

No. 106, S.]

[Published March 22, 1907.

## CHAPTER 22.

AN ACT to create a municipal court for Iron county.

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

**Creation of court.** SECTION 1. There is hereby created and established in and for the county of Iron, a municipal court to be known and designated as "The Municipal Court of Iron County," with the powers and jurisdiction hereinafter specified and provided.

**Election of judge; term; vacancy.** SECTION 2. On the first Tuesday of April, 1907, and every four years thereafter, there shall be elected in the county of Iron, 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 by section 94q, statutes of 1898.

**Judge to hold no other county office.** SECTION 3. The judge of said municipal court shall hold no other county office during the term for which he was elected.

**Oath and bond of judge.** 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 county board of 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.

**County to provide court room.** SECTION 5. The judge of the municipal court of Iron 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 Iron county.

**Civil and criminal jurisdiction of court.** SECTION 6. 1. The municipal court of Iron 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.

2. The said judge and court shall also have exclusive criminal 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 all charges for offenses arising within said county and which are not punishable by commitment to state's prison, and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction.

3. 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.

4. Said judge shall further have all 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.

**Justices of the peace not to have criminal jurisdiction.** SECTION 7. No justice of the peace within said county shall

have or exercise jurisdiction in any criminal cases, except that justices of the peace may, in the manner prescribed by law, issue warrants returnable to the municipal court of said county.

**Procedure; docketing of transcripts; appeals; cognizance.** SECTION 8. The proceedings and practice of said municipal 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 civil and criminal, and other proceedings may be taken in the same manner and with like effect as are provided by law from justices' courts. Nothing herein contained shall be construed to give the said municipal court cognizance of any actions mentioned in subdivisions 1, 2, and 3 of section 3573. of the statutes of 1898.

**Judgment by confession.** SECTION 9. 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 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.

**Absence or disability of judge.** SECTION 10. 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.

**Who may preside when municipal judge is disqualified; compensation.** SECTION 11. 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 the county judge or some justice of the peace of said county to hear said examination or other proceeding as the case may be, whereupon it shall be the duty of such magistrate to forthwith appear at the court room of said municipal court and discharge the duties of said municipal judge on the hearing of such examination or other proceeding in the same manner and with like effect as if heard by the municipal judge of said court, and the record shall have like force and effect as if made by said municipal judge. The magistrate so acting in said proceeding shall receive for his compensation one dollar and fifty cents for each half day he shall spend in such examination or other proceeding, which shall be in full for his services therein. If such examination or trial shall be for a criminal offense he shall be paid out of the county treasury in the same manner as justices of the peace are now paid, and if in a civil action he shall be paid by said municipal judge.

**Judge ex-officio court commissioner; official designation.** SECTION 12 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 Iron County."

**Trial by jury.** SECTION 13. Trial by jury may be had in such court in the same manner and process as in justices' courts.

**Service of process.** SECTION 14. Sheriffs and constables of Iron 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.

**Separate civil and criminal dockets; issue of process in blank.** SECTION 15. 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 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 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 process.

**Salary and fees of judge.** SECTION 16. 1. The salary of the judge of the municipal court of Iron county shall be nine hundred dollars per annum until otherwise fixed by the board of supervisors of Iron county and shall be paid out of the county treasury of Iron county in the same manner that the salary of other county officers of Iron county is paid, and shall be in full for all services rendered in any criminal examination, trial or other criminal matters.

2. 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.

3. 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.

4. 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.

**Appeals from said court.** SECTION 17. Appeals from said municipal court shall be taken to the circuit court of Iron 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.** 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.

**Publicity of records.** 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.

**Attorneys fees to plaintiff.** SECTION 20. In all actions in the municipal court under this act, an attorney fee shall be allowed to the plaintiff if he recover judgment as follows: If the judgement does not exceed twenty-five dollars, the sum of two dollars and fifty cents; if the judgment exceeds twenty-five dollars and does not exceed one hundred dollars, a sum equal to ten per centum of the judgment; if the judgment exceeds one hundred dollars and does not exceed two hundred dollars, ten dollars on the first hundred dollars and five per centum on the balance of the judgment; if the judgment exceeds two hundred dollars, fifteen dollars on the first two hundred dollars and two and one-half per centum on the balance of the judgment.

**Attorneys fees to defendant.** SECTION 21. In case judgment shall be for the defendant he shall receive the same attorney's fee, and the amount claimed by the plaintiff shall be the basis for computing the same.

**Fees in actions of replevin.** SECTION 22. In actions of replevin the value of the property as proved shall govern the amount of attorney's fees in case judgment is for the plaintiff, and the value of the property as claimed shall govern the amount of attorney's fees in case judgment is for the defendant.

**Allowance of fees by court.** SECTION 23. In any case not herein provided for, a reasonable attorney's fee shall be allowed

in the discretion of the court, provided that no attorney's fee shall exceed the sum of twenty-five dollars; and provided further that no attorney's fee shall be allowed unless the prevailing party shall appear in the action by an attorney of a court of record.

**Removal of actions to municipal court.** SECTION 24. Whenever any civil action shall be removed from any justice of the peace in the county of Iron, upon the oath of the defendant, his agent or attorney, according to the provisions of law for such removal, if the said defendant, his agent or attorney requests in writing to such justice that the action be removed to said municipal court then the action and all papers 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.

**Notice of judicial election.** SECTION 25. The county clerk of Iron county shall give the same notice of election of said judge, as in other judicial elections.

**Stationery and blanks.** SECTION 26. 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 Iron county.

**Filing and transcription of reporter's notes; allowance and payment of his fees.** SECTION 27. 1. 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 a part of the judge's fees in the case.

2. Said reporter shall receive such compensation for taking testimony as shall be fixed by the municipal judge not exceeding five dollars per day for each day's actual attendance on said court in taking testimony, which amount shall be taxed as costs in the case.

3. In all criminal trials and proceedings said fees and per diem shall be certified, audited and paid out of the county treasury monthly; fees and 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.

**Court held anywhere in county; traveling expenses.**

SECTION 28. The municipal judge of Iron 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 Iron 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 29. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1907.

No. 369, S.]

[Published March 23, 1907.

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**CHAPTER 23.**

AN ACT to create a municipal court in the county of Outagamie.

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

**Designation of court and judge.** SECTION 1. There is hereby created and established in the county of Outagamie, state of Wisconsin, a court to be known and designated as the "Municipal Court of Outagamie County," having the powers and jurisdiction hereinafter specified and provided, and pre-