

No. 313, A.]

[Published March 31, 1891.]

CHAPTER 94.

AN ACT to incorporate the city of Chetek, Barron county, Wisconsin.

(See Vol. 2.)

No. 442, A.]

[Published April 4, 1891.]

CHAPTER 95.

AN ACT to revise and amend the charter of the city of Manitowoc.

(See Vol. 2.)

No. 201, S.]

[Published March 30, 1891.]

CHAPTER 96.

AN ACT to create a municipal court in and for the county of Langlade.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Municipal
court created.

SECTION 1. There is hereby created and established in and for the county of Langlade, a municipal court, with the powers and jurisdiction hereinafter specified and provided.

Election of
judge, and
term of office.

SECTION 2. On and after the first Tuesday in April, 1891, and every four years thereafter, there shall be elected in the county of Langlade, in the same manner as county judges are elected, one municipal judge, who shall hold his office for the term of four years from the first Monday of May next following his election, and until his

successor is elected and qualified; and in case of vacancy occurring in the office of municipal judge the vacancy shall be filled by appointment by the governor, and the person appointed to fill such vacancy shall continue in office for the residue of the term for which his predecessor was elected or appointed.

SECTION 3. No person shall be eligible to the office of judge of said municipal court except an attorney of a court of record, and such judge shall hold no other county office during the term for which he is elected.

Judge must be attorney of court of record.

SECTION 4. The municipal judge before entering upon the duties of said office shall take and subscribe the constitutional oath of office, and file the same, duly certified, in the office of the clerk of the circuit court for said county, and execute to the said county a bond in the sum of one thousand dollars, with two or more sureties to be approved by the county treasurer of said county, and recorded and filed as provided in section 702, of the revised statutes, conditioned for the faithful performance of the duties required of him by law, and for the faithful application and payment of all moneys and effects that may come into his hands in the execution of the duties of his office.

Oath of office and bond.

SECTION 5. The judge of the municipal court of Langlade county, shall hold his office at the county seat of said county in the court room of the court house, or in some other suitable room in the city of Antigo, to be provided by the board of supervisors of said county.

Judges to hold office at county seat.

SECTION 6. The municipal judge of the county of Langlade shall have cognizance of, and jurisdiction to hear, try and determine, all actions and proceedings at law, wherein the amount of debt, damages, demand, penalty or forfeiture, shall not exceed the sum of five hundred dollars, actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of the property claimed, shall not exceed the sum of five hundred dollars, exclusive of damages. The said judge shall have exclusive original jurisdiction of all misdemeanors occurring in said county, to the same extent and as fully as justices of the peace now, or may

Jurisdiction.

hereafter have, and shall also have exclusive jurisdiction to institute and conduct examinations in all criminal cases that may occur in said county, including bastardy. Said judge shall have power and jurisdiction throughout said county, to cause to come before him persons who are charged with committing any criminal offense and commit them to jail, or bind them over, as the case may require. Said judge shall further have all the jurisdiction, authority, powers and rights given by law to justices of the peace, together with the power and right, in his discretion, to charge the jury, upon written charges, and said judge shall be subject to the same prohibitions and penalties as justices of the peace. The proceedings and practice of said court shall, in all respects, be governed as far as practicable, by the laws relating to justices' courts of this state, and transcripts of judgments of the municipal court may be filed and docketed with the clerk of the circuit court for said county, with the same effect as may be transcripts of judgments rendered by justices of the peace of said county, and appeals from said court in all cases, both in civil and criminal cases, and other proceedings, may be taken in the same manner and with like effect as are provided by law from justices' court. Nothing herein contained shall be construed to give the said municipal judge cognizance of any actions mentioned in subdivisions 1, 2 and 3, of section 3573, of chapter 154, of the revised statutes of this state.

Shall be court commissioner.

SECTION 7. The municipal judge of Langlade county shall have, and may exercise in his county, all the powers and perform all the duties of a court commissioner as defined in section 2434, of the revised statutes; and every authority granted to, or limitation of the powers of a court commissioner by the laws of Wisconsin, shall be construed to extend to the said municipal judge, acting in such capacity, except when otherwise expressly provided. The official designation of said officer, in matters wherein he shall so act, shall be municipal judge of Langlade county.

May enter judgment by confession for one thousand dollars or less.

SECTION 8. Judgment may be rendered in said municipal court by confession for any sum not exceeding one thousand dollars, in the manner provided by the statute.

SECTION 9. In case of sickness, absence or temporary disability of said municipal judge, he may, by an order in writing, to be filed in said court, appoint a justice of the peace of said county, to discharge the duties of said judge during such sickness, absence or disability, who shall have the same powers as said judge, while administering such office.

In case of sickness may appoint justice of the peace to act.

SECTION 10. No action, examination or other proceeding shall be removed from said court, but whenever it shall appear by affidavit that the municipal judge is interested pecuniarily in the action, examination or other proceeding, or that said judge is a material witness, or is within the forbidden degree of consanguinity or from prejudice will not decide impartially in the matter, the municipal judge shall notify a justice of the peace in the county of Langlade, not disqualified to try said case, or to hear said examination or other proceeding, as the case may be; whereupon it shall be the duty of said justice so notified as aforesaid to forthwith appear at the court room of said municipal court, and to discharge the duties of judge of said municipal court on the trial of said case, or the hearing of said examination, or other proceeding, in the same manner and with like effect as said municipal judge would, if not disqualified to act; and the doings of said justice of the peace while so presiding over said municipal court shall have and be of the same force and effect as proceedings of said municipal judge, and when said action, examination or other proceeding is concluded a like record, as in other like cases, shall be made in said court, and thereafter and thereupon execution may be issued as in other cases tried before said municipal judge. Said justice of the peace, while presiding over said municipal court, shall receive the same fees as are allowed by law to said municipal judge for like service.

If judge disqualified, justice of the peace shall be called in.

SECTION 11. Whenever any civil action shall be removed from any justice of the peace of said county of Langlade upon the oath of said defendant, his agent or attorney, according to the provisions of law for such removal, if said defendant, his agent or attorney requests in writing to such justice, that the action be removed to the said municipal court, then the action and all papers

Actions may be removed to said court.

therein shall be transmitted to the presiding judge thereof, who shall proceed with the action in the same manner as if originally instituted before him.

Trial by jury. SECTION 12. Trial by jury may be had in said court in the same manner and process as in justices' courts.

Sheriffs and constables. SECTION 13. Sheriffs and constables of Langlade county and the marshal and deputy marshal of the city of Antigo shall have the same power to serve and execute process of this court as of justices' courts, and shall be entitled to receive the same fees as in justices' courts.

Shall keep dockets, civil and criminal, separately. SECTION 14. The judge of said court shall keep one docket for criminal trials and proceedings, and a separate docket for civil actions, and all docket entries and process shall be made and kept in the same manner as far as is applicable to this court as the same are required to be kept by justices of the peace under the laws of this state; provided, always, that the municipal judge may in civil actions sign in blank, summons, writs and other process and deliver the same to attorneys of courts of record, to be issued by them, who upon issuing any such summons, writ or other process shall file within twenty-four hours thereafter, the affidavit, if any, upon which such summons, writ or process, was based, and a statement of the names of the parties to the action, the date of the summons, writ or process, the time when the same is returnable and the nature of the demand or claim, upon which the said judge shall forthwith docket said case, which docket entries shall have the same force and effect as if made at the time of issuing the summons, writ or other process.

Fees and compensation of judge. SECTION 15. The municipal judge shall have and receive the same fees in all civil actions that are now allowed by law to justices of the peace, and one dollar in addition thereto for every civil action or proceeding in his court. And for his services in conducting criminal trials and examinations he shall receive a salary of five hundred dollars per year for the first term, payable quarterly at the end of each quarter out of the county treasury of said county; and thereafter his salary shall be fixed by the county board at not less than five hundred dollars per annum, but in all

criminal actions and proceedings he shall tax the same fees as justices of the peace are allowed by law to tax, and if the defendant in such suit or action is convicted, insert the amount of such fees in the entry of judgment against such defendant, and if paid by said defendant return the amount thereof, with the fine paid or collected, to the county treasurer of said county.

SECTION 16. Said court shall have jurisdiction to hear, try and determine all actions arising under chapter 145, of the revised statutes, when the amount claimed shall not exceed five hundred dollars. Jurisdiction.

SECTION 17. Said court shall have jurisdiction to try and determine all appeals in civil actions from justices of the peace in said county; provided, that in civil cases, appealable from the justices' judgments, the party appealing may, in his option, appeal to the circuit court in Langlade county, instead of to said municipal court. And all such cases shall be certified and returned to said municipal court within ten days after the perfection of the appeal. Any action appealed to said court may be brought on for trial upon notice of ten days, given by either party to the other. In case neither party shall notice such appeal, or bring the same to trial within six months, the appeal shall be dismissed with ten dollars costs against the appellant. Appeals shall be made to such court in the same manner that they are now made from justice to circuit court. May try appeals from justices' courts.

SECTION 18. In appealed cases tried and determined in said court upon the record of the court below, or any question of law or fact appearing in such record, the judge of said court shall be entitled to receive the sum of five dollars and no more, as and for his fees, and the prevailing party in appealed cases, shall be entitled to recover the sum of five dollars attorney's fees. Fees in appealed cases.

SECTION 19. The municipal judge may provide a seal for said court, and all papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by said judge, when sealed with the seal of said court, shall be evidence in all courts and places in this state, and shall have the same effect as the seal of a court of record. May provide a seal.

Shall have same power over verdicts, etc., as circuit court.

May set aside verdicts, grant new trials, etc.

Appeals from said court.

SECTION 20. For ten days after judgment in civil actions, and for twenty-four hours after judgment in criminal causes over which said court has jurisdiction to hear, try and determine, the said municipal judge shall have, and he is hereby vested with the same power over verdicts, judgments, rulings, orders and proceedings in his court as are possessed by the circuit courts over their judgments, orders and proceedings at or before trial or judgment and during trial term. And said municipal judge may direct or set aside verdicts, grant new trials on payment of all costs or on such conditions as to costs as justice requires, modify and reverse judgments and orders, of his said court, or of the judge thereof, or do any act or thing which circuit courts may do during trial term, being governed therein by the general law and practice of the circuit courts, as near as may be, where the rules of law for justice courts are inadequate or do not apply. New trials, if granted, must be granted within ten days after judgment in civil cases, and within twenty-four hours after judgment in criminal causes, except on substituted service by publication in civil cases, where the rule for justices' courts shall apply; if granted upon the grounds of newly discovered evidence, it may be granted at any time within six months after judgment. If a jury should disagree, said judge shall forthwith fix a time for a new trial. All motions and matters of practice subsequent to judgment in said municipal court, shall be decided, except as herein provided, within ten days after judgment.

SECTION 21. Appeals from said municipal court shall be taken to the circuit court for Langlade county, and when not otherwise provided, the law relating to appeals from justices' courts shall apply. The same affidavit and notice, in substance, shall be made and given as upon appeal from justices' court. Any party to a final judgment, or to an order effecting a substantial right, made after judgment, may appeal; any party desiring to appeal, may upon motion, the opposite party or parties having had five days' notice in writing, or a less time on an order to show cause, in civil actions or proceedings, and on twelve hours' notice in criminal actions or proceedings, move the court

for a reversal, in whole or in part, of the judgment or order made for a new trial, for an order setting aside a verdict, or for such relief as the party may consider himself lawfully entitled to, and the judge shall enter his orders or rulings granting or refusing the relief prayed for, within ten days after judgment in civil cases, and within twenty-four hours after judgment in criminal actions. In civil cases the appeal must be taken within twenty days after judgment is rendered, and in criminal causes, within twenty-four hours after judgment. Appeals shall be from the judgment and final orders affecting a substantial right made subsequent to judgment, and the appeal shall open up for trial in circuit court, both the law and the facts in the whole case. The party first appealing shall pay the judge's fees, including costs of transcribing hereinbefore provided, together with one dollar for his return, one dollar for state tax, and two dollars for clerk's fees for the clerk of the court appealed to, except in criminal cases where no fees are required to be advanced by the defendant therein; upon the receipt of the fees heretofore provided to be paid, and not till then, the municipal judge shall make a transcript of his docket and a return, in the same manner as in an appeal from justices' court, and transmit the record and all the papers in the case to the clerk of the circuit court for said county, within ten days after the appeal is perfected, and said clerk shall file the same, and to the end that a true and correct record be kept, said municipal judge may at any time, on motion of himself or of a party to the action, or upon an order or suggestion from the appellate court, all parties interested having notice, correct his minutes or his record, so as to show the very truth of the matter. Attorneys practicing in said court may ask that instructions be given to juries, and allege objections to rulings or orders of said court according to the rules of practice in circuit courts.

SECTION 22. The dockets and records of said municipal court shall be public records, open to the inspection of all persons at every reasonable hour.

Dockets shall be public records.

SECTION 23. In all actions in the municipal court for the county of Langlade, the plaintiff,

Attorney's fees.

if he shall obtain judgment, shall be entitled to recover attorney's fees as follows: On all judgments taken in actions wherein the defendant does not appear and answer or demur, when the amount of the judgment exceeds one hundred dollars and is less than three hundred dollars, ten dollars; when the amount of the judgment is three hundred dollars or upwards, fifteen dollars. On all other judgments, when the amount does not exceed one hundred dollars, an amount equal to ten per cent. of the amount of the judgment. When the amount of the judgment exceeds the sum of one hundred dollars, ten dollars on the first one hundred dollars and five per cent. on the amount of the judgment in excess of one hundred dollars; provided, that in no case shall the amount of the attorney's fees exceed the sum of twenty dollars. And in case judgment shall be for the defendant, he shall be entitled to recover attorney's fees as follows: In all cases where the plaintiff shall claim in his complaint one hundred dollars or less, an assessment equal to ten per cent. of such claim; in all cases where the plaintiff shall claim in his complaint a sum over one hundred dollars, ten dollars for the first one hundred dollars and five per cent. on the amount claimed in excess of one hundred dollars; provided, that in no case shall the amount of the attorney's fees exceed the sum of twenty dollars. The provisions of this section shall apply to proceedings for the recovery of possession of personal property, and the value of the property, as found, if judgment be for the plaintiff, and as claimed, if judgment be for the defendant, shall be the basis for the taxation of attorney's fees; and all other civil actions not herein provided for, an attorney's fee of ten dollars shall be allowed to the party in whose favor the judgment is rendered; provided, however, that no attorney's fee shall be allowed unless the party who recovers judgment shall appear by an attorney of a court of record.

Notice of election.

SECTION 24. The county clerk of Langlade county shall give at least three days' notice of the election of said judge to be held on the first Tuesday in April, 1891, and it shall not be necessary at said election for the candidates for said office to file nomination papers nor shall it be

necessary that the names of the candidates be printed in the official ticket, unless this act shall be published and in force eighteen days before said election.

SECTION 25. All needful stationery, and all blanks required by said court in criminal actions and examinations, and judge's dockets required by law, shall be furnished at the expense of Langlade county. Stationery.

SECTION 26. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SECTION 27. This act shall take effect and be in force from and after its passage and publication.

Approved March 27, 1891.

No. 31, A.]

[Published March 31, 1891.

CHAPTER 97.

AN ACT to amend chapter 274, of the laws of 1880, entitled "An act authorizing the city of Winona to construct, operate and maintain a bridge across the Mississippi river."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. That chapter 274, of the laws of 1880, entitled "An act authorizing the city of Winona to construct, operate and maintain a bridge across the Mississippi river" be, and the same is hereby amended by striking out all of section 3, of said act, and inserting in lieu thereof as follows: Section 3. When in the opinion of its city council it shall be necessary for said city to acquire title to property for the construction of said bridge and its approaches, said city of Winona may apply in writing to the judge of the circuit court for the county of Buffalo, in the state of Wisconsin, for the appointment of three disinterested persons, residents of said county, to appraise the property necessary for such purposes. Such application shall be sign- Amends chapter 274, laws of 1880.
Appraisers may be appointed.