

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.

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-

sided over by a judge to be known and designated as the "Municipal Judge."

Seal. SECTION 2. The municipal court of Outagamie county shall be a court of record with a seal to be designed and procured by the judge thereof at the expense of the county.

Court rooms; sessions in Kaukauna and elsewhere. SECTION 3. Said municipal court shall be held at the court house in the city of Appleton, in some suitable room or rooms to be furnished and supplied at the expense of the county under the direction of the county board thereof; provided, however, that the municipal judge shall, during at least one day in each week, hold court at the city hall in the city of Kaukauna in some suitable room or rooms therein, furnished and equipped by said city, for the hearing of any criminal examination or the trial of any action otherwise cognizable by justices of the peace and as may be pending in said court and entitled to be heard or tried in said city. The judge shall have power and authority to adjourn the trial of any action or proceeding or any criminal or other examination to any other place in said county when, in his opinion, the costs of said action or examination will be materially lessened thereby or the convenience of parties to the action materially bettered.

The judge: nomination; election; term; removal. SECTION 4. On the first Tuesday in April, 1907, and on the same day of the same month every four years thereafter, there shall be elected in the county of Outagamie, in the same manner as county judges are elected, a judge of the municipal court, who shall hold his office for the term of four years from the first day of May next succeeding his election and until his successor is elected and qualified, and be subject to removal from office in the manner provided by the constitution of this state for the removal of the judges of the circuit courts; provided, however, that nominations of candidates for municipal judge to be voted for at the election to be held on the first Tuesday in April, 1907, may be made by nomination papers in the manner and form provided for by section 30, of the statutes, signed by a number of voters in said county not less than one-half of one per cent of the whole number of votes cast therein at the last general election, and filed in the office of the county clerk not less than ten days before the day of such election. Notice of such election shall be given by the county clerk as provided by section

36 of the statutes for other county officers and no other or further notice shall be required to be given.

Vacancies in office of judge. SECTION 5. Whenever a vacancy shall happen in the office of municipal judge, the governor shall appoint a suitable person, duly qualified to fill such vacancy until a successor is elected and qualified. Elections to fill vacancies for the residue of the term shall be held and notice thereof given in the same manner as for the election of a county judge.

Eligibility for judgeship. SECTION 6. No person shall be eligible to the office of judge of the municipal court unless he be a practicing attorney, duly admitted to the bar of Outagamie county and a qualified elector and freeholder of said county, and during his term of office he shall not practice his profession in any of the courts of said county, except in the county court or in the trial of appeals therefrom.

Oath and bond of judge. SECTION 7. The municipal judge, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court for Outagamie county, and shall execute to said county a bond in the penal sum of two thousand dollars, with two sureties to be approved by the treasurer of said county and recorded and filed as provided in section 702, statutes of 1898, conditioned for the faithful performance of the duties required of him by law and the faithful and prompt application and payment of all moneys and effects which may come into his hands in the execution of the duties of his office.

Judge's salary. SECTION 8. The municipal judge shall receive a salary of one thousand eight hundred dollars per year, payable quarterly out of the treasury of Outagamie county and the same shall be in full compensation for all his services as such judicial officer.

The judge to appoint another or transfer action in case of absence or disability. SECTION 9. The municipal court shall be open for business on all secular days except legal holidays and except as the judge thereof may otherwise order. In case of sickness, temporary absence or disability of said judge he may, by order in writing filed and recorded in said court, appoint the county judge or any circuit court commis-

sioner of said county, who is an attorney of record, to discharge the duties of such judge during such sickness, temporary absence or disability, who shall have all the powers of such judge while administering such office except the trial of informations and any other action beyond the original jurisdiction of justices of the peace, and who shall receive for his services the sum of five dollars per day, to be paid out of the county treasury. In all other cases any circuit judge may hold court as the judge of the municipal court in the event of the absence, sickness or other disability of the municipal judge or upon his special request. In any such contingency the municipal judge may also, by order transfer to the circuit court for Outagamie county any and all circuit court actions and upon the filing of such order with the clerk of the circuit court, such circuit court shall have jurisdiction thereof, and the said actions shall thereafter proceed as if originally brought in the circuit court.

Powers of acting judge. SECTION 10. While administering the duties of the judge of the municipal court, the circuit judge, county judge or circuit court commissioner shall have the same powers as if elected municipal judge, and at such time shall sign all papers, processes and records as "A. B., Circuit Judge or County Judge or Circuit Court Commissioner (as the case may be), and Acting Municipal Judge."

Clerk of the municipal court; his oath and bond. SECTION 11. The clerk of the circuit court for Outagamie county and his deputy shall be clerk and deputy, respectively, of the municipal court.

In addition to his oath and bond as clerk of the circuit court, he shall file an additional oath of office as clerk of the municipal court and shall execute and file with the county clerk a bond with two sureties approved by said county clerk and in such sum as the municipal judge shall order, conditioned that he will pay over to the proper persons all fines and penalties, suit taxes and other moneys in his hands as required by law and the order of the court, and will faithfully perform the duties of his office as required by law.

Clerk's powers and duties. SECTION 12. Said clerk shall have all the powers and perform all the duties with reference to the municipal court in circuit court matters in the same manner and to the same extent as the clerk of the circuit court

has and does for that court, except as may be herein otherwise specially provided, and shall keep like records of all such proceedings as are required to be kept by him as clerk of the circuit court, and in the same record books, as far as practicable.

Clerk to attend in justice court proceedings. SECTION 13. In addition thereto the clerk or his deputy shall upon an order of the municipal judge setting forth the reason therefor, attend the court as clerk during any preliminary examination or the trial of any contested matter proceeding according to justice court procedure, and is hereby authorized and empowered to administer oaths, make and keep records of the court, issue subpoenas and perform the other duties of the position during the hearing of such matters the same as when the said municipal court is sitting as a court of record.

Salary and fee's, clerk. SECTION 14. The clerk shall be entitled to receive three dollars per day for each and every day the municipal court shall be in session and actually engaged in the trial of matters proceeding according to circuit court procedure together with the same fees as are now allowed the clerk of the circuit court for like services, and shall also be entitled to receive the sum of three dollars in full compensation for his services for each and every day he shall be in attendance, as ordered, while the court is engaged in any preliminary examination or the trial of any contested matter proceeding according to justice court procedure, provided, however, that he shall not be allowed more than one per diem for services in the municipal court in any one day.

Phonographic reporter. SECTION 15. The judge of the municipal court may appoint a phonographic reporter for said court, skilled in the art of shorthand reporting, and may remove such reporter at pleasure and appoint another to the place. Every person so appointed shall be deemed an officer of the court and before entering upon the duties of the office shall take and subscribe the constitutional oath and file the same, duly certified, in the office of the clerk of the circuit court: He shall be furnished with all necessary stationery and shall attend when requested by said judge and report the proceedings of trials and examinations had in said court and perform such other duties as the court or judge thereof may require.

Salary of reporter; transcripts of his notes. SECTION 16. The salary of such reporter shall be five hundred dollars

per year, payable monthly from the county treasury on the certificate of the clerk of said court, which shall be in full compensation for such services and including the making of such transcripts from shorthand notes as may be required by said judge and also the transcript of the testimony taken in any criminal examination or bastardy proceeding where the defendant is bound over for trial, and in criminal actions appealed to the circuit court.

Reporter to certify transcript; fees. SECTION 17. Every reporter shall, upon the request of a party to any action, transcribe in longhand the evidence or other proceedings taken by him in such action, or any part thereof as requested, and duly certify the same to be a correct transcript thereof, for which he shall be entitled to receive and collect from the party requesting the same the sum of five cents per folio for the original transcript and two and one-half cents per folio for copies.

Reporter to transcribe for parties to actions; fees therefor. SECTION 18. In any civil action appealed to the circuit court the party procuring a transcript to be made of all the testimony taken upon the trial in the municipal court shall be entitled to have the original transcript of such testimony certified to the circuit court as a part of the return, and the expense incurred by said party for such transcript shall be a charge in the action and taxed as a part of the costs on appeal.

Transcripts on criminal actions. SECTION 19. In any trial of any criminal action on information or appeal or any bastardy case the court may, in its discretion, order a transcript of the evidence or proceedings or any part thereof to be made and certified by the reporter and filed with the clerk of the municipal court, and the cost thereof, not exceeding five cents per folio, shall be certified and paid in the same manner as the reporter's salary.

Reporter's notes filed as testimony. SECTION 20. Except in criminal actions appealed to the circuit court and in criminal examinations and bastardy proceedings where the defendant has been bound over for trial, the stenographic notes of the reporter may be filed by the judge as the testimony in the case.

Traveling expenses. SECTION 21. The municipal judge, clerk of the municipal court and the court reporter shall be entitled to recover their actual traveling expenses while attending court at places other than in the city of Appleton, the same to be allowed and paid by the county in the same manner as other claims are allowed and paid.

Municipal judge ex-officio justice of the peace. SECTION 22. The municipal judge, in addition to the powers hereinafter vested in the municipal court, is vested with all the powers and jurisdiction of a justice of the peace in said county in criminal actions, criminal and bastardy examinations, and proceedings for contempt, except as may be hereinafter specifically denied. He shall have full power to summon and compel the attendance of witnesses before him, and examine them on oath for the purpose of determining whether a warrant should be issued, and in case any witness so summoned shall refuse to attend or answer pertinent questions relative to the subject of inquiry he shall be subject to punishment for contempt.

Jurisdiction, exclusive and concurrent, within a certain district. SECTION 23. The municipal judge shall have exclusive original jurisdiction to hear, try and determine all criminal actions arising within that particular district in Outagamie county, the limits of which is co-extensive with the cities of Appleton and Kaukauna, the village of Little Chute, the towns of Dale, Ellington, Greenville, Grand Chute, Center, Freedom, Kaukauna, Buchanan, and Vandebroek, and the Oneida Reservation, which would otherwise be cognizable by justices of the peace, including also proceedings to prevent the commission of crime, and excepting that the jurisdiction in criminal actions for the violation of sections 4415, 4417, 4418, 4438b and 4442, of the statutes, committed within the city of Kaukauna, or within the towns of Freedom, Kaukauna or Buchanan, shall be concurrent with the justices of the peace or other magistrates in the city of Kaukauna and the towns of Freedom, Kaukauna and Buchanan, and exclusive as to all other magistrates in said county, and excepting also that such jurisdiction in tramp cases shall be exclusive only within the city of Appleton and concurrent elsewhere.

Powers and jurisdiction in criminal and bastardy cases. SECTION 24. Said judge shall have exclusive jurisdiction to in-

stitute and conduct examinations in all criminal and bastardy cases arising within the district prescribed in the preceding section and the power and jurisdiction to cause to come before him the persons so charged with committing bastardy or criminal offense, within such district, and commit them to jail or bind them over as the case may require, and on a plea of guilty by the accused and a request by him to be sentenced, the said judge shall have power, authority and jurisdiction to sentence the accused for any offence except homicide; excepting, however, that the jurisdiction in examinations for murder, manslaughter, arson, rape, robbery, burglary, possession of burglarious tools, forgery, larceny, embezzlement, false pretense, and attempts to murder, rape or rob, when committed within the city of Kaukauna or in the town of Freedom, Kaukauna, or Buchanan, shall be concurrent with the justices of the peace or other examining magistrates in the city of Kaukauna, and the towns of Freedom, Kaukauna and Buchanan, and exclusive as to all other magistrates.

Jurisdiction elsewhere in the county. SECTION 25. Said judge shall have jurisdiction concurrent with the justices of the peace and circuit court commissioners elected or appointed within that part of Outagamie county not specified by section 23, over all criminal actions, criminal or bastardy examinations or other criminal proceedings, arising within such district, excepting, however, offenses committed within the city of Seymour. Such justices and court commissioners shall have power to issue warrants returnable before the municipal court at Appleton, and when so doing shall cause the complaint to be filed forthwith in the municipal court.

Jurisdiction relative to ordinances and charters. SECTION 26. Said judge shall have exclusive original jurisdiction of prosecutions for the violation of the ordinances and charter provisions of the city of Appleton, and concurrent with justices of the peace in prosecutions for the breach of the ordinances and charter provisions of the several other cities and villages throughout the county except the city of Seymour.

Denial of criminal jurisdiction to justice and commissioners. SECTION 27. No justice of the peace, police justice or circuit court commissioner within the district prescribed by said section 23, shall have or exercise any jurisdiction whatever in any criminal action, criminal or bastardy examination, pro-

secution for breach of any city or village ordinance or charter provision, or other criminal proceeding, arising within said county except as herein otherwise specifically provided, and except also that in case of bastardy, felony or any misdemeanor except assault, assault and battery, abusive language, drunkenness, malicious trespass, violation of the Sunday law and of the excise laws, if the complaining witness shall make and file with any such justice of the peace or circuit court commissioner a written statement, verified under oath before such officer, that he verily believes the person charged with an offense contemplates an escape beyond the jurisdiction of the court and that any delay in the issuance of the warrant, such as would be necessitated by requiring such witness to travel to the seat of said municipal court to make his complaint, would be dangerous, then and in such cases such justice of the peace or circuit court commissioner may, on a proper complaint, issue a warrant for the arrest of the person complained of and made returnable before the municipal judge at his office in the court house in the city of Appleton, and when so doing the officer issuing the warrant shall cause the complaint and the verified statement herein provided to be made to be filed, forthwith, in the municipal court.

Powers of municipal judge as justice of the peace. SECTION 28. The municipal judge is also vested with and shall have jurisdiction, authority, powers and rights given by law to justices of the peace generally and in civil actions, special proceedings, actions for recovery of personal property with damages for the unlawful taking or detention thereof and actions brought for breach of any recognizance given in said court, equal to and concurrent with said justices, and in addition thereto shall have cognizance of and jurisdiction to hear, try and determine, by and pursuant to the process and procedure common to justices' court, all actions and proceedings at law wherein the amount of the debt, demand, damage, penalty or forfeiture shall not exceed five hundred dollars after deducting all payments and set-offs, and also of 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.

Relative jurisdiction of municipal court and circuit court. SECTION 29. The municipal court shall have and ex-

ercise powers and jurisdiction in all civil actions within the county, both in law and in equity, excepting actions for divorce and the annulment of marriages, concurrent with and equal to the powers and jurisdiction of the circuit court of Outagamie county, where the value of the property in controversy or the amount of money claimed or sought to be recovered, after deducting all payments and set-offs, shall not exceed two thousand five hundred dollars, and also of all actions for the foreclosure of mortgages or in proceedings under chapter 143, statutes of 1898, in which the amount claimed does not exceed the sum aforesaid, although the value of the property to be effected by the judgment exceeds that sum, and shall also have and exercise powers and jurisdiction within said county concurrent with and equal to the powers and jurisdiction of the said circuit court in certiorari proceedings, actions brought for breach of any recognizance given in said court and of all actions and proceedings under chapters 142, 145, 147, 148, 149, 150 and 153, statutes of 1898, and the amendments thereto.

Transfer of certain jurisdiction from circuit court to municipal court. SECTION 30. All examinations recognizances and commitments from or by examining magistrates and from or by the municipal judge, in bastardy cases and in all criminal cases except murder and manslaughter, or where the maximum term of imprisonment fixed by statute shall not exceed seven years in the penitentiary shall be certified and returned to the municipal court instead of to the circuit court of said county, within the time prescribed by law, and the accused, the complainant and all other witnesses required to attend shall, in like manner as now provided by law, be committed to be brought or recognized to appear before the municipal court on a day certain, which shall not be more than thirty (30) days from the date of such commitment or recognizance, and the said municipal court shall have and exercise all the powers and jurisdiction of the circuit court to hear, try and determine said bastardy and criminal cases and to punish for contempt.

Judgment by confession. SECTION 31. The municipal court and judge thereof shall have power and jurisdiction equal to and concurrent with the circuit court and the several justices' courts within the county to enter judgment by confession.

Change of venue; relations with circuit court and judges. SECTION 32. The provisions of law applicable to

change of venue in the circuit courts of this state shall be applicable to the municipal court except as herein provided and except that when the venue of an action shall be so changed it shall be changed to the circuit court of Outagamie county, and such change of venue shall not prevent the granting by said circuit court, in its discretion, of a further change of venue as provided in section 2622, statutes of 1898; provided, however, that nothing herein contained shall be construed as abrogating the right to the change of venue provided for by section 2621, statutes of 1898, and when such change of venue shall be made it shall be by the municipal court direct to the proper county for the trial of the action; and provided, further, that section 2625, statutes of 1898, so far as applicable, shall apply to the municipal court and that the judge thereof shall have the right to call upon a circuit judge to attend, hold court and try such action, and while so doing he shall have the same power as if elected judge of the municipal court.

Change of venue in actions appealed from justice court.

SECTION 33. No change of venue shall be allowed as of course in any civil or criminal action appealed from justice court to the municipal court, except as provided for by section 2624, statutes of 1898.

Denial of change of venue. SECTION 34. No change of venue from the municipal court shall be allowed in any civil or criminal action or proceeding or in any examination for bastardy or criminal offense, otherwise cognizable by a justice of the peace or proceeding according to justice court procedure.

Who to preside when municipal judge may not. SECTION 35. In any civil or criminal action pending in the municipal court on appeal from justice court, or in any such action or any preliminary examination or proceeding pending before the municipal judge while sitting as a justice of the peace or as an examining magistrate, if it shall appear by affidavit that the municipal judge is pecuniarily interested in the action, examination or other proceeding, or is a material witness, or is within the forbidden degree of consanguinity, or from prejudice will not decide impartially in the matter, he may, in his discretion, in like manner and with like effect as provided by section 9 of this act, call in the circuit judge, county judge or any circuit court commissioner who is an attorney of a court of record, to try the said action or take such examination, and

while so doing or proceeding the provisions of said section 9 of this act shall apply in all their force, except that the circuit judge shall not be entitled to compensation for his services.

Change of venue from justice court to municipal court.

SECTION 36. A change of venue in any civil action or proceeding pending before any justice of the peace of the city of Appleton or the city of Kaukauna, may be taken to the municipal court at any time before going to trial in the manner provided by sections 3616 and 3617, statutes of 1898, without regard to whether the judge thereof is the next nearest officer qualified by law to try the cause, provided either party to the action shall, before the transmission of the papers, by himself or attorney, in writing demand that said action be removed to the municipal court, in which case the justice shall forthwith transmit the papers to the municipal court and the action shall proceed in like manner as if originally commenced in the municipal court. When any such change of venue shall be taken from a justice court in the city of Kaukauna, the papers shall be transmitted to the municipal court at the earliest time said court is in session in said city of Kaukauna, unless the plaintiff shall demand that the papers be forthwith transmitted to the said court sitting at the court house in the city of Appleton in which case the papers shall be sealed and delivered to the party commencing the action or his attorney to be forthwith delivered to the said municipal court.

Change of venue on application of the parties. SECTION

37. A change of venue may be taken from a justice court or the court of any examining magistrate in the city of Kaukauna, to the municipal court in any criminal action or examination on the application of either party in person or by attorney at any time before the commencement of the trial or examination, and without cause shown. A change of venue may also be taken from any other justice court in the county to the municipal court, in any civil or criminal action or proceeding upon consent of both parties or their attorneys, and when so taken proceedings shall thereafter be had in the municipal court in like manner as if originally commenced therein. In all criminal actions or examinations for offenses committed within the city of Kaukauna, or within the towns of Freedom, Kaukauna, or Buchanan, pending in the municipal court sitting at the city of Appleton, and proceeding according to justice court

procedure. if either party so demands such trial or examination shall be had in the municipal court sitting at the city of Kaukauna, except where the convenience of the witnesses require the same to be had at some other place in the county.

Criminal cases to be appealed from justice court to municipal court. SECTION 38. Appeals from justice court in criminal cases and in prosecutions for violation of ordinances or charter provisions, shall be to the municipal court and return of such appeals shall be made thereto in the manner and within the time provided by law and the defendant, the complainant and all other witnesses required to attend shall, in like manner as now provided by law, be committed to be brought or recognized to appear before the municipal court on a day certain, which shall not be less than ten days or more than twenty days from date of such committment or recognizance.

Appeal either to municipal court or circuit court in civil actions above \$50. SECTION 39. Appeals from justice court in civil actions where the amount of damages or value of property recovered, exclusive of costs, shall not exceed fifty dollars, shall be taken and return thereof made to the municipal court. In all other cases the same may be taken to either the circuit court or the municipal court at the election of the successful party or his attorney, such election to be made in writing and filed with the justice of the peace within five days after the perfecting of the appeal as provided by section 3754, statutes of 1898, and returned with the other papers to the appellate court. In case both parties appeal the election shall be made by the plaintiff or his attorney within five days from the time the latest appeal is so perfected. In case of the failure of parties to elect as herein provided, the justice shall make note of the same in his docket and make return of the appeal to the municipal court. The justice shall insert in the notice or notices of appeal the court to which such appeal is elected to be taken. If such appeal is taken to the municipal court and neither party shall bring the same to a hearing in said court within three months after the filing of the return of the justice therein, such court shall dismiss the appeal unless it shall continue the same by special order for cause shown.

Direct appeal from municipal court to supreme court under justice court procedure. SECTION 40. Appeals from judgments of municipal court in all civil and criminal actions

and proceedings wherein the same has been tried according to justice court procedure, may be taken to the circuit court of Outagamie county within the same time, in like manner and with like effect as from a justice court; provided, that, in civil cases, at appellant's option, a bill of exceptions of the evidence and the rulings of the judge may be settled within thirty days after judgment in like cases and in like manner as in the circuit court, and when so settled an appeal may be taken direct to the supreme court within sixty days after judgment in like manner and with like effect as from a circuit court. An appeal to either court shall be a waiver of the right of appeal here given to the other court, but not of the right of appeal from the circuit court to the supreme court after trial of the appeal in the circuit court.

Direct appeal from municipal court to supreme court under circuit court procedure. SECTION 41. Appeals may be taken to the supreme court from the judgments and orders of the municipal court in civil and criminal actions, bastardy and other proceedings, wherein the same has been tried, according to circuit court procedure, within the same time and in like manner as from the judgments and orders of the circuit court.

City, town and village officers to return jury lists; penalty for failure. SECTION 42. From the 15th to the 30th days of April in each year, the supervisor elect and the senior alderman for each ward in the city of Appleton shall make and return to the clerk of the municipal court, on blanks furnished for that purpose, a list of not less than 12 or more than 15 electors from their respective wards in said city, eligible to serve as jurors in said court for the ensuing year; within the same time the supervisor elect and the senior alderman for each ward in the city of Kaukauna shall each make and return a similar list of not less than six or more than nine electors from their respective wards for like service, and within the same time the chairman of each town and the supervisor from each village and the several wards of the other cities in said county shall each make and return similar lists of not less than four or more than six electors from their respective precincts for such service. Failure to file such lists or to file the same in the period limited shall work no error, and the municipal judge may in his discretion order the delinquent lists to be made and filed forthwith, and the wilful failure of any such officer to

comply with the foregoing provisions or the order of such judge may be punished as a contempt.

Drawing and designation of lists for jury service. SECTION 43. On the first secular day of May of each year, or as soon thereafter as the municipal judge may order, the clerk of said court shall, in open court, draw by lot thirty-six of the names certified from the city of Appleton and thirty of the names certified from the city of Kaukauna, and the names so drawn together with those certified from the other cities and the several towns and villages in the county shall be written out at length on one list and filed by the clerk in said court, and the same shall constitute the "County-at-Large Jury List." The remaining names certified from the city of Appleton shall constitute the "Appleton Jury List," and those from the city of Kaukauna the "Kaukauna Jury List." Each said city list shall be written out at length and filed as above.

Names stricken from list of jurors. SECTION 44. Any juror on the lists made up exclusively of electors of the cities of Appleton and Kaukauna who shall remove from said cities, and any juror on the "County-at-Large Jury List" who shall remove from the county shall have his name stricken from the lists and withdrawn from the box in which it has been placed, upon the order of the court, and the name of any juror on either list who shall be entitled to and claim his exemption from jury service shall likewise have his name stricken from such list and withdrawn from the box.

Completion of jury quota. SECTION 45. Whenever either of the several lists shall have become depleted by reason of removals, exemptions or otherwise, the court may in its discretion require the proper town chairman, alderman and supervisors to certify such additional names of persons eligible for jury service as will complete the full quota from each such town, city or village entitled to members on such lists, and the clerk shall forthwith enter such additional names on the proper list.

Jury service to disqualify for further service. SECTION 46. Any person who has been a member of either of the several jury lists herein provided for and has actually served as a juror in the trial of any action proceeding according to circuit court procedure shall not be eligible to have his name appear on either such list during the succeeding year, and during such period of

ineligibility shall be disqualified for jury service except he shall be summoned as a talesman. All persons not having so served shall be eligible for jury service during such succeeding year.

Defendant may waive jury trial. SECTION 47. The defendant in every criminal action or bastardy proceeding, pending in the municipal court sitting as a court of record, may waive a trial by jury by notice in writing filed with the clerk in said court or by waiver in open court and entered in the clerk's minutes.

Demand by parties for jury trial. SECTION 48. If the defendant in any criminal action in the municipal court except prosecutions for violations of section 4587c, statutes of 1898, and amendments thereto, at or before the time of pleading to the information and in any bastardy proceeding within ten days after filing of the return shall serve and file a written demand for a trial by a jury from the county at large the case shall be so tried, except as herein otherwise provided.

If either party in any civil action commenced originally in the municipal court sitting as a court of record, and which is triable before a jury, within ten days after joining issue shall serve and file a written demand for a trial by jury from the county at large it shall be so tried except as herein otherwise provided.

Method of determining panel from Appleton list. SECTION 49. Unless a jury is waived or demand made as provided in the preceding section and in all civil and criminal actions on appeal from justice court and triable before a jury and in prosecutions for violations of section 4587, statutes of 1898, and amendments thereto, the same shall be tried before a jury empaneled as follows:

At least two days before the day fixed for trial, unless otherwise ordered by the court, the clerk shall draw in the presence of the court the names of forty persons from the box containing the names of the "Appleton Jury List." The parties shall then strike from the names so drawn, alternately, beginning with the plaintiff, one name at a time until each party has struck twelve names. When all strikes have been made a venire shall be issued for the persons whose names remain on said list, arranged in the same order as they appear on the list, to serve as jurors and made returnable on the day fixed for

trial. The jury so struck shall be called in the order they appear upon the venire, and the first twelve who shall appear and are not challenged for cause, set aside or excused by the court shall be the jury. If less than twelve of the jurors appearing remain upon the list, the jury shall be completed as follows: The clerk shall as before draw from the box three times as many names as shall be sufficient to complete the panel, and each party shall in like order strike an equal number of names until the number remaining shall fully complete the panel of twelve.

Method of determining panel from county list. SECTION 50. When a trial by jury from the county at large shall be demanded as hereinbefore provided, the same shall be drawn from the box containing the names on the "County-at-Large Jury List," in like manner as above, except that the court may require the same to be drawn at least one week prior to the time fixed for trial, and in case a trial jury of twelve shall not be obtained from the sixteen jurors originally summoned, the court may require that the additional names be drawn from the "Appleton Jury List."

Panel for justice court actions. SECTION 51. In all justice court actions tried before the municipal judge in which a jury trial may be had, the jury shall consist of six persons and shall be drawn in the following manner: The clerk if in attendance and if not, the judge, shall draw by lot from the box containing the names on the "Appleton Jury List" if such trial is to be had in the city of Appleton, or from the box containing the names on the "Kaukauna Jury List" if such trial is to be had in the city of Kaukauna, eighteen names and make a list thereof. The jury shall be struck from this list in the same manner as is now provided for in justice court trials, except that instead of summoning talesmen the panel shall be completed by drawing from the same box from which the original list was obtained unless the municipal judge orders the completion of the jury by summoning talesmen.

When parties decline to strike from list. SECTION 52. In any case above provided for, if either party declines to strike from the list the names which he is entitled to strike, the court may direct the clerk of said court or any disinterested person to strike the same for said party.

Regular terms of the municipal court. SECTION 53. The judge of said court shall be empowered to set certain dates,

not more than four in each year, when regular terms of court will be held, at which time he will take up for trial in the order of issue joined and without notice of trial being served, all jury cases undisposed of wherein a trial by a jury from the county at large shall have been demanded as above provided.

Drawing and venire for regular term. SECTION 54. At least six days prior to the time set for any such term the clerk of said court, in the presence of the judge, shall draw by lot from the box containing the names on the "County-at-Large Jury List," twenty-four jurors for such term, and shall issue a venire to the sheriff of Outagamie county to summon them as such.

Upon the trial of all such cases at term time, the trial jury shall be drawn and empaneled as in the circuit court.

Powers of judge relative to jury trial; cities and villages entitled thereto. SECTION 55. The court may in its discretion for good cause shown allow a trial by a jury from the county at large or at term time, in appeal cases from justice court, prosecutions for violation of section 4587c, statutes of 1898, and in those cases where the parties have failed to make a demand therefor as hereinbefore required.

Nothing herein contained shall be construed as denying to the court or judge thereof the power of ordering that any trial jury may be completed by the summoning of talesmen.

In all prosecutions in the municipal court for a breach of the ordinances or charter provisions of any city or village, such city or village shall be entitled to a trial by jury and shall not be required to advance the jurors' fees.

Circuit court actions in the municipal court. SECTION 56. Except as in this act otherwise specifically provided, said municipal court shall have all of the powers, issue all writs, orders and process throughout the state and follow the rules of pleading and procedure applicable in the circuit court, in the trial of all circuit court actions whether on appeal, information or originally commenced by process of the form used in circuit court.

Justice court actions in the municipal court. SECTION 57. In all actions or examinations commenced by process common to justice courts, the municipal court and judge thereof shall have the same power, issue all writs and process through-

out the county, and follow the rules of practice and procedure applicable to justice courts, except as herein otherwise provided.

Procedure determined by form of process. SECTION 58. In actions in which either a justice of the peace or the circuit court would have jurisdiction, the form of the process shall determine the method of procedure and the territorial limits for service of such process.

Objection to procedure and its effects. SECTION 59. In actions proceeding according to circuit court procedure, an objection that the procedure should be according to justice court procedure, or in any action proceeding according to justice court procedure, an objection that the procedure should be according to circuit court procedure, shall be deemed waived unless made before commencing to strike the jury, or, if no jury be empaneled, before entering upon the trial. If any such objection be made in time, either by motion, pleading or objection, and be sustained, such action shall be dismissed with costs, unless the court shall expressly find that the same was started in good faith, believing the procedure taken to be proper, in which case the court may, in its discretion, retain the action and order it to continue on such terms and with such rectification of pleadings and procedure as may be proper and in the interest of justice.

Procedure where land titles come in question. SECTION 60. In any action proceeding according to justice court procedure if the defendant shall at the time and in the manner provided by sections 3619 and 3620, statutes of 1898, make an affidavit that the title to land will come in question, and give a bond of the amount and form there provided, conditioned that if on the trial judgment be rendered against him on such issue of title, he will pay such judgment, the case shall thereafter proceed in said court according to the same procedure as if it were removed on such issue and bond to the circuit court.

Powers of municipal judge after judgments. SECTION 61. For ten days after judgments in civil actions and for twenty-four hours after judgment in criminal causes, over which the municipal judge has jurisdiction to hear, try and determine according to justice court procedure, the said judge shall have, and he is hereby vested with the same power over verdicts, judgments, rulings, orders and the proceedings in such matter as are

possessed by the circuit court or judge thereof over the judgments, orders and proceedings of said court at or before trial or judgment or during the trial term, and the 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 or reverse judgments and orders of his said court or of the judge, or do any act or thing which circuit courts or circuit judges may do with reference to proceedings therein during term time, being governed by the general law and practice of the circuit courts, as near as may be, where the rules of law and procedure for justice courts are inadequate or do not apply.

Judge may charge jury in justice court actions. SECTION 62. The judge shall have power in actions on trial according to justice court procedure, in his discretion, to charge the jury upon written charges submitted by the parties, and may on his own motion charge the jury as provided for in the circuit court.

Rules of pleading in municipal court. SECTION 63. The pleadings of any party represented by an attorney of a court of record in all civil actions pending in the municipal court and proceeding according to justice court procedure shall be reduced to writing and be subject to all the provisions of law and the rules of practice provided for the circuit courts requiring good pleading, and the judge of said court may impose such terms as may be reasonable for the interposing of sham, frivolous or scandalous pleadings.

Issue of process in blank. SECTION 64. The municipal judge may sign in blank, any summons, writ or other process common to the practice in civil actions in justice court, and deliver the same to attorneys of courts of record to be issued by them as occasion may require, substantially in the manner provided by section 3594 of the statutes of 1898, as amended by chapter 20 of the laws of 1903. The attorney issuing the same shall within twenty-four hours thereafter file with the municipal court the affidavit, if any, upon which such summons, writ or other 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 judge of said court shall forthwith docket said case, and which docket entries shall have the same force and effect as if made at the time of issuing the summons, writ or other process.

Dates of trial. SECTION 65. All criminal and bastardy cases and prosecutions for violation of any city or village ordinance or charter, pending in the municipal court after examination or on appeal, shall be brought to trial in said court at the time the defendant was committed to be brought or recognized to appear for trial.

Any circuit court civil action may be brought on for trial at any time by consent, or after issue joined or return of appeal on a fifteen day notice by either party specifying the date for trial, which date, however, shall first be approved by the municipal judge.

Continuances or adjournments. SECTION 66. Continuances or adjournments may be granted for cause on such terms as to costs and conditions as may be reasonable or on the court's own motion, in any civil or criminal action or proceeding specified in the preceding section, and when so granted shall be to a day certain unless the parties consent otherwise, in which case a notice must be given as provided in the preceding section or an agreement had.

Attorney's fees. Section 67. The provision of sub-division four (4) of section 3775, statutes of 1898, shall apply to similar actions tried in the municipal court according to justice court procedure, except that where the judgment is in excess of two hundred dollars the municipal judge shall tax as costs an additional sum for attorney's fee equal to five per cent of such excess.

Fees of witnesses, reporter and others. SECTION 68. Except as hereinbefore provided, the fees of the municipal judges, witnesses, jurors and officers, in all actions proceeding according to justice court procedure and all examinations shall be the same as are allowed in courts of justices of the peace, and in all other actions and proceedings in said court the fees of the clerk, witnesses, jurors and officers shall be the same as in the circuit court, and except also that where the court reporter takes the testimony in justice court proceedings the fee shall be five cents per folio when simply taken and filed in stenographic note and ten cents per folio when taken in note and transcribed, and that the per diem of jurors in justice court trials shall be one dollar besides mileage, and in the circuit court matters such jurors as are summoned and in attendance but excused shall be entitled to one dollar and fifty cents besides their mileage.

Allowance of costs, fees and disbursements. SECTION 69. Except as herein otherwise provided, in all actions and examinations in the municipal court proceeding as in justice courts, costs, fees and disbursements shall be taxed and allowed in the same manner as in courts of justices of the peace, and in all actions and proceedings had according to circuit court procedure, the costs, fees and disbursements shall be taxed and allowed as in the circuit court.

Force of judgments, orders and decrees. SECTION 70. The judgments, orders and decrees of the municipal court, or of the judge thereof, shall have the same force, effect and lien qualities, and be enforced in the same manner as the judgments, orders and decrees of other courts in actions commenced and pending upon like process and procedure, and transcripts may be taken and filed in like manner.

Disposition of collected fines and penalties. SECTION 71. All fines and penalties collected by the municipal judge or clerk in actions for the violation of the ordinances or charter provisions of any city or village, shall be paid to the treasurer of such city or village on the first secular day of the month following such collection, and all fines and penalties collected in any criminal or civil action or proceeding under the general laws of the state together with all costs, fees and disbursements taxed, allowed and collected by the said judge or clerk and not belonging to any officer, juror or witness as provided in this act, shall be paid to the treasurer of Outagamie county on the first secular day of the month next after such collection.

Records of fees and costs. SECTION 72. The judge of the municipal court shall keep or cause to be kept in a book provided for that purpose, a full and complete record and account of all fees and costs received by said judge or the clerk, in such manner that the records shall show the exact amount of money paid to said judge or clerk, by whom, at what time, on what account, in what case and how and on what account such moneys are disbursed.

A certified statement showing all such facts in detail shall be made and filed with the county clerk at least ten days before the annual session of the county board.

Three public dockets. SECTION 73. In all matters proceeding according to justice court procedure, the judge of the municipal court, or the clerk thereof, shall keep one docket for

criminal actions and proceedings, one docket for civil actions, and a third and separated docket for prosecutions under city or village ordinances, and the proceedings in such matters shall be recorded therein, in like manner, as far as practicable, as is required of justices of the peace. Such dockets and the other records of the municipal court shall be public records and open to inspection at all reasonable hours.

County to provide stationery and books. SECTION 74. All necessary stationery, blanks, dockets and other record books required by the municipal court shall be furnished at the expense of the county.

Marriages, oaths and acknowledgments. SECTION 75. The judge of the municipal court shall be a conservator of the peace, and have the same power as judges of other courts of record to solemnize marriages, administer oaths, take acknowledgments of deeds and other written instruments throughout the state, and shall receive like fees therefor.

Officers of the municipal court. SECTION 76.* The sheriff of Outagamie county shall be the officer of the municipal court and he or any of his deputies, or any constable of the county shall serve and execute the civil and criminal process of said court, provided however, that the city marshal, his deputy, and the police officers of the cities of Appleton and Kaukauna, shall have power to serve and execute the criminal process of said court within the limits of the city in which they are officers, and shall have the power and be required to serve and execute all process issued out of said court wherein such city is a party plaintiff.

Court commissioners. SECTION 77. Circuit court commissioners in said county shall have the same powers and be subject to the same duties in respect to actions and proceedings in the municipal court as in the circuit court.

Papers and documents evidence in all state courts. SECTION 78. All papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by the municipal judge and sealed with the seal of the court shall be received as evidence in all the courts of this state and have the

*See Ch. 620, 1907.

same force and effect as if signed and sealed by the judge of any other court of record.

Cases commenced prior to May 1, 1907. SECTION 79. Nothing in this act contained shall be construed as in anywise affecting the right of jurisdiction of any court, judge, justice of the peace or other magistrate over any action or proceeding commenced before or pending on the first day of May, A. D. 1907.

SECTION 80. All acts or parts of acts so far as the same may be in conflict herewith are hereby repealed.

SECTION 81. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1907.

No. 380, S.]

[Published March 22, 1907.]

CHAPTER 24.

AN ACT to create the town of Weirgor in Sawyer county.

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

Territory of town of Weirgor. SECTION 1. All that part and portion of the present town of Radisson in the county of Sawyer, in the state of Wisconsin, described as follows, to-wit: All of the territory comprised in the following two townships, to-wit: Township thirty-seven (37) north, of range six (6) west, and township thirty-seven (37) north, of range seven (7) west, in the county of Sawyer, state of Wisconsin, is hereby set off and detached from the town of Radisson aforesaid, in the county and state aforesaid, and hereby duly created and organized as a distinct and separate town, to be known and designated as the town of Weirgor.

Meeting of electors. SECTION 2. The qualified electors of said town of Weirgor shall meet at the Windfall school house situated on the northwest (N. W.) quarter, in section twenty-