PART IV

REDRESS OF CIVIL INJURIES
JUSTICES OF THE PEACE

CHAPTER 530

COURTS OF JUSTICES OF THE PEACE

530.01 JURISDICTION OF JUSTICES OF THE PEACE LIMITED TO COUNTY; EXCEPTIONS.

HISTORY. R.S. 1851 c. 69 art. 4 s. 1; P.S. 1858 c. 59 s. 1; G.S. 1866 c. 65 s. 1; G.S. 1878 c. 65 s. 1; 1893 c. 85 s. 1; G.S. 1894 s. 4955; R.L. 1905 s. 3882; G.S. 1913 s. 7500; G.S. 1923 s. 8993; M.S. 1927 s. 8993.

The city of Ortonville composed of territory lying in two counties was incorporated by special act, and by its terms the act created a city justice with general powers. Held, process may issue to a constable of either county, and an appeal will lie to the district court of either county. Minneapolis v Voight, 63 M 145, 65 NW 261.

The provision in the statute is effective only to the property attached, and such action does not confer general jurisdiction on the defendants; and where the defendants appear specially and ask for a dismissal which was refused, and the defendant files an answer, such is not construed as a general appearance. Perkins v Meilicke, 66 M 409, 69 NW 220.

The municipal court of Minneapolis has no jurisdiction in forcible entry and unlawful detainer proceedings based upon breach of the contract of a lease to lands, part of which were within Hennepin and part within Scott county. Bunker v Hanson, 99 M 426, 109 NW 827.

Sections 488.09 and 633.01 are construed "in pari materia," and the provisions of section 488.09 are not so inconsistent with those of section 633.01 as to indicate a purpose to repeal it with reference to jurisdiction of justice courts established by home rule charters. State ex rel v Weed, 208 M 342, 294 NW 370.

The provisions of Section 530.01 providing that a justice of the peace may issue attachments and garnishments running into counties other than the one wherein he resides, do not authorize such attachments and garnishments except of which the justice has jurisdiction. Thomas v Hector, 216 M 207, 12 NW(2d) 769.

The jurisdiction of a village justice is coextensive with the limits of the county. 1910 OAG 514, Jan. 20, 1909.

A justice of the peace may also be an assessor. OAG April 18, 1932.

The municipal court of Northfield has concurrent jurisdiction in criminal cases throughout the county, but justices of the peace have jurisdiction in the county outside the city. OAG April 14, 1939 (266B-11).

530.02 PLACE OF HOLDING COURT.

HISTORY. R.S. 1851 c. 69 art. 4 s. 2; P.S. 1858 c. 59 s. 2; G.S. 1866 c. 65 s. 2; 1868 c. 92 s. 1; G.S. 1878 c. 65 s. 2; 1885 c. 124; G.S. 1894 s. 4956; R.L. 1905 s. 3883; G.S. 1913 s. 7501; G.S. 1923 s. 8994; M.S. 1927 s. 8994.

The effect of this section is to require a justice of the peace to transact his judicial business in the town, city or ward for which he is elected, except that he may issue process in any place in his county, and may, in his discretion, for the convenience of parties, make any process issued by him returnable, and may

hold any court which he is authorized to hold, at any place appointed by him to a town adjoining the town for which he is elected, or a ward adjoining the ward for which he is elected, as the case may be, but within the county. State ex rel v Marvin, 26 M 323, 3 NW 991.

A justice of the peace has jurisdiction to make a warrant in a criminal proceeding returnable in a city ward, adjoining that for which he was elected, and there proceed to judgment. State v Bowen, 45 M 145, 47 NW 650.

A writ of attachment, by which an action is commenced in a justice's court, is sufficient to give jurisdiction if it be in the form prescribed by statute, requiring the defendant to be summoned to appear at the office of the justice in a specified county, the town not being named. Beseman v Weber, 53 M 174, 54 NW 1053.

While a justice is authorized to make process returnable in wards adjoining the ward wherein he resides, it seems clear that the law contemplates that he shall maintain a regular office in his own ward. 1928 OAG 112, April 24, 1928.

A justice may not regularly hold court in an adjoining town so as to usurp the office of the local justice. OAG March 19, 1929.

As the village of Deephaven does not adjoin the city of Minneapolis, a justice for the village may not hold court in Minneapolis. If the defendant acquiesces in and takes part in the trial, without protest, he waives the lack of jurisdiction. 1938 OAG 172, March 29, 1938.

530.03 NOT TO HOLD OFFICE IN SALOON OR WITH ATTORNEY.

HISTORY. R.S. 1851 c. 69 art. 4 ss. 2, 3; P.S. 1858 c. 59 ss. 2, 3; G.S. 1866 c. 65 ss. 2, 3; 1868 c. 92 s. 1; G.S. 1878 c. 65 ss. 2, 3; 1885 c. 124; G.S. 1894 ss. 4956, 4957; R.L. 1905 s. 3884; G.S. 1913 s. 7502; G.S. 1923 s. 8995; M.S. 1927 s. 8995.

530.04 POWERS; LAWS APPLICABLE.

HISTORY. R.S. 1851 c. 69 art. 4 s. 4; P.S. 1858 c. 59 s. 4; G.S. 1866 c. 65 s. 4; G.S. 1878 c. 65 s. 4; G.S. 1894 s. 4958; R.L. 1905 s. 3885; G.S. 1913 s. 7503; G.S. 1923 s. 8996; M.S. 1927 s. 8996.

A justice of the peace has no power to receive pleadings in an action after one week from the return day of the summons, and the complaint being filed, and the case adjourned for more than a week does not extend time for the defendant to answer more than a week. Holgate v Broome, 8 M 243 (209).

An entry in a justice's docket, "Nov. 19, 1852, summons returned served by copy by officer Brott," sufficiently shows jurisdiction of the justice over the person. Bidwell v Coleman, 11 M 78 (45).

A judgment was obtained in justice court and there was an affirmation by the district court. The supreme court reversed the decision because the justice's return as shown by his docket did not show the jurisdictional facts, although the amount of the judgment was within the jurisdictional amount. Barnes v Holton, 14 M 357 (275).

When the decison of a justice upon an objection to the admission of testimony offered is not excepted to, the decision will not be reviewed on appeal from the judgment. Witherspoon v Price, 17 M 337 (313).

Where in a justice court, the jury returned a verdict at one o'clock on Saturday, and the justice was then trying another case, and did not enter the judgment on his docket until Monday, held, to be "forthwith" within the meaning of the statute. Sorenson v Swenson, 55 M 58, 56 NW 350.

In justice's court practice it is error for the justice to dismiss an action for defects in the complaint without first ordering an amendment of the pleading. Middlestadt v McIntyre, 55 M 69, 56 NW 464.

In proceedings before a justice of the peace, the presumption is that he has done his duty and when the record shows that jurisdiction has once attached, silence regarding subsequent jurisdictional steps is not fatal. Ellegaard v Haukaas, 72 M 246, 75 NW 128.

An affidavit being filed by the defendant, the justice transferred the case to another justice, setting a time and place for trial. Later finding said justice not qualified, the original justice transferred the case to a third justice. Held, the

third justice did not acquire jurisdiction. State Mutual v Gran, 76 M 32, 78 NW 862.

In order to review an appeal on questions of law alone, it is necessary to except to the rulings on questions of admission of evidence, competency of witnesses, and other rulings, but should the record show no cause of action, or defense, or jurisdiction, no exception is needed. Franek v Vaughan, 81 M 236, 83 NW 982.

In an action in replevin of a yoke of oxen, the justice gave judgment for $30.00, and an appeal was taken because lack of an order in the alternative for return of the oxen. Held, the district court, the appeal being taken on law alone, had the right to affirm the decision, and itself correct the order, making it read in the alternative. Larson v Johnson, 83 M 351, 86 NW 350.

Where a justice, in his decision, excludes a material issue under the pleadings from consideration, in an appeal taken to the municipal court of the city of St. Paul on questions of law alone, the appellate court is authorized to pass on the question so excluded upon the evidence returned, as if it were an original issue in that court. Newhauser v Banish, 84 M 286, 87 NW 774.

The justice had lost jurisdiction where a case was tried on March 19 and the jury disagreed and nothing was done thereafter until April 3 when the justice ordered a new venue for a new trial. Held, as more than two weeks had expired, the justice had lost jurisdiction. May v Grawert, 86 M 210, 90 NW 383.

In a trial of a licensed saloon keeper, a justice is not required to reduce to writing the evidence offered or received on trial before him, unless requested to do so by one of the parties. State v Clemmensen, 92 M 191, 99 NW 640.

A defective pleading, clearly amendable in the discretion of the trial court, cannot be objected to in the supreme court by the party who neglected to raise the objection in the trial court. Where a party appears specially and objects to the jurisdiction of the court over his person, and the objection is overruled, he does not waive the objection by answering to the merits and proceeding to trial. Getty v Village, 115 M 500, 133 NW 159.

The municipal court of Minneapolis in forcible entries and unlawful detainers cannot entertain: (1) A motion for a new trial; a motion for judgment notwithstanding the verdict. It can: (1) Dismiss an action, (2) charge a jury, (3) direct a verdict, (4) determine a motion for judgment on the pleadings. Clark v Dye, 158 M 217, 197 NW 209.

The adoption by section 530.04, for actions before justices of the peace, of all laws of a general nature so far as they are applicable and not inconsistent with the chapter relating to justices of the peace, authorizes the service of process upon a private domestic corporation by service upon the secretary of state (section 543.08) only when the corporation is located within the county of the justice's jurisdiction. Thomas v Hector, 216 M 208, 12 NW(2d) 769.

A justice of the peace by virtue of his office may not act as a collection agent except he be licensed. OAG Oct. 4, 1934 (266a-3).

A justice cannot legally demand that the municipality furnish free criminal forms for use in his office. OAG Oct. 4, 1934 (266a-3).

530.05 ACTIONS WITHIN JURISDICTION.

HISTORY. R.S. 1851 c. 69 art. 4 s. 5; P.S. 1858 c. 59 s. 5; G.S. 1866 c. 65 s. 5; G.S. 1878 c. 65 s. 5; G.S. 1894 s. 4959; R.L. 1905 s. 3886; G.S. 1913 s. 7504; G.S. 1923 s. 8997; M.S. 1927 s. 8997.

A justice of the peace has no jurisdiction of an action for damages to real estate where the damages claimed on account of the overflowing exceeded $100.00. Turner v Holleran, 8 M 451 (401).

In replevin before a justice, the jurisdiction is not derived from the complaint, but from the filing of an affidavit stating the value of the property at $100.00 or less, and a bond. Hecklin v Ess, 16 M 51 (38).

The statute is within the constitutional limitation as to amount. The defendant cannot oust a justice of his jurisdiction by putting in a counter-claim, which in any way exceeds $100.00. Barber v Kennedy, 18 M 216 (196).

Damages for assault being claimed in the sum of $1,000 was not within the jurisdiction of a justice, although the recovery was only $50.00 and costs. Greenman v Smith, 20 M 418 (370).

The amount claimed was in excess of $100.00. When the plaintiff rested, the defendant objected to the jurisdiction of the court, whereupon the plaintiff, with the court's consent, reduced the amount demanded to $100.00, and the case proceeded to trial. Held, the conduct of the parties and the proceedings subsequent to the amendment gave the justice jurisdiction to render judgment. Lamberton v Raymond, 22 M 129.

A justice has no jurisdiction in replevin when the property and damages claimed appear from the complaint to exceed $100.00. Stevers v Gunz, 23 M 520.

Where an appeal is taken from a justice of the peace to the district court, upon questions of law and fact, and the case is there tried and judgment entered therein without objection, the jurisdiction of the district court is complete even if the amount in controversy exceeded $100.00. Lee v Parrett, 25 M 128.

The words "the amount in controversy" used to define jurisdiction in Minnesota Constitution, Article 6, Section 8, does not include costs which are a mere incident and no part of the subject of the litigation. Watson v Ward, 27 M 29, 6 NW 407; Wagner v Nagel, 33 M 348, 23 NW 308.

The municipal court of Stillwater has no jurisdiction of an equitable cause of action, but in the instant case, equitable relief might have been sought but was not, and the case as stated in the complaint was one of law. Fox v Ellison, 43 M 41, 44 NW 671.

The sum claimed in the complaint, and for which the plaintiff demands judgment is the criterion, and if that amount including principal and interest exceeds the statutory limit, the court has no jurisdiction. Crawford v Hurd, 57 M 187, 58 NW 985.

Where the affidavit and complaint in replevin in justice court state the value of the property at $100.00 or less, the justice acquires jurisdiction, though the value be more than $100.00, unless the defendant pleads and proves in bar of jurisdiction the fact that the value exceeds the jurisdictional limit. Parker v Bradford, 68 M 437, 71 NW 619.

Jurisdiction is determined by "the amount in controversy" at the commencement of the action. Interest accruing after the action begins is a mere incident which the justice may include in the judgment, though it increase the total in excess of the statutory limit. Ormond v Sage, 69 M 523, 72 NW 810.

The demand for judgment read: "Wherefore plaintiff demands judgment against the defendant for the sum of $562.19 and in this court in the sum of $100.00, and interest and costs, and such other relief as may be proper," and there was no express waiver, the justice had no jurisdiction. Poirier v Martin, 89 M 346, 94 NW 865.

530.06 ACTIONS NOT WITHIN JURISDICTION.

HISTORY. R.S. 1851 c. 69 art. 4 s. 6; P.S. 1858 c. 59 s. 6; G.S. 1866 c. 65 s. 6; G.S. 1878 c. 65 s. 6; G.S. 1894 s. 4960; 1895 c. 33; 1897 c. 93; 1899 c. 321; R.L. 1905 s. 3887; G.S. 1913 s. 7505; G.S. 1923 s. 8998 M.S. 1927 s. 8998.

By Ex. Laws 1874, Chapter 141, Section 22, justices of the peace in Minneapolis were deprived of criminal jurisdiction, and Ex. Laws 1887, Chapter 386, Section 3, made no change. State v Hays, 38 M 475, 38 NW 365.

An action in replevin for the possession of a deed conveying real estate, brought by the grantee, where the fact of the deed having been delivered by the grantor is in controversy, involves the title to real estate, and cannot be tried by the municipal court of St. Paul. Simmonsen v Curtis, 43 M 539, 45 NW 1135.

It is a jurisdictional requirement that all actions at law commenced before a justice of the peace be brought in the township, village, or city as required by statute. Union v Lang, 103 M 466, 115 NW 271.

530.07 ACTION, WHERE BROUGHT.

HISTORY. 1895 c. 33; 1897 c. 93; 1899 c. 321; R.L. 1905 s. 3888; G.S. 1913 s. 7506; G.S. 1923 s. 8999; M.S. 1927 s. 8999.

It is a jurisdictional requirement that all actions at law commenced before a justice of the peace be brought in the township, village, or city as required by statute. Union v Lang, 103 M 466, 115 NW 271.

This action was brought in the municipal court of Renville to renew an old judgment about to outlaw, and it is held the court did not have jurisdiction because the plaintiff was not a resident of Renville county, and defendant was a resident of Northfolk town where there was a qualified justice, and said town does not adjoin the village of Renville, or the town of Emmet wherein said Renville is situated. Stevenson v Murphy, 106 M 243, 119 NW 47.

Jurisdiction outside his county is not conferred on a justice of the peace by section 530.07. Thomas v Hector, 216 M 208, 12 NW(2d) 769.

530.08 DOCKET; CONTENTS.

HISTORY. R.S. 1851 c. 69 art. 4 s. 7; P.S. 1858 c. 59 s. 7; 1865 c. 22 s. 1; G.S. 1866 c. 65 s. 7; G.S. 1878 c. 65 s. 7; G.S. 1894 s. 4961; R.L. 1905 s. 3889; G.S. 1913 s. 7507; G.S. 1923 s. 9000; M.S. 1927 s. 9000.

1. Generally
2. Requirements
3. Not required to be entered on the docket
4. Entries as evidence

1. Generally

Properly the justice should sign the docket, but it is not necessary. Chapman v Dodd, 10 M 350 (277).

The presumption would be that a return by a justice in answer to a certiorari, contained all the testimony introduced, the certificate stating "The above is all the testimony." Payson v Everett, 12 M 216 (137).

When the decision of a justice upon an objection to the admission of testimoney offered is not excepted to, the decision will not be reviewed on appeal from the judgment. Witherspoon v Price, 17 M 337 (313).

An objection that the summons was "served" instead of being "read" is waived by an appearance before such justice without raising such objection. Tyrrell v Jones, 18 M 312 (251).

Where a transfer was ordered and a record made of same, and the time of appearance before the justice to whom the case was transferred was not stated, the order is construed to mean forthwith. State v Bliss, 21 M 458.

A summons issued by a justice in blank as to return-day is void. The service and return of such summons, with the blank filled by a person other than the justice is insufficient to confer jurisdiction. Craighead v Martin, 25 M 41.

In a criminal case, the fact the case was entitled "City of Northfield" instead of "State of Minnesota" is an irregularity that does not affect the jurisdiction of the justice; and the fact that the complainant who made the charge in direct and positive terms had no personal knowledge except on information and belief does not affect the validity of the warrant or of the proceedings. State v Graffmuller, 26 M 6, 46 NW 445; City v Wilson, 34 M 254, 25 NW 449.

The justice acquired no jurisdiction over the defendant by service of the summons upon him within the city of Minneapolis, and neither the presence of the defendant in court, nor his special appearance by answer denying the jurisdiction of the court is sufficient to confer jurisdiction. Higgins v Beveridge, 35 M 285, 28 NW 506.

On appeal, the district court may modify the judgment where the erroneous part is severable from the remainder. Meister v Russell, 53 M 54, 54 NW 935.

An affidavit for attachment which shows by recital that the party procuring it is the agent of the plaintiff is deemed to be made on behalf of the plaintiff. Smith v Victorin, 54 M 338, 56 NW 47.

Whether during a jury trial it is error or abuse of discretion on the part of the justice to adjourn court for six days without consent of the appellant is not decided, but in any event it constituted waiver on the part of the appellant by his failing to except to the adjournment. Mead v Sanders, 57 M 108, 58 NW 683.

Where a justice of the peace neglects to enter a judgment on his docket within three days after the action is submitted to him for decision, and damages result,

the justice and his sureties are liable on his bond. Larson v Kelly, 64 M 51, 66 NW 130.

Where a bond in replevin was signed and sealed and executed properly, the fact that the name of one of the sureties was omitted from the body of the bond does not affect the jurisdiction of the justice, nor is it affected where the sureties did not justify and the bond was not acknowledged. Wheeler v Paterson, 64 M 231, 66 NW 964.

Where a justice of the peace has jurisdiction, the same presumption in favor of the regularity of the proceedings exists as in courts of record. Vaule v Miller, 64 M 485, 67 NW 540.

The presumption prescribed in section 531.55 is construed to mean that a judgment undisturbed for a period of two years cannot be attacked collaterally as to jurisdiction, but it may be impeached when directly attacked, and an action to set aside a judgment valid on its face on account of lack of jurisdiction because of lack of service, is a direct attack. Vaule v Miller, 69 M 440, 72 NW 452.

Inaccuracies of expression may be disregarded. Exact accuracy is not necessary. It is enough that the meaning is clear and according to law. State ex rel v Myers, 70 M 179, 72 NW 969.

It is necessary to except to the rulings of a justice of the peace as to (1) the admission of evidence, (2) the competency of witnesses, (3) and all other rulings made on trial in order to review them on appeal on questions of law alone. Where the record shows that there is no cause of action, or defense or jurisdiction, it is not necessary to reserve an exception in order to review rulings as to such matters. Franek v Vaughan, 81 M 236, 83 NW 982.

The defense before the justice was usury, and the justice found for the defendant. The case was appealed on questions of law alone, and because of the exclusion of evidence the municipal court of St. Paul found for the plaintiff. Held, where a justice in his decision excludes a material issue under the pleadings in an appeal taken from his judgment, the municipal court is authorized to pass upon the question so excluded by the justice upon the evidence returned as if it were an original issue in that court. Neuhauser v Banish, 84 M 286, 87 NW 774.

Except for cases dealing with the illegitimacy of children, the records of a justice of the peace are open to the inspection of the public. OAG July 5, 1935 (831).

2. Required recordings

Where the return of a justice, on appeal, does not include an affidavit for appeal, it is presumed that there was none, and the district court has not jurisdiction. McFarland v Butler, 11 M 72 (42).

A justice's court being a court of special and limited jurisdiction, in an action before such court, the record must show facts which confer upon it jurisdiction, both of the person and cause of action. Barnes v Holton, 14 M 357 (275).

Upon a transfer of a cause from one justice to another, the docket of the transferring justice must show the transfer was ordered, or the justice to whom the transfer was made gets no jurisdiction, and an entry in the docket of the justice to whom the transfer was made, or the appearance of the parties will not cure the omission. Rahilly v Lane, 15 M 447 (360).

Jurisdiction was conferred upon the justice to whom the case was transferred, even though on the transfer the affidavit and endorsements thereon did not accompany the papers; the docket of the original justice containing the following entry: "Defendant made affidavit that he could not safely proceed to trial before the undersigned and asked for a change of venue. The court granted the change and sent the cause before P. Bliss, Esq. of the city of Owatonna at 1 P. M." McGinty v Warner, 17 M 41 (23).

Following Rahilly v Lane, 15 M 447 (360), and McGinty v Warner, 17 M 41 (23), the justice in transferring to another justice must enter the order in his docket which must record the fact and the name of the justice to whom transferred, but in the instant case, a trial was had in the justice court and again on appeal in the district court, and the objection raised for the first time on appeal to the supreme court is not entitled to favor, and the party raising the question of error in the records of the original justice will be held to a strict accounting as to proof of the defective docket. Sufficient proof not being a part of the

record, the judgment of the district court is sustained. Barber v Kennedy, 18 M 216 (196).

Sundry objections made for the first time in the supreme court to the jurisdiction of a justice of the peace, and to the proceedings had before him waived by appearing, pleading, and going to trial on the merits in the action. Steinhart v Pitcher, 20 M 102 (86).

Where substituted service is made, a report of service at defendant's "usual place of abode" without including the word "last" is sufficient, and a report of service on defendant's "wife" need not necessarily name her. Vaule v Miller, 64 M 485, 67 NW 540.

The transcript filed under the provisions of section 531.52 should be a literal copy of the judgment and not a mere abstract. While the transcript filed in this case was not an exact copy of the docket, the legal effect was the same. The fact that the transcript was filed for one dollar too much, makes the filing voidable, if proper steps are taken in due time, which was not done in the instant case. Boe v Irish, 69 M 493, 72 NW 842.

To prove a judgment of a justice of the peace from another state, a true and correct copy of all of the proceedings in the case from the docket of the justice duly authenticated is all that is necessary. Smith v Petrie, 70 M 433, 73 NW 155.

In transferring an action to another justice, a justice should make an entry in his docket stating the name of the justice to whom the case is transferred, and the time and place when and where the parties are to appear; and if the justice to whom the case is transferred, in the absence and without the consent of one of the parties, tries the case at some other place, the judgment is void as to such party. Larson v Dukleth, 74 M 402, 77 NW 220.

In construing a judgment with respect to its form and sufficiency, recourse must be had to the pleadings in the action to ascertain whether the relief awarded is within the issues there made; and any matter appearing in the judgment, not pertinent to such issues, may be rejected as surplusage, if what remains grants definite and specific relief within the issues. The evidence may not be referred to on this subject, except, perhaps, where it is made part of the record, and then only for the purpose of ascertaining whether a matter covered by the judgment was within an issue litigated on the trial by consent of parties. Hanlon v Hennessy, 87 M 353, 92 NW 1.

3. Not required to be entered

The omission of the justice to enter a statement of the plaintiff's demand in his docket, written pleadings being filed, did not affect the validity of the judgment. Payson v Everett, 12 M 216 (137).

A justice docket need not contain a verification of the pleadings; and the fact of the appearance of the parties being recorded, the fact that the time of the appearance is not stated affects the regularity of the docket but does not invalidate the judgment. Tyrrell v Jones, 18 M 312 (281).

A docket entry "by consent of parties, the case is adjourned till Monday, Sept. 23, 1873, at one o'clock in the afternoon," is sufficient to comply with the statute as to place. Anderson v Southern, 21 M 30.

When the record of proceedings is silent as to verification of the complaint, it is presumed to be verified; and when an unverified complaint is put in without objection and the answering defendant procures an adjournment, at which adjourned hearing both parties appear and an amended, verified complaint is then filed without objection, and the defendant procures a transfer to another justice before whom proceedings were had, defendant is precluded from objecting to the jurisdiction of the court on account of the original defective complaint. Burt v Bailey, 21 M 403.

It is not necessary that a justice should sign judgments entered by him. State v Bliss, 21 M 458.

The statute contains no provision indicating that it is the duty of the justice in a criminal case to keep a record of the evidence given upon a trial, nor is it required as part of his return, and the appeal in the instant case being on law

alone must be tried on the record without consideration of the evidence. State v McGinnis, 30 M 48, 14 NW 256.

In taxing costs, the fact that in the docket the costs were indicated in a lump sum and not itemized does not render the judgment erroneous. The remedy is an amended return. Meister v Russell, 53 M 54, 54 NW 935; Smith v Victorin, 54 M 338, 56 NW 47.

The certificate of a justice of the peace on an appeal to the district court on questions of law alone was insufficient to show that a true transcript of all of the evidence given on the trial had been returned, and for this reason the sufficiency of the evidence to sustain the justice's judgment could not be reviewed. Kloss v Sanford, 77 M 510, 80 NW 628.

4. Entries as evidence

Should the justice fail to sign the docket, it may be identified by other evidence. Chapman v Dodd, 10 M 350 (277).

If the justice makes in his docket a record of proceedings in a criminal case, the record is evidence. Chapman v Dodd, 10 M 350 (277).

Entries made in his docket by a justice in a criminal case are competent evidence, and may be identified by the justice or by any other competent proof. Cole v Curtis, 16 M 182 (161).

Docket entry read: "Execution returned wholly unsatisfied. Costs on execution, $19.50." This is not sufficient to establish, prima facie, plaintiff's right to recover in an action upon the judgment. Vaule v Miller, 69 M 440, 72 NW 452.

530.09 PROCURING DOCKET; DISPOSITION.

HISTORY. 1867 c. 88 s. 1; G.S. 1878 c. 65 s. 8; G.S. 1894 s. 4962; 1897 c. 203; R.L. 1905 s. 3890; 1913 c. 116 s. 1; G.S. 1913 s. 7508; G.S. 1923 s. 9001; M.S. 1927 s. 9001.

530.10 CONTEMPTS; PROCEEDINGS; PUNISHMENT.

HISTORY. R.S. 1851 c. 69 art. 4 ss. 139 to 141; P.S. 1858 c. 59 ss. 152 to 154; G.S. 1866 c. 65 ss. 120 to 122; G.S. 1878 c. 65 ss. 129 to 131; G.S. 1894 ss. 5083 to 5085; R.L. 1905 s. 3995; G.S. 1913 s. 7615; G.S. 1923 s. 9106; M.S. 1927 s. 9106.

A qualified municipal judge, while engaged in a preliminary examination of a prisoner, has jurisdiction to punish for contempt of court committed in open court, although proceedings are pending under section 488.09, to oust him of jurisdiction to hear that particular case.

Where the judge imposed a fine but not a jail sentence, he had power to commit the offender until the fine was paid. State ex rel v McDonough, 117 M 173, 134 NW 509.

The relator was fined $50.00 for contempt in open court, and the district court upheld the conviction but reduced the amount to $20.00. Held, the maximum sentence in municipal court of the city of Minneapolis is a fine of $20.00 or two days in jail. In a habeas corpus proceeding where the respondent justifies the detention of the relator upon a commitment showing a valid conviction, but an unauthorized sentence, it is proper, in releasing him from detention under the commitment, to remand him to the proper court for further proceedings. State ex rel v Langum, 125 M 304, 146 NW 1102.

A party who appeals from justice court to district court upon questions of law and fact waives objections to irregularities in proceedings in the justice court. Schutt v Brown, 201 M 106, 275 NW 413.

Contempt may be committed by inserting in pleadings, motions, affidavits, briefs, arguments, applications for rehearing, or other papers filed in court, or in memoranda on the court docket or impertinent, scandalous, insulting, or contemptuous language reflecting on the integrity of the court. 1916 OAG 110, Sept. 26, 1916.

One summoned before a justice and charged with contempt of court is entitled to be heard in his own defense, but the case does not call for a jury trial.

The form prescribed by Section 532.51 for a warrant and record of conviction contemplates a conviction by the justice and not by a jury. 1918 OAG 152, June 9, 1917.

530.11 CONTEMPT; RECORD OF CONVICTION, WHERE FILED; COMMITMENT.

HISTORY. R.S. 1851 c. 69 art. 4 ss. 143, 144; P.S. 1858 c. 59 ss. 156, 157; G.S. 1866 c. 65 ss. 123, 124; G.S. 1878 c. 65 ss. 132, 133; G.S. 1894 ss. 5086, 5087; R.L. 1905 s. 3996; G.S. 1913 s. 7616; G.S. 1923 s. 9107; M.S. 1927 s. 9107.

Where the judge imposed a fine but not a jail sentence, he had power to commit the offender until the fine was paid. State ex rel v McDonough, 117 M 173, 134 NW 509.

Except in special cases controlled by statute, the rule is that fines collected by a municipal court in state cases should be paid into the county treasury. 1934 OAG 287, April 6, 1934.

530.12 DISOBEDIENT WITNESS.

HISTORY. R.S. 1851 c. 69 art. 4 ss. 146 to 148; P.S. 1858 c. 59 ss. 159 to 161; G.S. 1866 c. 65 ss. 125 to 127; G.S. 1878 c. 65 ss. 134 to 136; G.S. 1894 ss. 5088 to 5090; R.L. 1905 s. 3997; G.S. 1913 s. 7617; G.S. 1923 s. 9108; M.S. 1927 s. 9108.