

No. 507, S.]

[Published March 27, 1909.

CHAPTER 23.

AN ACT to amend sections 2484, 2485, 2494, 2495, 2498 of the revised statutes of 1878, as amended by chapter 216 of the laws of 1880 and chapter 150 of the laws of 1882 and chapter 128 of the laws of 1897 and chapter 105 of the laws of 1901, and creating new sections 2484a, 2487a, 2491a, 2495a, 2497a, and 2498a of the statutes, relating to the municipal court of the city and town of Ripon.

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

Section 1. Section 2484 of the revised statutes of 1878, as amended by section 1 of chapter 150 of the laws of 1882 and section 1 of chapter 128 of the laws of 1897 and chapter 105 of the laws of 1901, is hereby amended to read: Section 2484.

1. The municipal court of the city and town of Ripon, heretofore established, is continued, and shall be a court of record and have a clerk and seal, shall have exclusive appellate jurisdiction in all cases of appeal, civil and criminal, from justices' courts in said city and town, and of all cases commenced in such justices' courts when an answer shall be put in, showing that title to lands will come in question * * * which shall then be certified to said municipal court in the manner provided by law for certifying such cases to * * * circuit courts. It shall also exercise powers and jurisdiction in all * * * *causes of action* and *special proceedings* arising within the city and town of Ripon in law and equity, concurrent with and equal to the jurisdiction of the circuit court of Fond du Lac 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 fifty thousand dollars; and also of * * * actions for the foreclosure of mortgages in which the amount claimed does not exceed the amount aforesaid, although the value of the property to be affected by the judgment exceeds that sum. It shall also have concurrent jurisdiction with said circuit court of all criminal offenses committed within the city or town of Ripon other than those punishable by imprisonment in the state prison. * * *

2. *Said municipal court shall also have exclusive jurisdiction to hear, try, and determine all criminal actions for offenses committed within the city and town of Ripon of which justices of the peace in said county of Fond du Lac would otherwise have*

jurisdiction to hear, try, and determine; shall also have exclusive jurisdiction to institute and conduct examinations in all criminal and bastardy cases for offenses committed within the city and town of Ripon and the exclusive power and jurisdiction to cause to come before it the persons so charged with committing bastardy or criminal offenses within said city and town of Ripon and commit them to jail or bind them over for trial at the next term of said municipal courts or to the court which, under the law, shall have jurisdiction to try said action. If any person accused of any criminal offense is so bound over or committed for trial before said municipal court and it shall thereafter appear, by the filing of the information, or otherwise, that said municipal court has not jurisdiction to try the offence, then such proceedings shall not abate, and the said municipal court shall not lose jurisdiction of such person or proceedings, but the judge thereof shall certify the same to the circuit court of Fond du Lac county, which court shall thereupon have jurisdiction thereof to try and determine the same.

3. All fines and penalties, (*including costs*), collected in said municipal court, except for the violation of * * * *the ordinances of the city of Ripon*, shall be paid to the treasurer of Fond du Lac county and all fines and penalties, (*including costs*), for violation of * * * *the ordinances of said city* shall be paid to the treasurer of the city of Ripon.

4. Said municipal court shall be continuously open during each of its terms and during at least one day in each week, as shall be designated by the judge thereof at the opening of each term, shall be regularly in session for the transaction of business, and when so in session, it shall continue from day to day until all unfinished business ready for disposition shall be disposed of; provided that a vacation, not exceeding four weeks in succession, may be taken by the judge once in each year, and no adjournment from day to day shall be necessary to the validity of any proceedings in said court; but no per diem shall be paid to any officer of said court for any day on which the court is not actually in session, transacting business and requiring the presence of such officer.

5. Said court shall have the seal heretofore procured therefor, and its judgments and orders may be reviewed by the supreme court in the same manner that judgments and orders of the circuit court may be; *except that criminal actions within the jurisdiction of justice courts under the general law when tried by the said municipal court otherwise than on appeal, shall be appealed to the circuit court of Fond du Lac county in the*

same manner that appeals are taken from justice courts in criminal cases.

6. Motions and issues of law or fact pending in said court *in civil actions and proceedings* may be brought to a hearing at any session-day of said court upon eight days prior notice in the case of motions, and ten days prior notice in the case of trials of issues joined, and on said session-day the trial shall be taken up in the order of the date of issue, unless otherwise ordered or stipulated. If for any reason the court is not in session on the day for which the motion or trial has been noticed, the same shall stand for argument or trial at the next session-day at which the court may be sitting. *The rules of practice for the trial of criminal actions triable by general law by justices of the peace, and the conduct of examinations, shall pertain to the trial of such actions and the conduct of such examinations in the municipal court. Criminal actions not within a justices' jurisdiction under general law, and triable by the municipal court, shall be placed on the calendar for trial at the next succeeding term of said court, but may be brought on at an earlier date by consent of the district attorney and defendant or his counsel.*

SECTION 2. There is added to the statutes a new section to read: Section 2484a. Said municipal court shall have exclusive jurisdictions of prosecutions for the breach of ordinances of the city of Ripon and shall proceed in such prosecutions and be governed by the provisions of sub-chapter IX of chapter 40 A of the statutes of Wisconsin, relating to police courts as to complaints, warrants, trials, executions, commitments, and costs.

SECTION 3. Section 2485, of the revised statutes of 1878, as amended by chapter 128 of the laws of 1897, is hereby amended so as to read: Section 2485. The general provisions of law which may, at any time, be in force relative to circuit courts and to actions and proceedings therein and all the provisions of section 2582 of the revised statutes, so far as relates to any cause or proceeding which may be brought or tried in said municipal court, shall relate to said municipal court, and the judge thereof, unless inapplicable, and except as herein otherwise provided; and the rules of practice prescribed by the justices of the supreme court for circuit courts shall be in force in said court. But in all actions originally begun in said court, *as well as in all actions brought to said court on change of venue from the justice court, or on demand from the courts of record as hereinafter provided*, costs shall be awarded to the prevailing party; provided no more than ten dollars attorney's fees shall be taxed unless the judgment for damages amounts to one hundred dollars, nor more than five dollars, unless the judgment for dam-

ages exceeds fifty dollars. If judgment is given for *the* defendant he shall recover the same costs that the plaintiff would have recovered if he had established the demand in his complaint. No attorney fee shall be taxed in favor of any party not appearing in said court by an attorney of a court of record. Court commissioners shall exercise no powers relative to actions or proceedings in such court, *except as herein otherwise provided.*

SECTION 4. There is added to the statutes a new section to read: Section 2487a. No person shall be eligible to the office of judge of said court unless he be an attorney duly admitted to the bar of Fond du Lac county and entitled to practice in the courts of this state and a qualified elector and freeholder of said city or town of Ripon, and during his term of office he shall not practice his profession in any of the courts of said county except in matters over which his court has no jurisdiction.

SECTION 5. There is added to the statutes a new section to read: Section 2491a. The clerk of the said court may examine on oath all persons applying to said court for warrants, may reduce their examination to writing and file the same, and may issue all warrants in the manner above provided for issuing the process of said court.

SECTION 6. Section 2494 of the revised statutes of 1878, as amended by chapter 150 of the laws of 1882, is hereby amended so as to read as follows: Section 2494. The clerk of said court shall procure at the expense of the * * * *county of Fond du Lac* all necessary blanks, printing, stationery, dockets, and other record books required by said court; and he shall procure, under the direction and with the consent of the common council of said city of Ripon, or the order of the municipal judge, all necessary court and jury rooms. furniture, book and paper cases, books, desks, lights, and fuel for said court and clerks, at the expense of the city of Ripon.

SECTION 7. Section 2495 of the revised statutes of 1878 is hereby amended so as to read: Section 2495. Any resident of the city or town of Ripon, against whom any civil action, within the jurisdiction of *the* said municipal court, may be pending in * * * the circuit court of Fond du Lac county, may, before the time to answer expires, serve a notice of appearance in such action, and with it serve a demand that the place of trial thereof be changed to the said municipal court; and unless so removed by consent upon such service being made, it shall be upon motion removed by said * * * court to said municipal court, and the defendant shall have twenty days to answer the complaint after such consent given or removal made.

SECTION 3. There is added to the statutes a new section to read: Section 2495a. A change of venue in any civil action or proceeding pending before any justice of the peace of the city and town of Ripon may be taken to said municipal court at any time before trial in the manner provided by sections 3616 and 3617 of the Wisconsin statutes, without regard to whether the judge thereof is the next nearest officer qualified by law to try the same; and the justice shall forthwith transmit the record to said municipal court and the action shall proceed as an action originally begun in said court; and if at issue, shall be placed on the calendar for trial at the next succeeding session-day. If no complaint shall have been filed, the plaintiff shall be required to serve his complaint within five days after such transmittal to the municipal court. The venue shall not be again changed on the application of the party who procured the change from the justice court for prejudice of the judge.

SECTION 9. There is added to the statutes a new section to read: Section 2497a. The provisions of the preceding section 2497, of the revised statutes of 1878, as amended by chapter 150 of the laws of 1882 and chapter 128 of the laws of 1897, are applicable to both civil and criminal actions pending in said court.

SECTION 10. Section 2498 of the revised statutes of 1878, as amended by chapter 216 of the laws of 1880 and chapter 128 of the laws of 1897, is hereby amended so as to read: Section 2498. The salary of the judge of the said court shall be two hundred and fifty dollars per annum, payable quarterly by the city of Ripon, *and the sum of five hundred dollars per annum, payable quarterly by the county of Fond du Lac out of the treasury of said county*, and such further compensation as the county board of Fond du Lac county shall determine to be paid quarterly by * * * *said county*. The fees of the clerk, * * * witnesses, sheriff, and other officers shall be the same as are allowed and taxed in the circuit court *in civil actions and proceedings* and be paid in the same manner. The sum of one dollar shall be paid by the plaintiff at the commencement of each suit as a suit tax to be applied toward the salary of the judge, *and a similar fee of one dollar shall be paid by the person making an application for a change of venue in civil cases before a justice of the peace of the city or town of Ripon in addition to the fee of the justice now required by law, before the record shall be transmitted to the municipal court on such change of venue, and in such case the said sum of one dollar shall be transmitted to the clerk of the municipal court as the suit tax in the case; and all such fees paid for suit tax* * * * shall be accounted for and paid quarterly by said clerk to the

treasurer of the * * * city of Ripon. The fees of * * * the officers of said court for the service of process in eriminal actions and proceedings therein, and of the witnesses in behalf of the state in attendance upon the said court and of the jurors in any action shall, when certified by the clerk under the direction of the judge of said court, be paid by the county of Fond du Lac, unless the same are taxed as costs and paid by the defendant. *The per diem compensation to the clerk and officer actually in attendance on any day when the court is in session, requiring their presence, shall be at the rate of three dollars per day each, and shall be paid by the county of Fond du Lac when certified by the clerk of said court by direction of the judge thereof. In all criminal actions and proceedings (including bastardy actions and proceedings) and in actions for violation of ordinances, the clerk shall receive no other compensation.*

SECTION 11. There is added to the statutes a new section to read: 'Section 2498a. 1. The judge of said court may call in a phonographic reporter to act in the trial of any case or proceeding pending before him, who shall receive a compensation of not to exceed ten dollars per day for each day or five dollars for each half-day actually in court, and whose compensation shall be paid by the county of Fond du Lac on the certificate of the clerk of said court under the direction of the judge. Said reporter shall first be sworn and be deemed the official reporter for the cases reported by him, and may furnish transcripts to parties and be entitled to the same fees as reporters in the circuit court for such services. It shall be the duty of each such reporter to transcribe into long hand and file with the clerk of said court his phonographic notes of every trial, examination, or proceeding reported by him within ten days and the same shall be certified under his hand to be a true and correct transcript of all of the evidence and proceedings, and he shall receive no extra compensation therefor.

2. When in case of the sickness, disability, or temporary absence of the said judge from any other cause, there is no judge of the said court available for the hearing of criminal or bastardy cases or examinations or of prosecutions for the violation of the ordinances of the city of Ripon, when they arise in said court, a justice of the peace of said county, resident in the city of Ripon, to be designated by the clerk of said court, shall be deemed the acting judge of said court for the purpose of hearing, trying, and determining the said action, or conducting such examination; and for every day so spent by such justice of the peace in the trial of cases or the conduct of examinations he shall be paid the sum of five dollars as compensation, from the

county treasury on the certificate of the clerk of said court under direction of the judge.

3. Whenever an affidavit of prejudice shall be filed in said court according to law, the judge thereof may enter an order transmitting the action or proceeding to the circuit court as under present practice, or to any court of record of Fond du Lac county, or he may call in the judge of any such court to try the same in said municipal court, the necessary expenses while in attendance to be certified by the clerk of said court and paid from the county treasury; provided that in all criminal actions and proceedings triable by a justice of the peace under the general law (including examinations and trials in bastardy cases), and in all actions for breach of the ordinances of said city of Ripon, on such affidavit of prejudice being filed, the judge against whom said affidavit is filed, shall enter an order calling in a justice of the peace of said county of Fond du Lac who shall thereupon proceed as acting judge of said court with such trial or examination, receiving the same compensation as above provided for the justice of the peace resident in Ripon when acting as judge of said court.

SECTION 12. This act shall take effect and be in force from and after its passage and publication.

Approved March 27, 1909.

No. 161, S.]

[Published March 31, 1909.

CHAPTER 24.

AN ACT to amend section 10 of chapter 119, laws of 1899, entitled "An act conferring additional jurisdiction on the county court of St. Croix county, Wisconsin."

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

SECTION 1. Section 10 of chapter 119 of the laws of 1899 is hereby amended to read: Section 10. The county judge may appoint a phonographic reporter, skilled in the art of shorthand reporting, for said court under this act, and may remove him at pleasure and appoint another in his place. Every person so appointed shall be deemed an officer of said court and shall, before entering upon the duties of his office, take and subscribe the constitutional oath, and file the same duly certified with the clerk of the circuit court of St. Croix county. The reporter shall attend said county court whenever requested by the county judge and perform such duties as the county judge may require. The reporter's notes shall be filed in lieu of the minutes re-