

No. 2, A.]

[Published March 17, 1903.

CHAPTER 17.

AN ACT to appropriate twenty thousand dollars as a deficiency fund to complete buildings lately in process of erection at the Wisconsin Home for Feeble Minded; to furnish and equip the same for occupancy; and to adjust balances of expenses incurred in the erection and equipment of such buildings.

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

Building appropriations. SECTION 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of twenty thousand dollars to complete buildings lately in process of erection at the Wisconsin Home for Feeble Minded; to furnish and equip the same for occupancy; and to adjust balances of expenses incurred in the erection and equipment of such buildings.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1903.

No. 159, S.]

[Published March 18, 1903.

CHAPTER 18.

AN ACT to create a municipal court for Sawyer county.

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 Sawyer, a municipal court to be known and designated as "The municipal court of Sawyer county," with the powers and jurisdiction hereinafter specified and provided.

Election and term of office. SECTION 2. On the first Tuesday of April, 1903, and every four years thereafter, there shall be elected in the county of Sawyer, in the same manner as county judges are elected, a municipal judge for said court 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. Provided that, at the first election under this act, ten days' notice shall be given in lieu of the notice provided for by section 94q of the statutes of 1898.

Qualification of judge. 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 was elected.

Oath of office; bond required. SECTION 4. The municipal judge before entering upon the duties of his 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 chairman of the board of county supervisors of said county and recorded and filed as provided in section 702 of the statutes of 1898, 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.

Place of holding court. SECTION 5. The judge of the municipal court of Sawyer county shall hold his office at the county seat of said county in a suitable room for such purpose, to be provided by the board of supervisors of Sawyer county.

Powers and jurisdiction. SECTION 6. The municipal court of Sawyer county and the municipal judge thereof, 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, actions founded on an account when the same shall be reduced to an amount not exceeding five hundred dollars, by credits given; to hear, try and determine all actions arising under chapter 145 of the statutes of 1898 when the amount claimed shall not exceed five hundred dollars. The said judge and court shall have jurisdiction of all crimes and misdemeanors occurring in said county, to the same extent and as fully as justices of the peace now or may hereafter have, and shall also have 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 to commit them to jail or bind them over to the circuit court, 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. No justice of the peace within said county shall exercise jurisdiction in any criminal cases, except misdemeanors, over which they shall have concurrent jurisdiction and power with said municipal court, and except that justices may, in the manner prescribed by law, issue warrants wherein the commission of a felony is charged, which warrants are to be made returnable before the said municipal judge, but all such jurisdiction is vested in said municipal court and the judge thereof. The proceedings and practice of said court shall, in all respects, be governed as far as practicable by the laws relating to justice's 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 criminal and civil cases, and other proceedings may be taken in the same manner and with like effects as are provided by law from justice's courts. 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 statutes of 1898.

Judgment by confession may be entered. SECTION 7. A judgment by confession may be entered by the judge of said

court in any sum not exceeding one thousand dollars without action, whether for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, if a statement be made in writing, signed by the defendant and verified by his oath to the following effect: First. It must state the amount for which judgment may be entered and authorize the entry of judgment therefor by the judge of said court. Second. If it be for money due or to become due, it must state concisely the fact out of which the indebtedness arose and must show that the amount confessed therefor is justly due or to become due. Third. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the contingent liability and must show that the sum confessed does not exceed the same.

Substitute in case of sickness. SECTION 8. In case of sickness, absence or temporary disability of such judge, he may, by an order in writing to be filed in said court, appoint a justice of the peace in said county to discharge the duties of said judge during such sickness, absence or disability, who shall have the powers of such judge while administering such office.

Actions may be removed for prejudice. SECTION 9. 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, and the matter or proceeding is one of which a justice of the peace has jurisdiction, the municipal judge shall notify a justice of the peace in the county of Sawyer, 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 judge and to discharge the duties of judge of said municipal court in 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 acts 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 such 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 justice of the peace for like services. And in matters or proceedings of which a justice of the peace has no jurisdiction when such affidavit is filed the municipal judge shall transfer the same to the circuit court of Sawyer county, which court shall thereupon have jurisdiction to hear, try and determine the same in the same manner and with like effect as if such action or proceeding had been begun in said circuit court.

Powers of judge as court commissioner. SECTION 10. The municipal judge of said county shall have and may exercise in his county all the powers and may perform all the duties of a court commissioner as defined in section 2434 of the statutes of 1898, 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 said municipal judge acting in such capacity, except when otherwise expressly provided. The official designation of said officer in matters where he shall so act shall be "Judge of the municipal court of Sawyer county."

Trial by jury may be had. SECTION 11. Trial by jury may be had in such court in the same manner and process as in justices' courts.

Fees and liabilities of sheriffs. SECTION 12. Sheriffs and constables of Sawyer county 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 and shall be subject to the same liabilities and penalties as in justices' courts.

The court docket. SECTION 13. 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, that in all civil actions, said municipal judge may sign in blank, summons and other process and deliver the same to attorneys of courts of record throughout the county to be issued by them as occasion may require, who, upon issuing any such summons, writ or other process, shall file within twenty-four hours thereafter the affidavit (if any) upon which such sum-

mons, 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.

Compensation of judge; must file statement. SECTION 14. The salary of the judge of the municipal court of Sawyer county shall be fixed by the board of supervisors of Sawyer county and shall be paid out of the county treasury of Sawyer county in the same manner that the salary of other county officers is paid, and shall be in full for all services rendered in any criminal examination, trial or other criminal matters. He shall have the same fees and is empowered to tax and receive the same fees as allowed by law to justices of the peace, except as hereinafter provided and shall tax as costs the same fees in the same manner as in justices' courts. He shall pay into the county treasury monthly all fees received by him in any criminal matter, and may retain all fees received by him in any civil action. He shall file on the first day of November of each year with the county clerk of said county a statement of all fees paid by him to the county treasurer, and said statement shall be verified by him under oath. He shall also file with said clerk the statements required from other magistrates by sections 679 and 680, statutes of 1898.

Jurisdiction of court; appeals, how taken. SECTION 15. Said court shall have jurisdiction to try and determine all appeals in civil actions from justices of the peace of Sawyer county; provided, that in civil cases, appealable from the justices' judgments, the party appealing may, in his option, appeal to the circuit court of Sawyer 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 on 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 courts.

Fees fixed on appeals. SECTION 16. In appealed cases tried and determined in said court upon the record of the court be-

low, or any questions of law or fact appearing in such record, the judge of such court shall be entitled to receive the sum of ten dollars, and no more for his fees, and the prevailing party in appealed cases shall be entitled to recover the sum of five dollars as attorney's fees.

Appeals to circuit court. SECTION 17. Appeals from said municipal court shall be taken to the circuit court of Sawyer 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 appeals from justices' courts.

Seal evidence in all courts. SECTION 18. 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 the 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.

Records to be public. SECTION 19. The dockets and records of said municipal court shall be public records, open to the inspection of all persons at all reasonable hours.

Attorney's fees, how taxed. SECTION 20. In all actions in the municipal court for the county of Sawyer attorney's fees shall be taxed and allowed as provided in subdivision 4, of section 3775 of the statutes of 1898.

Notice of election by county clerk. SECTION 21. The county clerk of Sawyer county shall give the same notice of the election of said judge, as in other judicial elections.

Blanks, how furnished. SECTION 22. All necessary stationery and all blanks required by said court in civil and criminal actions and examinations, and judge's dockets required by law, shall be furnished at the expense of Sawyer county.

Phonographic reporter may be called in; compensation of. SECTION 23. It shall be lawful for the municipal judge to call in a phonographic reporter skilled in the art of shorthand reporting, to take testimony in any action, examination or other proceeding in the municipal court, and the reporter's notes so taken may be filed in lieu of the minutes of testimony required

by law to be taken by justices of the peace in like proceedings; provided, that in case of appeal in civil actions, said reporter, when requested by the appellant, shall file a transcribed copy of his notes verified by his oath which shall be returned as the testimony in the case, and the fees for transcribing said testimony not exceeding five cents per folio, shall be taxed as part of the judge's fees in the case. Said reporter shall receive such compensation for taking testimony as shall be fixed by the municipal judge not exceeding three dollars per day for each day's actual attendance on said court, which amount shall be taxed as costs in the case. In all criminal trials and proceedings said fees and per diem shall be certified, audited and paid out of the county treasury monthly; fees per diem shall be certified and audited by the certificate of the municipal judge, showing the title of the case and the amount due said phonographic reporter for services therein. Section 2439 of the statutes of 1898 shall apply to said reporter and said court.

Place and time of holding court. SECTION 24. The municipal judge of Sawyer county, whenever it shall appear to him to be for the best interests of all parties to do so, may appoint a time and place in any part of Sawyer county in which to hold court, for the purpose of holding an examination or trial or other proceeding and shall be entitled to receive, as a part of his compensation, his necessary and actual expenses in going to, returning from and attendance upon any criminal examination, trial or other process, to be paid out of the county treasury in the manner that other claims against said county are paid, and may tax the amount as a part of the costs in any civil action.

SECTION 25. This act shall take effect and be in force, from and after its passage and publication.

Approved March 17, 1903.