

Appendix 2 - Legislative History Summary of 1909 Minn. Laws ch. 496¹
Compiled by Paul Birnberg on October 12, 2023

Page in House Journal ³	<u>Progress of House File 262 in House</u>	
	Date	Event
173	1/26/09	First Reading ² ; referred to General Legislation
210	1/29/09	General Legislation report: refer to Judiciary
332	2/9/09	Report do pass amendment - Endnote 2
343	2/9/09	Second Reading
434	2/15/09	Printed bills
553	2/23/09	Committee of the Whole, do pass
610	2/26/09	Third Reading, passes 77-0
1767	4/16/09	Truly engrossed
2025	4/21/09	Announced that Senate passed HF 262
2030	4/22/09	Truly enrolled

¹A copy of the session law is in Endnote 1.

²The chief Author was State Rep. Charles L. Sawyer. Despite considerable effort, I could not locate a copy of the original bill at the Minnesota History Museum's Gale Library. The Library has a full set of original bills back to 1957. Rep. Sawyer did not donate any papers to the Library. I did find and copy the following:

Endnote 3- The relevant committee minutes for the House Judiciary Committee. (Note of interest: These are hand written notes in a big bound volume; "old school".) These confirm the information in the House Journal on page 332. Available in Gale Library Box 108.E.4.7B.

Endnote 4 - The "printed bill" referenced on page 434 of the House Journal. This appears to be a copy of the bill as engrossed after the amendment made on 2/8/1909. Available in Gale Library Box 117.F.3.3B.

Endnote 5 - Material from the Chapter Files, specifically those related to HF 262. Again, the copy of the bill appears to be a copy of the bill as engrossed. The underlined material was underlined in red (red underline, black letters) in the original. The one-page item from the Senate shows the amendment referenced on page 1222 of the Senate Journal. Available in Gale Library Box 107.D.6.4F.

Endnote 6 - From the Senate Committee on Judiciary Books, Volume 10, page 17. This just confirms what the Senate Journal says. Available in Gale Library Box 108.E.3.F-1.

Progress of House File 262 in Senate

Page in Senate Journal ³	Date	Event
453	3/1/09	Transmitted from House
454	3/1/09	First Reading, referred to Judiciary
1222	4/17/09	Report do pass with amendment - in Section 2 add “written” before “lease”
1225	4/17/09	Engrossed copy
1226	4/17/09	First Reading, referred to Judiciary [sic]
1228	4/17/09	Second Reading
1391	4/21/09	Rules suspended, bill advanced
1461	4/21/09	Third Reading, passes 39-0

³An electronic copy of this Senate Journal is available at

<https://babel.hathitrust.org/cgi/pt?id=uiuo.ark:/13960/t9575bs8f&seq=7>.

An electronic copy of the 1909 House Journal is available in two volumes at these URLs:

<https://babel.hathitrust.org/cgi/pt?id=uiug.30112108194892&seq=7> &

<https://babel.hathitrust.org/cgi/pt?id=uiug.30112108194900&seq=5>

(Volumes 1 and 2 respectively).

CHAPTER 496—H. F. No. 262.

An Act to amend sections 4041, 4046, 4047 and 4048 of the Revised Laws of Minnesota, 1905, relating to forcible entry and unlawful detainer, and to add thereto a new section to be known as section 4051½.

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

Service of summons by publication.—Section 1. That section 4041 be and the same is hereby, amended to read as follows, to-wit :

Section 4041. **Summons—How served**—The summons shall be served at least three days before the return day thereof by delivering a copy to the person against whom it is issued or if such person be a corporation, a minor under fourteen years of age or a person under guardianship, by delivering a copy as provided in the case of a service of summons in a civil action in the district court; but in case such person cannot be found in the county, the summons may be served on him at least six days before the return day thereof, by leaving a copy thereof at his last usual place of abode with a member of his family, or a person of suitable age and discretion residing at such place, or if he had no place of abode, by leaving a copy thereof upon the premises described in the complaint with a person of suitable age and discretion occupying the same or any part thereof;

Provided, that in case the defendant has no usual place of abode and cannot be found in the county, of which the return of the officer, shall be prima facie proof, and further that there is no person actually occupying the premises described in the complaint, then upon the filing of an affidavit by the plaintiff or his attorney in the court in which said action is brought stating that no person is actually occupying said premises and that he believes the defendant is not in said state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his last known address, or that such address is not known to him, service of the summons may be made upon such defendant by posting the summons in a conspicuous place on said premises one week and by one week's published notice thereof in some newspaper printed and published in the county wherein said action is brought, or, if there be no newspaper therein, then in some newspaper printed and published at the capitol of the state and if upon the return day the said defendant or his attorney does not appear in said court in said action then the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend therein.

Writ of restitution to be issued on notice to quit.—Sec. 2. That section 4046 be amended to read as follows :

Section 4046. Writ of restitution - Effect of appeal. If the party against whom judgment for restitution is rendered or his attorney state to the justice that he intends to take an appeal, a writ of restitution shall not issue for twenty-four hours after judgment;

Provided, that in an action on a lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit, such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial ordered.

Appeal.—Sec. 3. That section 4047 be amended to read as follows:

Section 4047. Appeal—Stay—If either party feels aggrieved by the judgment he may appeal within ten days as in other cases triable before justices of the peace except that if the party appealing remains in possession of the premises, his bond shall be conditioned to pay all costs of such appeal and abide the order the court may make therein and pay all rents and other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof or termination thereof by notice to quit, if the plaintiff give bond as provided in section 4046, a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.

Appeal on notice to quit.—Sec. 4. That section 4048 be amended so as to read as follows:

Section 4048. Appeal after issuance of writ—Stay—If a writ of restitution has issued before the taking of an appeal, the justice shall give appellant a certificate of the allowance thereof and upon service of such certificate upon the officer having the writ he shall cease all further proceedings thereunder and if the writ has not been completely executed the defendant shall remain in possession of the premises until the determination of the appeal, but this section shall not apply to a case where judgment for restitution has been entered on a lease against a tenant holding over after the expiration of the term thereof or determination thereof by notice to quit.

Duty of officer holding writ of restitution—Lien of plaintiff.
—Sec. 5. That chapter 76 of the Revised Laws of 1905 shall be further amended by adding thereto a new section, to-wit:

Section 4051½. Execution of the writ of restitution—The officer holding the writ of restitution shall execute the same by making a demand upon defendant if he can be found in the county or any adult member of his family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant remove himself, his family and all of his personal property from such premises within twenty-four hours after such demand.

If defendant fails to comply with the demand, then the officer shall take with him, necessary, the force of the county and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, his family and all his personal property from said premises detained, immediately and place the plaintiff in the possession thereof.

In case defendant cannot be found in said county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of said premises, breaking in if necessary, and shall remove all property of the defendant at the expense of the plaintiff.

The plaintiff shall have a lien upon all of the goods upon said premises for the reasonable costs and expenses incurred for removing said personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from said premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and in case of nonpayment for sixty days after the execution of the writ, shall have the right to enforce his lien and foreclose the same by public sale as provided for in case of sales under chapter 328 of the general laws of 1905.

Approved April 24, 1909.

CHAPTER 497—H. F. No. 287.

An Act to create a woman's department in the Bureau of Labor, prescribe the duties thereof.

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

Woman's and children's department created.—Section 1. There shall be created in the bureau of labor a woman's and children's department.

Commissioner of labor to appoint—Collection of statistics.—Sec. 2. There shall be appointed by the commissioner of labor a competent woman to act as assistant commissioner of labor and

Mr. Ferguson moved that the Chief Clerk be and is hereby instructed to correct the Journal of the House of February 8th, to show the substitution of S. F. No. 61 for H. F. No. 49, in accordance with the motion adopted February 2, and that S. F. No. 61 be substituted for H. F. No. 49 on the calendar.

Which motion prevailed.

The Clerk then proceeded to read the Journal of the preceding day when, on motion of Mr. Robertson, the further reading was dispensed with and the Journal approved as corrected.

PETITIONS AND COMMUNICATIONS.

Communiactions from Marshall and Anoka G. A. R. were read and referred to Committee on Soldiers' Home.

A letter from United States Senator McCumber was read and referred to the Committee on Grain and Warehouse.

A letter from the Murray Land Company of Wadena was read, relating to mortgage registration tax, and referred to the Committee on Taxes and Tax Laws.

A letter from the President of the Faculty Club of the State University was read, relating to the members of Legislature visiting the University was placed on file.

A petition from Renville County relating to construction was read and referred to Committee on Roads and Bridges.

A letter from Star Lake Creamery relating to dairy inspection was read and referred to Committee on Dairy Products and Live Stock.

A letter from Austin relating to automobiles was read and referred to Committee on Roads and Bridges.

REPORTS OF STANDING COMMITTEES.

Mr. Bicknell, from the Committee on Judiciary, to whom was referred—

H. F. No. 262, A bill for an act to amend sections four thousand forty-one (4041), four thousand forty-six (4046), four thousand

forty-seven (4047) and four thousand forty-eight (4048) of the Revised Laws of Minnesota, one thousand nine hundred five (1905), relating to forcible entry and unlawful detainer, and to add thereto a new section to be known as section four thousand fifty-one one-half (4051½).

Reports the same back with the recommendation that the bill be amended as follows:

Amend the title by inserting at the beginning thereof the words "A bill for."

Amend section 1 by striking out the figures "4040" in the first line thereof and inserting in lieu thereof the figures "4041."

Amend section 1 by striking out the words "or in charge of" where the same occur in the fourteenth line of said section 1, and by striking out the same words where the same appear in the eighteenth line of said section.

Amend section 1 by striking out all matter in said section after the word "complaint" in the nineteenth line of said section and inserting in lieu thereof the following words: "Then upon the filing of an affidavit by the plaintiff or his attorney in the court in which said action is brought stating that no person is actually occupying said premises and that he believes the defendant is not in said state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his last known address, or that such address is not known to him, service of the summons may be made upon such defendant by posting the summons in a conspicuous place on said premises one week and by one week's published notice thereof in some newspaper printed and published in the county wherein said action is brought, or, if there be no newspaper therein, then in some newspaper printed and published at the capitol of the state and if upon the return day the said defendant or his attorney does not appear in said court in said action then the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend therein."

Amend section 5 by striking out the word "Revised" where the same occurs in the last line but one of said section, and insert in lieu thereof the word "General."

Amend section 5 by striking out the figures "4052" in the

third line of said section and inserting in lieu thereof the figures "405 1/2."

And when so amended that the bill do pass.

Which was adopted.

Mr. Bicknell, from the Committee on Judiciary, to whom was referred—

H. F. No. 328, A bill for an act proposing a convention to revise the Constitution of the State of Minnesota

Reports the same back with the recommendation that the bill be amended as follows: By striking out all of section 4 thereof.

And when so amended, that the bill do pass.

Which was adopted.

Mr. Bicknell, from the Committee on Judiciary, to whom was referred—

S. F. No. 20, A bill for an act to provide for fees of appraisers of estates of decedents and wards

Reports the same back with the recommendation that the bill be amended as follows: Amend the title so as to read as follows:

"A bill for an act to amend section two thousand seven hundred eight (2708) of the Revised Laws of one thousand nine hundred five (1905) relating to fee of appraisers, commissioners, etc."

Amend section 1 so as to read as follows:

"Section 1. That section 2708 of the Revised Laws of 1905 be amended so as to read as follows, to-wit:

"2708. Per Diem Mileage. Appraisers of estates of decedents and of property taken on writ of attachment or replevin, persons appointed under the legal process or order for making partition of real estate, sheriff's aids in criminal cases, and all other private persons performing like services required by law or in the execution of legal process, where no express provision is made for compensation, shall be entitled to three dollars per day and five cents a mile for going and returning."

word "appropriation"; by striking out the word "legalized" in the eighth line of section 2, and inserting in lieu thereof the word "legalized"; by striking out the word "treasury" in the second line of section 4, and inserting in lieu thereof the word "treasury"; by striking out the words "in such amount as said Board of Control may deem necessary to meet contingent purchases and payments in the conduct of said industrial and manufacturing business" where such words occur after the word "Fund" in the seventh line of section 4, and inserting in lieu thereof the following words: "as provided in Sec. 1896, Revised Laws 1905"; by striking out all of section 6; and that when so amended the bill do pass, and with the further recommendation that the rules be so far suspended as to give the bill its second and third readings and that the bill be put upon its final passage. Carried.

Meeting adjourned.

A. B. Joklund
 Asst. Clerk.

February 3rd of Meeting of the Judiciary Committee called to order at 9:15 o'clock. There were present Messrs Burnquist, Davis, Graham, Hargland, Johnson, Kling, Kneeland, MacKenzie, Pfander, Sawyer, Sporer, Stuart, Thayer, Wallace, White, Wright, and Mr. Chairman, Picknell.

H. B. # 207 introduced by Mr. Sawyer was considered by the committee as a whole. After some discussion it was moved by Mr. Sawyer that a special sub committee consisting of three members be appointed to consider this bill. Carried. Pursuant thereto Mr. Chairman appointed the following: Messrs Kneeland, Wright and Sawyer.

H. B. # 216 introduced by Mr. Johnson was reported by Mr. Kling Chairman of the sub committee on Pleading and Practice and Criminal Law. The recommendations offered by the sub-committee were discussed but the bill was referred back to the sub-committee for further consideration.

A. B. Joklund

February 4th 1909

Meeting of the Judiciary Committee called to order at 10:15 o'clock A.M. There were present Messrs Austin, Burnquist, Bjorge, Congdon, Dalzell, Davies, Graham, Johnson, Kling, MacKenzie, Stuart, Thayer, Wallace, Wells, Wright and Mr. Chairman Bicknell.

H. F. # 293

Mr. Kling chairman of the sub-committee on Pleading and Practice and Criminal Law to whom was referred H. F. # 293 introduced by himself reported the same back with the recommendation that the bill be amended as follows; amend the title so as to read as follows: "A bill for an act regulating the manner by which signers of petitions required to be filed in any public act or proceeding may withdraw their signatures therefrom" and when so amended that the bill do pass.

Moved and carried that the bill as amended be recommended for passage.

H. F. # 250

Mr. Kling chairman of the sub-committee on Pleading and Practice and Criminal Law to whom was referred H. F. # 250 introduced by Mr. Mc Grath reported the same back with the recommendation that the bill be indefinitely postponed because it granted no additional powers. Senator Peterson and Mr. Mc Grath were heard on the advisability of recommending the bill for passage and after some discussion it was moved and carried that the bill be recommended for passage.

Mr. ^{Hilton} Hilton from the Attorney General's office offered three bills which he desired to have introduced as committee bills. They were
(1) A bill for an act to validate certain bonds heretofore purchased by the state board of investment with funds of the State of Minnesota,
(2) A bill for an act to provide a uniform form of official bonds for state and county officers,
(3) A bill for an act relating to the oaths and bonds when required of judges and clerks of municipal courts.

It was moved by Mr. Wright that these bills be introduced as committee bills. Carried.

H. F. # 166

Mr. Thayer chairman of the sub-committee on Remedial Law to whom was referred H. F. # 166 introduced by Mr. Wright reported the same back with the recommendation that the bill be amended as follows: Insert after section 1 thereof the following "That section 4442 Revised Laws 1905 be amended to read as follows: Section 4442", and that when so amended the bill do pass. Moved and carried that bill as amended be recommended for passage. It was duly moved and carried that H. F. # 216 introduced by Mr. Johnson be returned to author at his request.

H. F. # 216

Meeting adjourned. Attest
Asst. Clerk

February 5, 1909

Meeting of the Judiciary Committee called to order at 7:00 o'clock P.M. There were present Messrs Austin, Burnquist, Bongden, Dalzell, Graham, Haugland, Johnson, Kling, Kneeland, MacKenzie, Pfander, Spooner, Stuart, Thayer, Wallace, Wright and Mr. Chairman Bicknell.

H. F. #276

Mr. Thayer chairman of the sub committee on Remedial Law to whom was referred H. F. 276 introduced by Mr. Kneeland reported the same back with the recommendation that the bill do pass.

Moved and carried that the bill be amended as follows: amend section 1, by striking out the word "agents" in the sixth line of ^{part} section and inserting in lieu thereof ^{the words,} "agent in charge of any established office within this state"; also insert a comma after the word "partners" in the sixth line of section 1.

It was moved and seconded that the bill as amended be recommended for passage. Carried.

H. F. #332

Mr. Kneeland chairman of the sub committee on Constitutional Law to whom was referred H. F. 332 introduced by Mr. McHarry reported the same back with the following amendments; amend the title so as to read, "A Bill For An Act, Authorizing The Payment of Interest On certain School Orders". Amend section 1, by striking out the words "of such districts" and inserting in lieu thereof the words "such district."

Strike out all of section II, and when so amended that the bill do pass. Moved and carried that the bill as amended be recommended for passage. Mr. Simpson, attorney general, spoke in favor of the bill.

H. F. #224

Mr. Thayer chairman of the sub committee on Remedial Law to whom was referred H. F. 224 introduced by Mr. Burnquist reported the same back with the recommendation that the bill do pass. Moved by Mr. Burnquist that bill be recommended for passage. after some discussion the bill was laid over for one day.

Meeting adjourned.

A. B. Bicknell
Asst. Clerk.

February 8-1909

Meeting of the Judiciary Committee called to order at 9:25 o'clock AM. There were present Messrs. Burnquist, Bjorge, Barley, Graham, Haugland, Kling, Kneeland, Pfaender, Stuart, Wallace and Mr. Chairman Bicknell.

H. F. 262

Mr. Kneeland chairman of the special committee appointed by Mr. Chairman Bicknell to consider H. F. 262 introduced by Mr. Lawyer reported the same back with the following amendments: Amend the title by inserting at the beginning thereof the words "a bill for" Amend line 1 of section 1 by striking out the figures "4040" and substitute the figures "4041". Amend section 1 ~~and~~ by striking out the words "or in charge of" in the 14th and 15th lines of said section and the words "or in charge of" in the 18th line of said section. Amend section 1 of said bill by striking out all that portion thereof after the word "complaint" in the 5th line from the bottom of said section and inserting in lieu thereof the following:

"Then upon the filing of an affidavit by the plaintiff or his attorney in the court in which said action is brought stating that no person is actually occupying said premises and that he believes the defendant is not in said state or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his last known address, or that such address is not known to him, service of the summons may be made upon such defendant by posting the summons in a conspicuous place on said premises one week and by one week's published notice thereof in some newspaper printed and published in the county wherein said action is brought or if no newspaper therein then in some newspaper printed and published at the capital of the state and if upon the return day the said defendant or his attorney does not appear in said court in said action then the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend therein, and when so amended that the bill do pass. Moved and carried that the bill be as amended be recommended for passage."

* Further amendments to H. F. 262 on following page

H. F. 328

Mr. Kneeland chairman of the sub committee on Constitutional Law to whom was referred H. F. 328 introduced by himself reported the same back ^{with the recommendation} that the bill do pass. Moved and carried that the bill be recommended for passage.

H. F. 370

H. F. # 370 introduced by Mr. White was read and considered by the whole committee but it was decided to lay it over. S. F. # 20 was taken up by the whole committee but it was referred to Mr. Haugland

H. F. 351

to prepare an amendment. H. F. 351 was laid over. Adjourned
Attest
Alfred Bicknell
Asst. Clerk

H. F. No.	TITLE OF BILL	INTRODUCED BY	When Received
-224- ✓	A bill for an act to provide for a record of assignments or transfers of certificates or deeds issued upon tax sale or sale for special assessments and defining the effect of such record and of such instruments not so recorded	J. A. A. Bumpus	Jan. 27-09
-233- ✓	A bill for an act to amend section 2702, Revised Laws 1905, relating to the fees of the justices of peace	Chas. Wright	Jan. 27-09
-250- ✓	A bill for an act to amend section 5027 Rev. Laws 1905, relating to arrests	McGrath	Jan. 27-09
-252- ✓	A bill for an act to legalize proceedings in the construction of ditches begun under Chapter 230, Laws of 1905.	J. O. Haugland	Jan. 27-09
-276- ✓	A bill for an act to amend subdivision 3 of Section 4109, Revised Laws of 1905, relating to the service of summons on private corporations and foreign joint stock companies, co partnerships or associations.	Kneeland	Jan. 28-09
-293- ✓	A bill for an act regulating the manner by which signers of petitions may withdraw their signatures thereon.	Kling.	Jan. 28-09
-262- ✓	A bill for an act to amend sections 4041, 4046, 4047, & 4048 of the Revised Laws of Minnesota 1905 relating to forcible entry and unlawful detainer, and to add thereto a new section to be known as section 4051-1/2.	Sawyer	Feb. 3-1909
-328- ✓	A bill for an act proposing a convention to revise the constitution of the State of Minnesota	Kneeland.	Feb. 3-09
-332- ✓	A bill for an act validating certain school orders.	McGarry	Feb. 3-09
-338- ✓	A bill for an act providing for the establishment of heirship to a person or persons who have heretofore, and within the last past 10 years died in the State of Minnesota, without having any known heirs or heirs, and the money left from his estate, having heretofore escheated to the State of Minnesota, and to appropriate money out of the State Treasury of the State of Minnesota for the payment to such heir or heirs, as they may show, etc.	H. Nelson	Feb. 3-09

DISPOSITION	Sub. Jud. Com.	When Reported	By Whom	When Recommitted	Re-Reported	Passed Senate
Ref to sub-com - Jan 28-09 Feb 20- Amended and recommended for passage.	Remedial Law Burdette Thayer	Feb 20-09				
Jan 28-09 Ref to sub. com Feb 23-09- Recommended for in- definite postponement.	Const. & Off. Christensen,	Feb 23-09				
Jan 28-09 Ref. to sub com Feb 4-09- Recommended for passage	Pl. & Pro. Law Kling	Feb 4-09				
Jan 28-09 Ref to sub com Feb 2-09- Recommended for indefinite postponement	Const Law Kneeland	Feb 2-09				
Jan 29 - Ref. to sub-com. Feb 5-09. Amended and recommended for passage.	Remedial Law Burdette Thayer	Feb 5-09				
Jan 29-09- Ref to sub-com- Feb 6-09 Amended & recommended for passage	Pleading Pro. & Law - Kling	Feb 6-09				
Feb 3-09 Referred to special com- mittee of three - Kneeland, Sawyer, & Wright. Feb 8-09 Amended & recommended for passage	Special Com- mittee - Kneeland, Ch.	Feb 8-1909				
Feb 3-09 Ref to sub-com Feb 8-1909. Recommended for passage	Const. Law Kneeland	Feb 8-1909				
Feb 3-09 Ref to sub-com. Feb 5-09- Amended & recommended for passage.	Const. Law Kneeland	Feb 5-09				
Feb 3-09 Ref to sub-com Feb 23-09- Recommended for passage	Remedial Law Thayer	Feb 23-09				

H. F. No.	TITLE OF BILL	INTRODUCED BY	When Received
- 344 - ✓	A bill for an act to amend section 937 of Revised Laws 1905 as amended by Sec 2 of Chapter 430 General Laws of Minnesota for 1907, relating to sales of land for taxes.	Christensen	Feb. 3-09
- 354 - ✓	A bill for an act to provide a method for changing County seats in the State of Minnesota.	Opsahl	Feb. 3-09
- 355 - ✓	A bill for an act to amend Chap. 271, Gen. Laws of 1905 being an act relating to tax judgment, sale certificates.	Christensen	Feb. 3-09
- 351 - ✓	A bill for an act to provide for the Judges of the several Courts of Record of this state to report to the President of the Senate & Speaker of the House of Representatives in aid of Legislation.	Andrew Anderson	Feb. 5-09
- 370 - ✓	A bill for an act entitled "An act proposing an amendment to Section 6 of Article 5 of the constitution of the state of Minnesota prescribing the duties of the lieutenant governor."	W. Rite	Feb. 5-09
- 395 - ✓	A bill for an act to amend Section 3692 Revised Laws 1905, pertaining to the office of Judge or Clerk of the Probate Court.	J. A. Burnquist	Feb. 8-09
- 396 - ✓	A bill for an act to authorize the granting of letters of administration on petition of the Attorney General when any resident dies intestate, or any non-resident at the time of his death was seized or possessed of property in this state & was at the time of his death without a spouse or kindred, and defining the duties of Co. Atty. with regard thereto.	Stuart	Feb. 8-09
- 405 - ✓	A bill for an act providing for the filing and recording in the office of the Register of Deeds of affidavits and certificates showing the termination of life estates.	C. J. Knight (by request)	Feb. 8-09
- 411 - ✓	A bill for an act to amend section 3552, Revised Laws 1905, declaring marriage to be a civil contract, so as to make void all contracts of marriage hereafter entered into in this State, unless the same are solemnized as required by law.	Sawyer	Feb. 8-09
- 427 - ✓	A bill for an act to amend section 4073 of Revised Laws of Minnesota for the year 1905 relating to actions for the recovery of real estate or the possession thereof.	J. T. Johnson	Feb. 8-09

DISPOSITION	Sub. Jud. Com.	When Reported	By Whom	When Recommitted	Re-Reported	Passed Senate
Feb 3-09 - Ref to sub. com Feb 23-09 Recommended for passage	Remedial Law Phayer	Feb 23-09				
Feb 3-09 - Ref to sub. com. Feb 3-09 - Withdrawn on motion of Opsahl see House journal 2-9-09 Page 6. -	Pl. & Pr. & Remedial Kling	Withdrawn				
Feb 3-09 - Ref. to sub com Mar 25 - Recommended for in- definite postponement	Pl. & Pr. & L.S. Kling	Mar 25-09				
Feb 5-09 Referred to subcommittee Feb 19-09 Recommended for indefinite postponement	Courts & Officers Christensen	Feb 19-09				
Feb 16 Considered by whole committee and recommended for passage	—	Feb 16-09				
Referred to sub com - Feb 8-09 March 2-09 Considered by the whole committee and recommended for passage	Courts & Officers Christensen	March 2-09				
Ref. to sub com Feb 8-09 Feb 25-09 - Recommended for passage	Pl. & Pr. & L.S. Kling	Feb 25-09				
Feb 8-09 Ref to sub com. Feb 24-09 - Recommended for in- definite postponement	Substantive Law Wells	Feb 24-09				
Feb 8-09 Ref to sub com March 24 - Returned to author at his request	Remedial Law Phayer	March 25-09				
Feb 8-09 Ref. to sub com. Mar 2-09. Recommended for indef- inite postponement.	Remedial Law Phayer	Mar 2-09				

STATE OF MINNESOTA.

THIRTY-SIXTH
SESSION }H. F.

No. 262

Introduced by Mr. Sawyer.

January 26, 1909.

Referred to Committee on Judiciary.

Reported back February 9, 1909.

A BILL

For an Act to Amend Sections 4041, 4046, 4047 & 4048 of the Revised Laws of Minnesota, 1905, Relating to Forcible Entry and Unlawful Detainer, and to Add Thereto a New Section to be Known as Section 4051½.

Be it enacted by the Legislature of the State of Minnesota.

SECTION 1. That section 4041 be and the same hereby amended to read as follows to-wit:

2 Section 4041. Summons how served: The summons shall be served at least three days before the
3 return day thereof by delivering a copy to the person against whom it is issued or if such person be a cor-
4 poration, a minor under fourteen years of age or a person under guardianship, by delivering a copy as pro-
5 vided in the case of a service of summons in a civil action in the District Court; but in case such person
6 cannot be found in the county, the summons may be served on him at least six days before the return day
7 thereof, by leaving a copy thereof at his last usual place of abode with a member of his family, or a per-
8 son of suitable age and discretion residing at such place, or if he have no such place of abode, by leaving a
9 copy thereof upon the premises described in the complaint with a person of suitable age and discretion oc-
10 cupping the same or any part thereof; provided that in case the defendant has no usual place of abode and
11 cannot be found in the county, of which the return of the officer, shall be prima facie proof, and further
12 that there is no person actually occupying the premises described in the complaint, then upon the filing of
13 an affidavit by the plaintiff or his attorney in the court in which said action is brought stating that no person

14 is actually occupying said premises and that he believes the defendant is not in said state, or cannot be found
 15 therein, and either that he has mailed a copy of the summons to the defendant at his last known address,
 16 or that such address is not known to him, service of the summons may be made upon such defendant by
 17 posting the summons in a conspicuous place on said premises one week and by one week's published notice
 18 thereof in some newspaper printed and published in the county wherein said action is brought, or, if there
 19 be no newspaper therein, then in some newspaper printed and published at the capitol of the state and if
 20 upon the return day the said defendant or his attorney does not appear in said court in said action then
 21 the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend
 22 therein.

SEC. 2. That Section 4046 be amended to read as follows:

2 Section 4046. Writ of restitution—Effect of appeal. If the party against whom judgment for resti-
 3 tution is rendered or his attorney state to the justice that he intends to take an appeal, a writ of restitution
 4 shall not issue for twenty-four hours after judgment; Provided that in an action on a lease, against a
 5 tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit,
 6 such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond condition-
 7 ed to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial
 8 ordered.

SEC. 3. That Section 4047 be amended to read as follows:

2 Section 4047. Appeal—Stay. If either party feels aggrieved by the judgment he may appeal within
 3 ten days as in other cases triable before justices of the peace except that if the party appealing remains
 4 in possession of the premises, his bond shall be conditioned to pay all costs of such appeal and abide the
 5 order the Court may make therein and pay all rents and other damages justly accruing to the party ex-
 6 cluded from possession during the pendency of the appeal. Upon the taking of such appeal all further
 7 proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over
 8 after expiration of the term thereof or termination thereof by notice to quit, if the plaintiff give bond as pro-
 9 vided in section 4046, a writ of restitution shall issue as if no appeal had been taken and the appellate court
 10 shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in
 11 such Court.

SEC. 4. That Section 4048 be amended so as to read as follows:

Section 4048. Appeal after issuance of Writ: Stay—If a writ of restitution has issued before the taking of an appeal, the justice shall give appellant a certificate of the allowance thereof and upon service of such certificate upon the officer having the writ he shall cease all further proceedings thereunder and if the writ has not been completely executed the defendant shall remain in possession of the premises until the determination of the appeal, but this section shall not apply to a case where judgment for restitution has been entered on a lease against a tenant holding over after the expiration of the term thereof or *termination thereof by notice to quit*.

SEC. 5. That Chapter 76 of the Revised Laws of 1905 shall be further amended by adding thereto a new section to-wit:

Section 4051½. Execution of the writ of restitution. The officer holding the writ of restitution shall execute the same by making a demand upon defendant if he can be found in the county or any adult member of his family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant remove himself, his family and all of his personal property from such premises within twenty-four hours after such demand. If defendant fails to comply with the demand, then the officer shall take with him, necessary the force of the County and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, his family and all his personal property from said premises detained, immediately and place the plaintiff in the possession thereof.

In case defendant cannot be found in said county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of said premises, breaking in if necessary, and shall remove all property of the defendant at the expense of the plaintiff. The plaintiff shall have a lien upon all of the goods upon said premises for the reasonable costs and expenses incurred for removing said personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from said premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and in case of non-payment for sixty days after the execution of the writ, shall have the right to enforce his lien and foreclose the same by public sale as provided for in case of sales under Chapter 328 of the General Laws of 1905.

A BILL FOR AN ACT to amend sections 4041 4046, 4047 & 4048 of the Revised Laws of Minnesota 1905 relating to forcible entry and unlawful detainer; and to add thereto a new section to be known as Section 4051 1/2.

Approved Apr 24 1909

Introduced and Read First Time } Jan 26 1909 1909.

By Mr. Sawyer

Ref. to Com. on General Legislation. Jan 29 1909 Judiciary Committee. Reported Backpass as amended. Feb 1 1909

Read Second Time Feb 9 1909

Com. of Whole Feb 20 20 Pass

Read Third Time Feb 26

Passed *Feb 26* Transmitted to Senate APR 19 1909

Charles H. Cannon Chief Clerk H. of R.

Read First Time 4/17/09

Ref. to Com. on Judiciary

Reported Back 4/19/09

Read Second Time 4/19/09

Com. of Whole R. S.

Read Third Time 4/21/09

Passed 4/21/09

Returned to House 4/21/09

Secretary of Senate

HOUSE AMENDMENTS.

SENATE AMENDMENTS.

- 1 Feb 9 1909 Committee.
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ENDNOTE 5

Mr. Wilson, from the Committee on Judiciary, to which was referred H.F. 262, being "A bill for an act to amend sections 4041, 4046, 4047 and 4048 of the Revised Laws of Minnesota, 1905, relating to forcible entry and unlawful detainer, and to add thereto a new section to be known as section 4051 $\frac{1}{2}$ ", reports same back with the recommendation that said bill be amended by inserting after the word "a" and before the word "lease" in the first line of the proviso in section 2 of the bill the word "written", so that said ~~section~~ ^{proviso} shall read:

"Provided that in an action on a written lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit, such writ may be issued forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial ordered", and that when so amended, the bill do pass.

4/21/09 Note by which foregoing Amendment was adopted by Senate reconsidered.

1 COPY OF ENGROSSED COPY.

2 A BILL FOR AN ACT

3 to amend Sections 4041, 4046, 4047 & 4048 of the Revised Laws of
4 Minnesota, 1905, relating to Forcible entry and unlawful De-
5 tainer, and to add thereto a new section to be known as Section
6 4051 $\frac{1}{2}$.

7 -----oooOoooo-----

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10
11 Section 1. That Section 4041 be and the same hereby a-
12 mended to read as follows to-wit:

13 Section 4041: Summons how served:

14 The summons shall be served at least three days before
15 the return day thereof by delivering a copy to the person against
16 whom it is issued or if such person be a corporation, a minor
17 under fourteen years of age or a person under guardianship, by
18 delivering a copy as provided in the case of a service of sum-
19 mons in a civil action in the District Court; but in case such
20 person cannot be found in the county, the summons may be served
21 on him at least six days before the return day thereof, by
22 leaving a copy thereof at his last usual place of abode with
23 a member of his family, or a person of suitable age and dis-
24 cretion residing at such place, or if he have no such place of
25 abode, by leaving a copy thereof upon the premises described
26 in the complaint with a person of suitable age and discretion
27 occupying the same or any part thereof;

28 provided that in case the defendant has no
29 usual place of abode and cannot be found in the county, of which
30 the return of the officer, shall be prima facie proof, and
31 further that there is no person actually occupying the premises
32 described in the complaint, then upon the filing of an affi-
33 davit by the plaintiff or his attorney in the Court in which
34 said action is brought stating that no person is actually oc-
35 cupying said premises and that he believes the defendant is not

1
2 in said State, or cannot be found therein, and either that he
3 has mailed a copy of the summons to the defendant at his last
4 known address, or that such address is not known to him, ser-
5 vice of the summons may be made upon such defendant by posting
6 the summons in a conspicuous place on said premises one week
7 and by one week's published notice thereof in some newspaper
8 printed and published in the county wherein said action is
9 brought, or, if there be no newspaper therein, then in some newspa
10 printed and published at the capitol of the State and if upon
11 the return day the said defendant or his attorney does not ap-
12 pear in said Court in said action then the trial thereof shall
13 be continued for one week to enable the defendant to make his
14 appearance and defend therein.

15
16 Section Two. (2)

17 That Section 4046 be amended to read as
18 follows:

19 Section 4046: Writ of restitution---Effect
20 of Appeal.

21 If the party against whom judgment for res-
22 titution is rendered or his attorney state to the Justice that
23 he intends to take an appeal, a writ of restitution shall not
24 issue for twenty-four hours after judgment;

25 Provided that in an action on a lease, against
26 a tenant holding over after the expiration of the term thereof,
27 or a termination thereof by a notice to quit, such writ may
28 issue forthwith notwithstanding such notice of appeal, if the
29 plaintiff give a bond conditioned to pay all costs and damages
30 in case on the appeal the judgment of restitution be reversed
31 and a new trial ordered.

32 Section Three:

33 That Section 4047 be amended to
34 read as follows:

35 Section 4047: Appeal---Stay.

If either party feels aggrieved by the judgment he may

1
2 appeal within ten days as in other cases triable before Justices
3 of the Peace except that if the party appealing remains in
4 possession of the premises, his bond shall be conditioned to
5 pay all costs of such appeal and abide the order the Court may
6 make therein and pay all rents and other damages justly accru-
7 ing to the party excluded from possession during the pendency
8 of the appeal.

9 Upon the taking of such appeal all further
10 proceedings in the case shall be stayed, except that in an
11 action on a lease against a tenant holding over after the
12 expiration of the term thereof or termination thereof by notice
13 to quit, if the plaintiff give bond as provided in Section 4046,
14 a writ of restitution shall issue as if no appeal had been taken
15 and the appellate Court shall thereafter issue all needful writs
16 and processes to carry out any judgment which may be rendered
17 in such Court.

18
19 Section Four:

20 That Section 4048 be amended so as to read as
21 follows:

22 Section 4048: Appeal after issuance of writ:
23 Stay- If a writ of restitution has issued before the taking
24 of an appeal, the Justice shall give appellant a certificate
25 of the allowance thereof and upon service of such certificate
26 upon the officer having the writ he shall cease all further
27 proceedings thereunder and if the writ has not been completely
28 executed the defendant shall remain in possession of the prem-
29 ises until the determination of the appeal, but this section
30 shall not apply to a case where judgment for restitution has
31 been entered on a lease against a tenant holding over after
32 the expiration of the term thereof or determination thereof by
33 notice to quit.

34
35 Section Five: That Chapter 76 of the Revised Laws of 1905

1
2 shall be further amended by adding thereto a new section to-wit:
3 Section 4051½: Execution of the writ of res-
4 titution.

5 The officer holding the writ of restitution
6 shall execute the same by making a demand upon defendant if he
7 can be found in the county or any adult member of his family
8 holding possession of the premises, or other person in charge
9 thereof, for the possession of the same, and that the defend-
10 ant remove himself, his family and all of his personal property
11 from such premises within twenty-four hours after such demand.

12 If defendant fails to comply with the demand,
13 then the officer shall take with him, necessary, the force of
14 the County and whatever assistance may be necessary, at the cost
15 of the complainant, remove the said defendant, his family and
16 all his personal property from said premises detained, immedi-
17 ately and place the plaintiff in the possession thereof.

18 In case defendant cannot be found in said
19 county, and there is no person in charge of the premises de-
20 tained, so that no demand can be made upon the defendant, then
21 the officer shall enter into the possession of said premises,
22 breaking in if necessary, and shall remove all property of the
23 defendant at the expense of the plaintiff.

24 The plaintiff shall have a lien upon all of the
25 goods upon said premises for the reasonable costs and expenses
26 incurred for removing said personal property and for the proper
27 caring and storing the same, and the costs of transportation
28 of the same to some suitable place of storage, in case defend-
29 ant shall fail or refuse to make immediate payment for all the
30 expenses of such removal from said premises and plaintiff shall
31 have the right to enforce such lien by detaining the same until
32 paid, and in case of non-payment for sixty days after the ex-
33 ecution of the writ, shall have the right to enforce his lien
34 and foreclose the same by public sale as provided for in case
35 of sales under Chapter 328 of the General Laws of 1905.

April 15, 1909.

The fiftieth meeting of the Committee was held at 12 o'clock, Noon, Chairman Wilson presiding.

The following members were present: Dunn, Fosseen, Gunderson, Hackney, Moonan, Peterson, Putnam, Robinson, Schaller, Seward.

H.F. No. 870 was amended and recommended to pass as amended.

S.F. No. 587 was ordered back without recommendation.

H.F. No. 845 was amended and recommended to pass as amended.

S.F. No. 635 was recommended to pass.

H.F. No. 871 was amended and recommended to pass as amended.

H.F. No. 262 was amended and recommended to pass.

H.F. No. 953 was indefinitely postponed.

The Committee adjourned.

E. A. Hartman
Clerk

April 17, 1909.

The fifty-first meeting of the Committee was held at 12 o'clock, Noon, Chairman Wilson presiding.

The following members were present: Clague, Fosseen, Gunderson, Putnam, Seward, Schaller.

H.F. No. 772 was referred to Senator Schaller for amendment and recommended to pass as amended.

H.F. No. 1152 was referred specially to Senators Schaller, Collier and Fosseen for amendments, and recommended to pass when amended.

The Committee adjourned.

E. A. Hartman
Clerk