

CHAPTER 488

MUNICIPAL COURTS

488.01 EXISTING COURTS CONFIRMED.

Notwithstanding the prohibition contained in Minnesota Constitution, art. 4, s. 33, Sp. L. 1891, c. 59, creating a municipal court in the city of Ely, may be amended in certain particulars by a subsequent special act. OAG March 18, 1947 (307-i).

488.03 MUNICIPAL COURTS ESTABLISHED.

In a municipal court operating under the general municipal court act, garnishment procedure is governed by section 571.46, but the time within which pleadings may be served and other acts performed is one-half that in district court. OAG Sept. 14, 1945 (843-B-3).

Publication is not required of a village council resolution establishing a municipal court. OAG Feb. 18, 1946 (307-I).

The village council by appropriate resolution may establish a municipal court. OAG July 23, 1947 (306-a-4).

488.05 JUDGES; ELECTION; TERM;-SALARY.

The official acts of the relator and respondent as de facto municipal judges during their several incumbencies are valid. State ex rel v Windom, 131 M 403, 155 NW 629.

Section 542.16 relative to filing an affidavit of prejudice, is not applicable to an action or proceeding pending in the municipal court of the city of Minneapolis. State ex rel v Anderson, 207 M 78, 289 NW 883.

That part of Ex. L. 1933, 1934, c. 35, s. 3, requiring the municipal judge to be "a person learned in the law and duly admitted to practice as an attorney in this state" is violative of Minnesota constitution, art. 7, s. 7, and unconstitutional. Boedigheimer v Welter, 208 M 338, 293 NW 914.

Where the person elected special judge died, his successor appointed by the governor serves until the next general election. 1944 OAG 74, Dec. 20, 1943 (307-J).

Salary may be increased during the judge's elected or appointed term. OAG Feb. 18, 1946 (307-I).

The salary of a municipal judge may be increased, but it may not be diminished during the term for which he was elected or appointed. OAG May 1, 1947 (307-i).

488.06 JURISDICTION.

The municipal court of Minneapolis is without jurisdiction of subject matter of action brought by ward after reaching his majority to recover of his former guardian money belonging to the ward which the guardian had failed to pay over and for which he had made no accounting to probate court, jurisdiction of the probate court over estates of persons under guardianship being entire, exclusive and plenary. Kemmetmueller v Zachman, 220 M 44, 18 NW(2d) 590.

In contradistinction to jurisdiction over the person, jurisdiction of the subject matter cannot be conferred by consent of parties; and where the municipal court of St. Paul lacked jurisdiction over the subject matter of the action because the remedy under the Longshoremen's compensation act was exclusive, defendants by answering and pleading a counterclaim did not confer jurisdiction. Huhn v Foley Bros. 221 M 279, 22 NW(2d) 3.

488.11 CLERKS AND DEPUTIES; PROCESS.

The clerk of the court of the municipal court of Duluth is responsible for the malfeasance of his deputy clerk in appropriating to his own use moneys coming into his hands in the performance of his official duties, and both the clerk and the surety on his official bond are liable on such bond for the loss; even if there be no statute making the clerk so responsible. *City of Duluth v Ross*, 140 M 161, 167 NW 485.

488.16 POWERS AND DUTIES; PRACTICE; RULES; FEES.

Where defendant answered and admitted service of reply in an action brought in the municipal court of Minneapolis, but did not appear at the trial Sept. 11, 1935, the trial court did not abuse its discretion in holding that plaintiff was not guilty of laches in not having judgment entered until Dec. 12, 1944, on the findings filed Sept. 19, 1935. *Industrial Loan v Benson*, 221 M 70, 21 NW(2d) 99.

A municipal court operating under the provisions of section 488.03, procedure being regulated under L. 1945, c. 424, s. 7, must follow procedure of the district court in garnishment actions. OAG Sept. 14, 1945 (843-B-3).

Validity of court rules when in opposition to the statute. 5 MLR 73.

488.21 DRAWING JURY; FEES; SPECIAL VENIRE.

The city of LeSueur, not having adopted a resolution bringing its municipal court under the provisions of Minnesota Statutes 1945, c. 488, in selecting a jury must conform to the provisions found in L. 1895, c. 229, that being the act under which its municipal court was created. OAG Oct. 4, 1946 (605-a-11).

488.22 CRIMINAL CASES; PROSECUTION; FEES; CIVIL CASES.

While the same degree of proof is not required in prosecutions under a city ordinance or for violations of a statute under an indictment, the evidence in the instant case is insufficient to obtain a conviction. *State v Glenny*, 213 M 177, 6 NW(2d) 241.

Allowing tab charge to allege "did wilfully, unlawfully and wrongfully keep a disorderly (tippling) house" at a designated place sufficiently alleged a public offense under the ordinance. In prosecuting for violation of a city ordinance, proof beyond a reasonable doubt is not necessary. *State v Siporen*, 215 M 438, 10 NW(2d) 353.

488.24 LIEN OF JUDGMENTS; TRANSCRIPTS; EXECUTION.

A judgment of the municipal court of St. Paul for the recovery of money becomes a lien upon the judgment debtor's real estate by filing a transcript thereof with the clerk of the district court of Ramsey county. *Keys v Schultz*, 212 M 109, 2 NW(2d) 549.

488.26 COURTS IN CITIES OF THIRD OR FOURTH CLASS.

Municipal courts, organized under L. 1895, c. 229, are authorized to appoint an elisor to make a list of names of persons from which to select a jury, where no officer qualified to make such a list is present. *Wellcome v Berknev*, 108 M 189, 121 NW 882.

Appeals to the district court from municipal courts created by virtue of L. 1895, c. 229, must be taken as prescribed by section 532.38. *Burns v Millers Mut. Casualty*, 146 M 356, 178 NW 812.

488.30 COUNTIES MAY APPROPRIATE MONEY FOR MUNICIPAL COURT.

Amended by L. 1947 c. 183 s. 1.