us in determining the kind of discipline to be imposed. To meet the problem posed by this case, we herewith refer further proceedings in this matter to the Honorable E. R. Selnes, Judge of the District Court of the State of Minnesota, who will act as a referee of the Minnesota Supreme Court in order to consider such evidence as may be presented to him bearing on the fitness and competence of Jerome Daly to serve as a practicing attorney in the courts of this state. The State Board of Law Examiners (see, In re Disbarment of McDonald, 204 Minn. 61, 282 N. W. 677, 284 N. W. 888) is hereby assigned the duty and responsibility of conducting a thorough investigation of the fitness and competency of Jerome Daly to continue as a member of the bar of this state. So far as applicable, proceedings shall be in conformity with the rules of this court promulgated November 14, 1961. Due notice of such charges of unfitness and incompetence as may be warranted by the evidence secured, together with due and proper notice of the time and place of such hearings as may be held with respect to such charges as may be filed, shall be afforded the said Jerome Daly. The Practice of Law Committee of the Minnesota State Bar Association is authorized to intervene and become a party to these proceedings if it so elects. Upon the evidence presented and received, together with such evidence as may be presented by the said Jerome Daly in his own behalf, the Honorable E. R. Selnes in his capacity as a referee of this court shall make findings of fact and conclusions and recommendations for disposition of this matter as shall be justified by the evidence. Such determination shall be conclusive subject to the right of any party aggrieved to secure a review of the referee's determination in the manner outlined in said rules of November 14, 1961.

Because of the deliberate and aggravated nature of the contumacious conduct on the part of the said Jerome Daly and his failure or refusal to present any reasonable justification for his effort to frustrate the processes of the Minnesota Supreme Court, his privilege to practice law in the courts of this state is suspended effective October 1, 1969; provided, however, that this court will consider such application as the said Jerome Daly may make prior to October 1, 1969, for such limited exceptions to this order of temporary suspension as may be proved necessary in order to protect the interests of clients now represented by the said Jerome Daly and involved in litigation pending in the courts of this state.

This matter is herewith referred to the Honorable E. R. Selnes, designated as referee herein, for further proceedings consistent with this opinion, which proceedings shall be entitled "In re Jerome Daly."

LEO ZURN v. NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS AND ANOTHER. LEO ZURN v. FIRST NATIONAL BANK OF MINNEAPOLIS AND ANOTHER.

170 N. W. (2d) 600.

September 5, 1969—Nos. 42088, 42117.

Courts—acts by justice of peace in excess of jurisdiction—effect.

Prohibition in this court upon the relation of the Northwestern National Bank of Minneapolis and the First National Bank of Minneapolis to compel Martin V. Mahoney, justice of the peace of Credit River Township, Scott County, to refrain from any further proceedings in actions brought by Leo Zurn against said relators. Applications dismissed.

Faegre & Benson, Gordon G. Busdicker, Dorsey, Marquart, Windhorst, West & Halladay, and *Jan D. Stuurmans,* for relators.

PER CURIAM.

Applications for a writ of prohibition in the above-entitled consolidated matters instituted before Martin V. Mahoney, justice of the peace of Credit River Township, Scott County, Minnesota.

The death of Mr. Mahoney on August 22, 1969, makes these proceedings moot as to him.

However, to avoid the necessity of further proceedings to vacate and set aside any action taken herein by Mr. Mahoney prior to his death (see, 42 Am. Jur., Prohibition, § 47), we declare all proceedings in this matter before the justice of the peace a nullity upon the jurisdictional grounds set forth in In re Daly, 284 Minn. 567, 171 N. W. (2d) 818.

The applications for the writ of prohibition are dismissed.