the notice of appeal after the time for taking appeal has expired. Strom v Lindstrom, 201 M 226, 275 NW 833.

Pertinent decisions of the United States Supreme Court relating to immunity from state taxation are binding upon the states. Geery v Minnesota, 202 M 366, 278 NW 594.

The defense that a government corporate instrumentality is immune from suit will be noticed, even if raised for the first time after trial on argument of alternative motion for judgment notwithstanding verdict or a new trial. Regional agricultural credit corporations are not immune from suit. Cooper v Regional, 202 M 433, 278 NW 896.

The determination of issues arising under the federal anti-trust laws whether raised by way of attack or defense and as relating to a motion picture equipment leasing contract, is made by statutes to rest exclusively within the jurisdiction of the federal courts and beyond that of the state courts. General Pictures v De Marce, 203 M 28, 279 NW 750.

The judicial code makes the jurisdiction of the federal courts exclusive of that of the state courts in actions involving patents and rights secured thereby. Grob v Continental, 203 M 459, 283 NF 774.

The sufficiency of evidence to establish negligence in action under federal employers' liability act is a federal question. Bimberg v Northern Pacific, 217 M 187, 14 NW(2d) 410.

The burden imposed on interstate commerce by bringing an action in a district outside the state where the case originated gives the court no discretion to refuse jurisdiction. Beem v Railway, 55 F(2d) 708.

That the order of the interstate commerce commission permitting a railroad to abandon a branch line on the ground that operation thereof constitutes burden on interstate commerce may run counter to a state statute, ordinance or charter provision and does not bar the commission's exclusive and plenary jurisdiction to regulate commerce. Mantorville v Railway, 8 F. Supp. 791.

Offices and agents of the federal government are not responsive to suits or claims arising from their actions in connection with matters arising from the performance of their official duties. Black v Sassman, 26 F. Supp. 105.

A district judge sitting as a bankruptcy court had power to make an ex parte order permitting a plaintiff in an action at law in the district court to serve garnishee summons on bankruptcy trustee and direct the trustee to make disclosure. The soundness of the rule preventing the bankruptcy court from digressing to such collateral issues may not be successfully questioned where the reasons for the rule are known to be the elimination of all extraneous issues which might hinder the early closing of the estate. The state has no jurisdiction

in the bankruptcy field and process from the state court could not be permitted to delay the termination of a matter in bankruptcy. National v Goldie, 27 F. Supp. 399.

A fire insurance policy written in Minnesota and purporting to be a Minnesota contract, must be construed in accordance with the decisions of Minnesota courts. Langhorne v Capital Co. 54 F. Supp. 771.

Validity of the acts of unrecognized de facto governments in the courts of the non-recognizing states. 13 MLR 216.

Discretion to dismiss actions between non-residents on causes of action arising outside the state. 15 MLR 83.

484.02 CONCURRENT JURISDICTION; BOUNDARY WATERS.

HISTORY. 1889 c. 70 ss. 1, 2; G.S. 1894 ss. 4835, 4836; 1905 c. 242; R.L. 1905 s. 91; G.S. 1913 s. 144; G.S. 1923 s. 155; M.S. 1927 s. 155.

The offense of larceny from the person was committed on a wagon bridge which spans the Mississippi river between Winona and the Wisconsin side. Held, the statute was enacted giving concurrent jurisdiction to both states because of the uncertainty of fixing a changing main channel of the river. This uncertainty exists as well on a bridge as in the open channel. In the instant case the state of Minnesota and its courts have jurisdiction over the offense. State v George, 60 M 503, 63 NW 100.

Where under court order money is deposited with the clerk, and placed where it earns interest, the interest follows the deposit when the money is disbursed. OAG Dec. 16, 1944 (144b-18).

484.03 WRITS.

HISTORY. R.S. 1851 c. 69 art. 2 s. 6; P.S. 1858 c. 56 ss. 5, 6; 1862 c. 17; G.S. 1866 c. 64 s. 3; G.S. 1866 c. 80 ss. 12, 22; G.S. 1878 c. 64 s. 3; G.S. 1878 c. 80 ss. 12, 23; G.S. 1894 ss. 4837, 5985, 5996; 1895 c. 25; 1897 c. 7; R.L. 1905 s. 92; G.S. 1913 s. 145; G.S. 1923 s. 156; M.S. 1927 s. 156.

Judgment was rendered and docketed in Swift county. The clerk issued a transcript and also an execution directed to the sheriff of Chippewa county. In the execution the date of the docketing was left blank to be filled in by the clerk as of the date of the actual entry. After docketing the transcript and entering the date in the blank space in the execution, the execution was delivered to the sheriff. Held, the sale thereunder is regular and valid. Gowan v Fountain, 50 M 264, 52 NW 862.

If an action commenced in one county is removable to another, the service by the defendant of his affidavit of residence, and demand for a change of the place of trial to the latter county, the place of residence, and the filing with the clerk of the court where the action was commenced by proof of such service, ipso facto changes the place of trial to the latter county, and no order of the court is necessary. Flowers v Bartlett, 66 M 213, 68 NW 976.

Laws 1895, Chapter 25, amended this section by omitting the word "certiorari". The word was replaced by Laws 1897, Chapter 7. Held, between the times of the passage of these two amendments, the district court had no authority to issue writs of certiorari. Schultz v Talty, 71 M 16, 73 NW 521.

The district courts of the state have jurisdiction to issue writs of certiorari to probate courts, to review their judgments and decrees not appealable. The decree of the probate court assigning the residence of the estate of a decedent is not appealable, and certiorari will lie to review it. State ex rel v Willrich, 72 M 165, 75 NW 123.

When the attorney general exhibits an information in the nature of quo warranto to the district court, and asks that a writ issue, directed to a municipal corporation, requiring it to show cause why its franchise should not be declared null and void, the court has no discretion but must direct the writ to issue, and on its return it is the duty of the court to try the issues. When the application is made to the supreme court it may exercise its discretion, and determine whether the writ is to issue, or leave be given to file the application in district court. State ex rel v Kent, 96 M 255, 104 NW 948.

The relators in the instant case were not parties in form, but were in substance. Held, the test of the right to certiorari, so far as parties are concerned, is whether the person seeking the writ was a party in form or in substance.

When there is no special occasion for the application of strict technical rules to statements in a petition for certiorari, and in the writ issued, and where no prejudice has resulted from informalities, the writ will be liberally construed, and not held to the standard of definiteness of formal pleadings. State ex rel v Isanti County, 98 M 89, 107 NW 730.

The office of the writ of certiorari is to review proceedings and judgments of inferior courts, or tribunals acting judicially, where no appeal or other adequate remedy is afforded, and is available to review an order of the county commissioners acting under the statute laying out and establishing a public ditch; no appeal from such order being provided by that statute. Ross v Posz, 106 M 197, 118 NW 1014.

A writ of certiorari should run in the name of the state, and must be directed to the court or body whose proceedings are sought to be reversed, and in the instant case the writ should be directed to the village council. Berg v Blackduck, 107 M 441, 120 NW 894.

In an application for an injunction to restrain suits pending or threatened to avoid multiplicity of suits. Held, as plaintiff does not show irreparable injury nor that their remedy at law is inadequate, the motion was rightfully denied. Davis v Forrestal, 124 M 10, 144 NW 423.

Where a land owner is a party to the proceedings by which a town ditch is established, and can bring all matters in controversy before the court by writ of certiorari, he cannot maintain an action to enjoin the construction of such ditch. Webb v Lucos, 125 M 403, 144 NW 423.

The courts have no authority to enjoin the officials of the executive department from holding an election called by the governor to fill a vacancy in the representation of this state in the senate of the United States, as the governor is exercising a governmental and political power over which the courts have no control. State ex rel v District Court, 156 M 270, 194 NW 630.

A district court has jurisdiction to try an action which seeks to restrain the enforcement of a debt, evidenced by a judgment in another district court of the state, by execution, when the debt has been satisfied, or when the plaintiff has ceased to be liable upon the judgment. Baune v Maryland, 168 M 484, 210 NW 396.

The purpose of the action was to prevent May from holding the position of general engineer of the water department to which position he was appointed without examination under civil service rules. Held, the plaintiff had legal capacity to bring the action; the position is one of employment and not an office. Quo warranto does not lie. The question as to whether it was practicable to determine the merits and fitness of an applicant for the position by competitive examination is one of law to be eventually decided by the court. Oehler v St. Paul, 174 M 410, 219 NW 760.

In a proceeding in quo warranto the record sustains the findings of the trial court, that the seven relators therein named were elected as directors of the Finnish Supply Company, a corporation, and that the respondents were not so elected. State ex rel v Kylmanen, 180 M 486, 231 NW 197.

A district judge, exercising the power of the court itself has jurisdiction to vacate an order of the court commissioner for a writ of habeas corpus and to quash the writ if issued, the merits of the matter not having been decided by the commissioner. Even where there are two or more judges of the same court, one judge in a proper case has power to vacate the mere order of another. State v Hemenway, 194 M 124, 259 NW 687.

In an original proceeding in the nature of quo warranto the supreme court appointed a referee to take testimony and make findings. Held, where for many years an incorporated village has existed and is now included in a city incorporated as a city of the fourth class, no part of the territory within the village limits may by information in quo warranto, be questioned as not being suitable. As to the territory taken from the towns of Balkan and Stuntz only territory of urban and suburban character and properly conditioned for municipal government may be taken. State ex rel v City of Chisholm, 199 M 403, 273 NW 235.

The case would be exceptional and one in which it clearly appears that public interests require it to justify the court in overruling the judgment of the attorney general in refusing to institute quo warranto proceedings or to consent thereto. The granting or refusing of a petition of this nature rests in the sound discretion of the court. Christianson v Johnson, 201 M 219, 275 NW 684; Christianson v Ingelbretson, 201 M 222, 275 NW 686.

One who has no certificate of election to a state office from the state canvassing board is not entitled to quo warranto to test the title of an incumbent appointed thereto. Wells v Atwood, 202 M 50, 277 NW 357.

The district court has discretionary power to grant leave to file an information in the nature of quo warranto at the instance of a private relator having no interest in the matter distinct from that of the general public, notwithstanding the refusal of the attorney general to institute or consent to the proceedings, but the case should be exceptional which in the instant case it was not. State ex rel v Fredrickson, 202 M 79, 277 NW 407.

Where the state's attorneys general and its banking department have for a long period of years construed the applicable statutes to grant powers to trust companies to receive commercial deposits to be checked out in the usual banking way, and successive legislatures have made no effort to amend the laws, courts should not depart from such construction. In quo warranto, improper motives prompting or instigating the proceedings may bar relief. Ervin v Crookston, 203 M 512, 282 NW 138.

While an injunction may issue to protect the possession of the incumbent against a claimant whose title is in dispute, the issue of possession pendente lite becomes moot if the claimant, under a certificate of election goes into possession of the office. Title to a public office will not be tried in a suit for injunction against a claimant. Doyle v Ries, 205 M 82, 285 NW 480.

On respondent's motion, the court properly vacated an ex parte order issuing a writ of quo warranto directing respondents to show by what warrant they claimed the right to act as trustees of a named religious corporation, for it conclusively appears from the moving papers that the respondents were in fact and law such trustees, and hence the writ had been improvidently issued. Dollenmayer v Ryder, 205 M 207, 286 NW 297.

Quo warranto is an extraordinary legal remedy, and procedure is not governed by the requirements of service of notice of trial applicable in civil actions. State v Village of North Pole, 213 M 302, 6 NW(2d) 458.

Offices are incompatible where the nature and duties of the two offices are such as to render it improper, from considerations of public policy, for one person to hold both. The office of court commissioner and municipal judge are incompatible. 1908 OAG 188, Oct. 22, 1907.

A warrant issued by a judge of probate acting as a juvenile court for the arrest of a delinquent child is effective to apprehend the child in any part of the state and bring him before the court. 1934 OAG 314, Nov. 20, 1920.

Officers of a newly incorporated village, and all defendants in any proceeding to test the validity of its incorporation should be named in the petition. OAG Dec. 14, 1934 (361e-4).

With the approval of the court a minor may be a deputy clerk, provided the position does not require a bond, and the position is entirely clerical. OAG Jan. 31, 1945 (144a-1).

Shifting basis of jurisdiction. 17 MLR 150.

Removal from public office by court action. 20 MLR 729.

Quo warranto; estoppel against the state; discretion of the court. 22 MLR 745.

484.04 TESTING WRITS.

HISTORY. R.S. 1851 c. 69 art. 2 ss. 14, 16; P.S. 1858 c. 57 ss. 12 to 14; G.S. 1866 c. 64 ss. 12 to 14; G.S. 1878 c. 64 ss. 12 to 14; G.S. 1894 ss. 4847 to 4849; R.L. 1905 s. 93; G.S. 1913 s. 146; G.S. 1923 s. 157; M.S. 1927 s. 157.

An execution should be dated as of the day when it issued from the clerk's office. A levy on personal property is not void because the execution does not state the true date of docketing the judgment, nor because the execution issued before the docketing in the county to which it issued, if it be not delivered to the sheriff until after the docketing. Mollison v Eaton, 16 M 426 (383).

Where the writ of attachment was signed by the judge of the district court, but was not signed by the clerk, nor sealed with the seal of the court, or otherwise, it was void under the statute and the levy thereunder a nullity. Wheaton v Thompson, 20 M 196 (175); O'Farrell v Heard, 22 M 189 (192).

Judicial notice will be taken in a district court of the signature and official character of all persons who have been duly appointed deputies by the clerk. The clerk is not an officer specially required by law to have and use a seal. The court itself has a seal, which must be used by the clerk as required by statute. State v Barrett, 40 M 65 (70).

The writ of attachment signed "L. H. Prosser, Clerk, by D. W. Bacon", and the seal of the court was attached. Held, properly signed, sealed and issued. A court commissioner has power to authorize issuance of a writ. Clements v Utley, 91 M 352 (357).

Court commissioners have jurisdiction to hear and determine habeas corpus proceedings, but none to rejudge or weigh the evidence given before a magistrate. If the record contains evidence reasonably tending to sustain it, the action of the justice must stand. The writ was sufficiently attested though not in the name of the presiding judge. State ex rel v Haugen, 124 M 456, 145 NW 167.

Minnesota Constitution, Article 6, Section 14, grants to the legislature the power to define the means and directions for the issuance of writs and process. A summons is not process but a mere notice that suit has been instituted, and judgment will be taken against him if he fails to defend. Schultz v Oldenburg, 202 M 237, 277 NW 918.

Instruments issuing from the probate court which are properly called orders and are so denominated should be signed by the judge and the signature of the clerk, the seal he attached is not sufficient authentication. 1912 OAG 523, Dec. 11, 1912.

484.05 JUDGE MAY ACT IN ANOTHER DISTRICT.

HISTORY. R.S. 1851 c. 69 art. 2 s. 6; 1858 c. 67 s. 3; P.S. 1858 c. 57 ss. 4, 50; 1863 c. 42; G.S. 1866 c. 64 ss. 5, 8; G.S. 1878 c. 64 ss. 5, 8; 1891 c. 77 s. 1; G.S. 1894 ss. 4839, 4843; R.L. 1905 s. 94; 1907 c. 157 s. 1; G.S. 1913 s. 147; G.S. 1923 s. 158; M.S. 1927 s. 158.

This action was brought in Sherburne county, then a part of the seventh judicial district, and was tried by a judge of that district. Laws 1897, Chapter 379, created a new district of which Sherburne county was a part. Thereafter the trial judge filed a decision and settled a case and exceptions. Held, he had authority thereafter to hear a motion for a new trial, and further, conceding that the judge of the new district, or a special judge appointed to act, it would have been an abuse of discretion for him to have done so. McCord v Knowlton, 76 M 391, 79 NW 397.

Where a case pending in a county of one judicial district is tried by a judge of another district sitting in place of the resident judge, it will be conclusively presumed, in the absence of an affirmative showing to the contrary, that he was called upon or requested to hear the matter in the manner authorized by statute. In re Ditch No. 6, 156 M 95, 194 NW 402; In re Estate of Shell, 165 M 349, 206 NW 457.

The constitutional separation of authority into legislative, executive and judicial departments forbids interference of one with the other within their respective spheres; the courts have judicial control over ministerial acts of an executive state officer; and where the presiding judge has made an order designating a qualified judge of his district to hold a term of court within a county of such district, the governor may not designate an outside judge to preside thereat. State ex rel v Montague, 195 M 278, 262 NW 684.

In so far as Minnesota Statutes 1941, Section 484.05 or 542.43, assume to empower the governor to designate a judge of another district to discharge the

duties of a district judge, it is in contravention of Article 3, Section 1, and beyond the authority of Article 6, Section 5, of our state constitution. State ex rel v Day, 200 M 77, 273 NW 684.

Delegation of a judicial function to the executive. 22 MLR 729.

484.06 JUDGE NOT TO PRACTICE LAW.

HISTORY. R.S. 1851 c. 69 art. 2 s. 6; P.S. 1858 c. 57 s. 4; G.S. 1866 c. 64 s. 6; 1867 c. 87 s. 1; G.S. 1878 c. 64 s. 6; G.S. 1894 s. 4840; R.L. 1905 s. 95; G.S. 1913 s. 148; G.S. 1923 s. 159; M.S. 1927 s. 159.

Privilege of judge. 4 MLR 227.

484.07 COURT NOT OPEN SUNDAY; EXCEPTION.

HISTORY. R.S. 1851 c. 69 art. 2 s. 7; P.S. 1858 c. 57 s. 5; G.S. 1866 c. 64 s. 7; G.S. 1878 c. 64 s. 7; G.S. 1894 s. 4841; R.L. 1905 s. 96; G.S. 1913 s. 149; 1915 c. 38 s. 1; G.S. 1923 s. 160; M.S. 1927 s. 160.

Case was tried and the jury in justice court returned a verdict against the appellant about one o'clock P. M. on Saturday. The statute requires entry in the docket "forthwith". The entry made in the docket on Monday following is deemed sufficient and timely. Sorenson v Swenson, 55 M 58, 56 NW 350.

484.08 DISTRICT COURTS TO BE OPEN AT ALL TIMES.

HISTORY. 1923 c. 412 s. 1; G.S. 1923 s. 161; M.S. 1927 s. 161.

There is no distinction between general and special terms, and the court is deemed open when a judge is sitting to determine a question of law or fact. OAG Dec. 24, 1931.

Sections 484.08 and 484.30 are not inconsistent. OAG June 15, 1934 (494a-3) (283).

The district judge made an order for calling a grand jury more than 15 days before the term, but the order was not filed until less than the 15 days, the calling was irregular and ineffective. OAG Sept. 30, 1937 (494a-3).

484.09 FIRST JUDICIAL DISTRICT.

HISTORY. 1911 c. 6 s. 1; G.S. 1913 s. 151; 1915 c. 327 s. 1; 1921 c. 199 s. 1; G.S. 1923 s. 162; M.S. 1927 s. 162.

484.10 SECOND JUDICIAL DISTRICT.

HISTORY. G.S. 1913 s. 151; 1917 c. 5 s. 1; G.S. 1923 s. 162; M.S. 1927 s. 162.

484.11 THIRD JUDICIAL DISTRICT.

HISTORY. G.S. 1913 s. 151; 1917 c. 2 s. 1; 1921 c. 103 s. 1; 1923 c. 14 ss. 1, 2; G.S. 1923 s. 162; 1925 c. 84 ss. 1, 2; M.S. 1927 s. 162; 1935 c. 62 s. 1.

484.12 FOURTH JUDICIAL DISTRICT.

HISTORY. 1909 c. 244; G.S. 1913 s. 151; G.S. 1923 s. 162; M.S. 1927 s. 162.

484.13 FIFTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; 1913 c. 326 s. 1; G.S. 1913 s. 151; G.S. 1923 s. 162; 1925 c. 99 s. 1; M.S. 1927 s. 162; 1933 c. 15 s. 1.

484.14 SIXTH JUDICIAL DISTRICT.

HISTORY. G.S. 1913 s. 150; G.S. 1923 s. 162; M.S. 1927 s. 162; 1937 c. 5 ss. 1, 2; 1937 c. 184 ss. 1 to 3.

484.15 SEVENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; 1913 c. 9 s. 1; G.S. 1913 s. 151; 1915 c. 90; 1917 c. 37 s. 1; G.S. 1923 s. 162; 1925 c. 9 s. 1; M.S. 1927 s. 162; 1931 c. 117 s. 1; 1933 c. 28 s. 1; 1933 c. 108 s. 1; 1935 c. 46 s. 1; 1943 c. 137 s. 1.

484.16 EIGHTH JUDICIAL DISTRICT.

HISTORY. G.S. 1913 s. 150; 1921 c. 73 s. 1; 1923 s. 249; G.S. 1923 s. 162; M.S. 1927 s. 162; 1937 c. 127 s. 1.

484.17 NINTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; G.S. 1913 s. 150; 1915 c. 67; G.S. 1923 s. 162; 1925 c. 102 s. 1; M.S. 1927 s. 162; 1931 c. 50 s. 1.

484.18 TENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; G.S. 1913 s. 150; 1917 c. 367 s. 1; 1919 c. 29; G.S. 1923 s. 162; M.S. 1927 s. 162; 1935 c. 182 s. 1; 1945 c. 265 s. 1.

484.19 ELEVENTH JUDICIAL DISTRICT.

HISTORY. 1909 c. 126; 1911 c. 368 ss. 1, 2; 1913 c. 522 s. 1; G.S. 1913 ss. 151, 176, 177; 1915 c. 93 ss. 1, 2; 1921 c. 302 s. 1; G.S. 1923 ss. 162, 164, 165; 1925 c. 218; M.S. 1927 ss. 162, 164, 165; 1945 c. 5 s. 1.

484.20 TWELFTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244 s. 1; G.S. 1913 s. 151; 1923 c. 290 s. 1; G.S. 1923 s. 162; 1927 c. 55 s. 1; M.S. 1927 s. 162; 1933 c. 11 s. 1; 1935 c. 256 s. 1; 1939 c. 11.

484.21 THIRTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244 s. 1; 1913 c. 52 s. 1; G.S. 1913 s. 151; 1921 c. 57 s. 1; G.S. 1923 s. 162; M.S. 1927 s. 162; 1929 c. 3; 1933 c. 22; 1939 c. 36; 1943 c. 38 s. 1.

484.22 FOURTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; G.S. 1913 s. 151; 1915 c. 43 s. 1; 1917 c. 67 s. 1; 1921 c. 135 s. 1; G.S. 1923 s. 162; 1925 c. 34 s. 1; 1927 c. 67 s. 1; M.S. 1927 s. 162; 1929 c. 2; 1931 c. 285 s. 1; 1933 c. 51 s. 1; 1937 c. 448 s. 1.

484.23 FIFTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; G.S. 1913 s. 151; 1921 c. 143 s. 1; 1923 c. 222 s. 2; G.S. 1923 s. 162; 1925 c. 344; 1927 c. 197 s. 1; M.S. 1927 s. 162; Ex. 1933 c. 15; 1937 c. 261 ss. 1 to 4.

484.24 SIXTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1913 c. 263; G.S. 1913 s. 150; 1915 c. 64 s. 1; G.S. 1923 s. 162; 1927 c. 22 s. 1; M.S. 1927 s. 162.

484.25 SEVENTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 244; G.S. 1913 s. 151; 1921 c. 174; G.S. 1923 s. 162; M.S. 1927 s. 162; 1929 c. 16 s. 1.

484.26 EIGHTEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; G.S. 1913 s. 150; 1919 c. 88 s. 1; G.S. 1923 s. 162; M.S. 1927 s. 162; 1937 c. 267 s. 1; Ex. 1937 c. 18 s. 1.

484.27 NINETEENTH JUDICIAL DISTRICT.

HISTORY. R.L. 1905 s. 97; 1909 c. 21 s. 1; 1909 c. 244 s. 1; G.S. 1913 s. 151; 1917 c. 9 s. 2; 1919 c. 70; 1923 c. 56 s. 1; G.S. 1923 ss. 162, 163; 1925 c. 345 s. 2; M.S. 1927 ss. 162, 163; 1937 c. 49; 1937 c. 50; 1941 c. 232 ss. 1, 2.

484.28 TERMS IN NEW COUNTIES.

HISTORY. 1909 c. 244 s. 2; G.S. 1913 s. 159; G.S. 1923 s. 176; M.S. 1927 s. 176; 1945 c. 65 s. 3.

484.29 ABSENCE OF JUDGE; WHO MAY ACT.

HISTORY. 1889 c. 153 s. 1; G.S. 1894 s. 4842; R.L. 1905 s. 98; G.S. 1913 s. 160; G.S. 1923 s. 177; M.S. 1927 s. 177.

Case having been tried and closing arguments made court adjourned for the day. Judge Smith became ill and never returned to the bench. Judge Elliott charged the jury. Held, the jury should have been discharged and a new one impaneled. Rossman v Moffett, 75 M 289, 77 NW 960.

Where the judge who tried the case has quit office, another judge in the same district may hear and determine a motion for a new trial even after the entry of judgment. Noonan v Spear, 125 M 475, 147 NW 654.

In a will contest, two issues tried, and a new trial granted on one of the issues, such issue being retried, against objection, by another judge, before the first judge had filed his findings; each judge thereafter making findings embodying the verdicts, said findings co-ordinating into a consistent judgment which is sustained. In re Shell, 165 M 349, 206 NW 457.

Where a trial judge has become incapacitated and a motion for a new trial is heard by another judge, the latter has no power to amend findings of fact, but he may amend the conclusions of law so as to direct the entry of the judgment demanded by the findings of fact; and he may grant a new trial for the same causes for which the trial judge may grant it. School district v Aiton, 175 M 346, 221 NW 424.

An alternate writ of mandamus; held, the judge who tries the case to a verdict must go through with it, except as otherwise provided by statute; and though an affidavit of prejudice be filed, it is still for the trial court, unless disabled, to conclude the case. Peremptory writ issued. State ex rel v Qvale, 187 M 546, 246 NW 30.

Where after trial and before decision, the trial judge died, and thereafter the parties stipulated that a successor judge might try the case on the record and argument of counsel, and after the court had filed its findings the trial judge resigned, and a motion for new trial was heard by a successor judge, he had power to hear the case on the merits and make findings upon the transcript. Railway v Becher, 200 M 258, 274 NW 522.

Right to have motion for new trial heard by judge who tried the case. 17 MLR 673.

484.30 ADJOURNED AND SPECIAL TERMS.

HISTORY. R.S. 1851 c. 69 art. 2 s. 19; P.S. 1858 c. 57 s. 16; G.S. 1866 c. 64 s. 15; G.S. 1878 c. 64 s. 15; G.S. 1894 s. 4850; R.L. 1905 s. 99; G.S. 1913 s. 161; G.S. 1923 s. 178; M.S. 1927 s. 178.

The district court has the power, under the statutes, to discharge the grand jury impaneled at a regular general term of the district court, adjourn the term to a future day, and order a new venire of grand jurors to be drawn and summoned for such adjourned term. State v Peterson, 61 M 73, 63 NW 171.

The judge or judges of the district court have no authority under our statutes to provide by a standing order for the holding, year after year, of terms of court for the trial of issues of fact. They have authority to appoint special, not regular, terms for that purpose. Flanagan v Borg, 64 M 394, 67 NW 216.

An order appointing a special term for the hearing of matters other than the trial of issues of fact, made by a judge of the district court more than 20

years ago, and ever since acted upon, is a valid order, although there is now no proof in the clerk's office that it was ever posted as required by statute. Northwestern v Kofod, 74 M 448, 77 NW 206.

The appointed date for a special term at Henderson was August 31st. The printed notice for hearing a ditch petition was August 24th. Relator appeared at Henderson on the 24th, and the judge not being present, was notified to appear before the judge at Shakopee on the 27th, at which time the matter was set for hearing at Henderson on the 31st. Relator appeared, and objected to the jurisdiction, but was overruled and the court heard the petition and filed his order. This is certiorari to review. Held, it may happen that the judge cannot be at a certain place at a certain time, and in such situation the court possesses the power to direct that the matter be continued and presented at another time and place. State ex rel v Morrison, 132 M 454, 157 NW 706.

Sections 484.08 and 484.30 are not inconsistent. OAG June 15, 1934 (494a-3) (283).

Where the district judge made an order calling a grand jury more than 15 days before the term, but the order was not filed until less than 15 days, the calling was irregular and ineffective. OAG Sept. 30, 1937 (494a-3).

484.31 NON-ATTENDANCE OF JUDGE; ADJOURNMENT.

HISTORY. R.S. 1851 c. 69 art. 2 s. 9; P.S. 1858 c. 57 s. 7; G.S. 1866 c. 64 s. 9; 1876 c. 64 s. 1; G.S. 1878 c. 64 s. 9; G.S. 1894 s. 4844; R.L. 1905 s. 100; G.S. 1913 s. 163; G.S. 1923 s. 179; M.S. 1927 s. 179.

484.32 FAILURE TO HOLD TERM NOT TO AFFECT WRITS.

HISTORY. R.S. 1851 c. 69 art. 2 ss. 10, 11; P.S. 1858 c. 57 ss. 8, 9; G.S. 1866 c. 64 ss. 10, 11; G.S. 1878 c. 64 ss. 10, 11; G.S. 1894 ss. 4845, 4846; R.L. 1905 s. 101; G.S. 1913 s. 164; G.S. 1923 s. 180; M.S. 1927 s. 180.

After an action in Wright county, then a part of the fourth judicial district, was tried, and before it was decided, Laws 1897, Chapter 379, made Wright county a part of the 18th judicial district. Held, the fourth judicial district trial judge had authority to make and file a decision thereafter, although he was not a judge of the 18th judicial district. When two judges sit together, the senior judge may decide the case after his associate has resigned. Darelius v Davis, 74 M 345, 77 NW 214.

484.33 RULES OF PRACTICE.

HISTORY. 1875 c. 44 s. 1; G.S. 1878 c. 64 s. 37; G.S. 1894 s. 4886; R.L. 1905 s. 104; G.S. 1913 s. 167; 1919 c. 33; G.S. 1923 s. 182; M.S. 1927 s. 182.

Court Rules, 175 Minn. XXXVII; Minnesota Statutes 1941, page 3982. Judges of the district court have no authority by rule to prescribe a rule of practice which will have the effect of depriving the supreme court of supervision and control over the records of the courts below, which are made with reference to a probable appeal to this court, and which may result in encumbering the returns herein with much that is wholly unnecessary and useless. A rule forbidding the preparing of a case in narrative form is invalid. State ex rel v Otis, 71 M 511, 74 NW 283.

Findings should embrace only ultimate facts which relate to the issues to be tried and should not intermingle evidentiary facts. The failure to file findings made by a district judge until the day after he ceased to hold office did not affect the validity of the findings. Sheehan v Bank, 163 M 294, 204 NW 38.

Rule 27f (Minnesota Statutes p. 3985) of the district court permits objections to the language of closing arguments to be seasonably taken at the close thereof where such arguments are reported; the rule which requires the party requesting the reporting (as distinguished from transcribing) of the argument to pay the reporter is invalid. Jovaag v O'Donnell, 189 M 315, 249 NW 676.

Under Laws 1913, Chapter 466, the attending annually of a meeting to revise the rules is a part of the official duties of a district court, and the expenses are chargeable. 1916 OAG 111, Nov. 21, 1916.

484.34 SEVERAL JUDGES; DIVISION OF BUSINESS.

HISTORY. 1877 c. 103 s. 7; G.S. 1878 c. 64 s. 33; Ex. 1881 c. 25 ss. 2, 3; Ex. 1881 c. 84 ss. 3, 4; 1885 c. 141 s. 3; 1887 c. 104 s. 2; G.S. 1878 Vol. 2 (1888 Supp.) c. 64 ss. 17b, 17c, 20b, 29c, 29d, 36c; 1893 c. 137 ss. 3, 4; G.S. 1894 ss. 4854, 4855, 4857, 4869, 4870, 4874, 4880, 4882, 4883; R.L. 1905 s. 105; G.S. 1913 s. 168; G.S. 1923 s. 183; M.S. 1927 s. 183; 1931 c. 51.

Where the presiding judge has made an order designating a qualified judge of his district to hold a term of court within a county of such district in conformity with Minnesota Statutes 1941, Section 484.34, the governor may not designate an outside judge to preside thereat. State ex rel v Montague, 195 M 278, 262 NW 684.

484.35 TEMPORARY COURT-HOUSES.

HISTORY. R.S. 1851 c. 69 art. 2 s. 20; P.S. 1858 c. 57 s. 17; G.S. 1866 c. 64 s. 16; G.S. 1878 c. 64 s. 16; G.S. 1894 s. 4851; 1897 c. 361; 1899 c. 233; R.L. 1905 s. 102; G.S. 1913 s. 165; G.S. 1923 s. 181; M.S. 1927 s. 181.

484.36 TERMS FOR NATURALIZATION.

HISTORY. R.S. 1851 c. 69 art. 2 s. 20; P.S. 1858 c. 57 s. 17; G.S. 1866 c. 64 s. 16; G.S. 1878 c. 64 s. 16; G.S. 1894 s. 4851; 1897 c. 361; 1899 c. 233; R.L. 1905 s. 102; G.S. 1913 s. 165; G.S. 1923 s. 181; M.S. 1927 s. 181.

484.37 TERMS IN CERTAIN CITIES AND VILLAGES; ORDER; NOTICE.

HISTORY. 1907 c. 414 s. 1; G.S. 1913 s. 169; G.S. 1923 s. 184; M.S. 1927 s. 184.

484.38 PLACE OF TRIAL, HOW DETERMINED.

HISTORY. 1907 c. 414 s. 2; G.S. 1913 s. 170; G.S. 1923 s. 185; M.S. 1927 s. 185.

484.39 COURT ROOM PROVIDED.

HISTORY. 1907 c. 414 s. 3; G.S. 1913 s. 171; G.S. 1923 s. 186; M.S. 1927 s. 186.

484.40 CALENDAR; NOTE OF ISSUE.

HISTORY. 1907 c. 414 s. 4; G.S. 1913 s. 172; G.S. 1923 s. 187; M.S. 1927 s. 187.

484.41 DUTIES OF JUDGES AND SHERIFFS.

HISTORY. 1907 c. 414 s. 5; G.S. 1913 s. 173; G.S. 1923 s. 188; M.S. 1927 s. 188.

484.42 RECORDS.

HISTORY. 1907 c. 414 s. 6; G.S. 1913 s. 174; G.S. 1923 s. 189; M.S. 1927 s. 189.

484.43 EXPENSES; CHANGE OF VENUE.

HISTORY. 1907 c. 414 s. 7; G.S. 1913 s. 175; G.S. 1923 s. 190; M.S. 1927 s. 190.

484.44 DEPUTY SHERIFF AND CLERK.

HISTORY. 1909 c. 126; 1911 c. 368 s. 1; G.S. 1913 s. 178; 1915 c. 93; 1915 c. 371; 1917 c. 255 s. 2; 1921 c. 284 s. 1; G.S. 1923 s. 166; M.S. 1927 s. 166; 1931 c. 160 s. 1.

Contestant in election case filed notice of contest in office of the deputy clerk at Hibbing within proper time, but failed to comply with the statute in that he failed to state in his notice "to be tried at the village of Hibbing", and the court did not acquire jurisdiction. Strom v Lindstrom, 201 M 226, 275 NW 833.

Application of soldiers preference act. 1934 OAG 698.

484.45 COURT-HOUSE; JAIL; EXPENSES.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 179; 1915 c. 371 s. 1; 1917 c. 255 s. 1; G.S. 1923 s. 167; M.S. 1927 s. 167.

484.46 JURORS.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 180; 1915 c. 93; G.S. 1923 s. 168; M.S. 1927 s. 168.

484.47 APPEALS FROM MUNICIPAL AND JUSTICE COURTS.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 181; G.S. 1923 s. 169; M.S. 1927 s. 169.

The court did not err in refusing, after a jury had been impaneled, to change the place of trial from Virginia to Duluth because the action did not necessarily involve the title to real estate, for the gist of the case is injury to the possession, only the fee being in the federal government. Thompson v St. Louis, 113 M 425, 129 NW 780.

484.48 TRIAL OF CRIMINAL CASES.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 182; 1915 c. 93 s. 5; G.S. 1923 s. 170; M.S. 1927 s. 170.

484.49 TRIAL OF ACTIONS.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 183; 1921 c. 302 s. 2; G.S. 1923 s. 171; M.S. 1927 s. 171.

An action against a railroad corporation was brought in the municipal court at Hibbing, venue changed by motion to the municipal court in Duluth, and on motion remanded to Hibbing. This is a writ in mandamus directing the municipal court in Duluth to proceed with the trial. To which respondent demurred, and the demurrer was sustained. State ex rel v Municipal Court, 128 M 225, 150 NW 924.

Hearings under the workmen's compensation act are to be held at the time and place fixed by the judge, regardless of the time and place of holding the regular term of court. They need not wait the holding of a regular term. State ex rel v District Court, 129 M 423, 152 NW 838.

As between Duluth and Ely as a place of trial the trial court may use its sound judicial discretion in denying a motion for change of venue. Desjardins v Emeralite, 189 M 356, 249 NW 576.

Where the presiding judge has made an order designating a qualified judge of his district to hold a term of court within a county of such district in conformity with section 484.34 the governor may not designate an outside judge to preside thereat. State ex rel v Montague, 195 M 278, 262 NW 684.

484.50 SUMMONS; PLACE OF TRIAL.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 184; 1915 c. 93; 1921 c. 302 s. 6; G.S. 1923 s. 172; M.S. 1927 s. 172; 1931 c. 95 s. 1.

Actions in municipal courts are within the purview of section 542.09; and where the venue in such an action is properly laid thereunder the defendant has no right under section 488.16 to change it to another municipal court in the same county. State ex rel v Municipal Court, 128 M 225, 150 NW 924.

Hearings under workmen's compensation act are to be held at the time and place fixed by the judge, regardless of the time and place of holding regular terms of court. State ex rel v District Court, 129 M 423, 152 NW 838.

As between Duluth and Ely, the court could have in its discretion located the venue in either city. Desjardins v Emeralite, 189 M 356, 249 NW 576.

Contestant filed notice of election contest at Hibbing within the time limit, but failed to comply with the statute in that he failed to state in his notice, "to be tried

at the village of Hibbing". Held, the court did not acquire jurisdiction. Strom v Lindstrom, 201 M 226, 275 NW 833.

A peremptory writ of mandamus is in order requiring a case previously sent to Hibbing for trial, returned to Duluth. It was an abuse of judicial discretion to send the case to Hibbing. Merchants v Manner, 215 M 575, 10 NW(2d) 770.

484.51 PAPERS WHERE FILED.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 185; 1915 c. 93; 1917 c. 255 s. 3; G.S. 1923 s. 173; M.S. 1927 s. 173.

484.52 RULES.

HISTORY. 1909 c. 126; 1911 c. 368; G.S. 1913 s. 186; G.S. 1923 s. 174; M.S. 1927 s. 174.

484.53 DIVISION OF BUSINESS; JUVENILE COURT.

HISTORY. 1911 c. 368; 1913 c. 171 s. 1; G.S. 1913 s. 189; G.S. 1923 s. 175; M.S. 1927 s. 175.

484.54 EXPENSES OF JUDGES.

HISTORY. 1913 c. 466 s. 1; G.S. 1913 s. 253; 1921 c. 249; G.S. 1923 s. 209; M.S. 1927 s. 209.

The expenses incurred by judges as provided in section 484.33 may be paid under the provisions of section 484.54. 1916 OAG 111.