

No. 430, A.]

[Published March 16, 1895.]

## CHAPTER 38.

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

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

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

SECTION 2. On the first Tuesday in April, 1895, and every four years thereafter, there shall be elected in the county of Bayfield, in the same manner as county judges are elected, one municipal judge, who shall hold his office for the term of four years from the first Monday of May next following his election, and until his successor is elected and qualified; and in case of vacancy occurring in the office of municipal judge, the vacancy shall be filled by appointment by the governor, and the person appointed to fill such vacancy shall continue in office for the residue of the term for which his predecessor was elected or appointed. Date of election. Term of office. Vacancies, how filled.

SECTION 3. The municipal judge before entering upon the duties of said office shall take and subscribe the constitutional oath of office, and file the same, duly certified, in the office of the clerk of the circuit court for said county, and execute to the said county a bond in the sum of one thousand dollars, with two or more sureties, to be approved by the county treasurer of said county, and recorded and filed as provided in section 702, of the revised statutes, conditioned for the faithful performance of the duties required of him by law, and for the faithful application and payment of all moneys and effects that may come into his hands in the execution of the duties of his office. Shall take and subscribe oath of office.

Office to be held at the county seat.

SECTION 4. The judge of the municipal court of Bayfield county shall hold his office at the county seat of said county in the court room of the court house, or in some other suitable room in the village of Washburn, to be provided by the board of supervisors of said county.

Jurisdiction of the judge defined.

SECTION 5. The municipal judge of the county of Bayfield shall have cognizance of, and jurisdiction to hear, try and determine all actions and proceedings at law, wherein the amount of debt, damages, demand, penalty or forfeiture shall not exceed the sum of five hundred dollars, actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of the property claimed shall not exceed the sum of five hundred dollars exclusive of damages. The said judge shall have jurisdiction of all crimes and misdemeanors occurring in said county, to the same extent and as fully as justices of the peace now or may hereafter have, and shall also have jurisdiction to institute and conduct examinations in all criminal cases that may occur in said county, including bastardy. Said judge shall have power, and jurisdiction throughout said county to cause to come before him persons who are charged with committing any criminal offense, and to commit them to jail, or bind them over as the case may require. Said judge shall further have all the jurisdiction, authority, powers and rights given by law to justices of the peace, together with the power and right, in his discretion, to charge the jury, upon written charges; and said judge shall be subject to the same prohibitions and penalties as justices of the peace. No justice of the peace within the town of Washburn shall exercise any jurisdiction in any criminal cases, but all such jurisdiction is vested in said court and the judge thereof. The proceedings and practice of said court shall, in all respects, be governed as far as practicable by the laws relating to justices' courts of this state, and transcripts of judg-

ments 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 judgment rendered by justices of the peace of said county, and appeals from said court in all cases, both in civil and criminal cases, and other proceedings may be taken in the same manner and with like effects as are provided by law from justices' courts. Nothing herein contained shall be construed to give the said municipal judge cognizance of any actions mentioned in subdivisions 1, 2, and 3 of section 3573, of chapter 154, of the revised statutes of this state.

SECTION 6. Judgment may be rendered in said municipal court by confession for any sum not exceeding one thousand dollars, in the manner provided by the statute.

Judgment may be rendered by confession, when.

SECTION 7. In case of sickness, absence or temporary disability of said municipal judge, he may, by an order in writing, to be filed in said court, appoint a justice of the peace of said county, to discharge such of the duties of said judge during such sickness, absence or disability as said justice of the peace by law has jurisdiction of, and said justice of the peace, while sitting in the place of said judge, shall have power to hear, try and determine such matters or proceedings.

Justice of the peace may sit when judge is absent.

SECTION 8. No action, examination or other proceeding shall be removed from said court, but whenever it shall appear by affidavit that the municipal judge is interested pecuniarily in the action, examination or other proceeding, or that said judge is a material witness, or is within the forbidden degree of consanguinity or from prejudice will not decide impartially in the matter, and the matter of proceeding is one of which a justice of the peace has jurisdiction, the municipal judge shall notify a justice of the peace in the county of Bayfield, not disqualified to try said case, or to hear said examination or other proceeding, as the case may be, in matters or proceedings of which a justice of the peace has no jurisdiction when such

Removal of cases from the court, when lawful.

affidavit is filed, the municipal judge shall transfer the same to the circuit court of Bayfield county, which circuit court shall thereupon have jurisdiction to hear, try and determine the same in the same manner, and with like effect as if such action or proceeding had been originally commenced in said circuit court; whereupon it shall be the duty of said justice so notified as aforesaid to forthwith appear at the court room of said municipal court, and to discharge the duties of judge of said municipal court on the trial of said case, or the hearing of said examination, or other proceeding, in the same manner and with like effect as said municipal judge would, if not disqualified to act; and the doings of said justice of the peace while so presiding over said municipal court shall have and be of the same force and effect as proceedings of said municipal judge, and when such action, examination or other proceeding is concluded a like record, as in other like cases, shall be made in said court, and thereafter and thereupon execution may be issued as in other cases tried before said municipal judge. Said justice of the peace, while presiding over said municipal court, shall receive the same fees as are allowed by law to said municipal judge for like service.

SECTION 9. Whenever any civil action shall be removed from any justice of the peace of said county of Bayfield upon the oath of said defendant, his agent or attorney, according to the provisions of law for such removal, if said defendant, his agent or attorney requests in writing to such justice, that the action be removed to 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.

Trial by jury.

SECTION 10. Trial by jury may be had in said court in the same manner and process as in justices' courts.

Officers of the court defined.

SECTION 11. Sheriffs and constables of Bayfield 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 as in justices' courts, and the police officers of the town of Washburn shall have the power to serve and execute processes of this court within the town of Washburn; provided, that such police officers shall receive no fees or compensation for such services.

SECTION 12. The judge of said court shall keep one docket for criminal trials and proceedings, and a separate docket for civil actions, and all docket entries and process shall be made and kept in the same manner as far as is applicable to this court as the same are required to be kept by justices of the peace under the laws of this state; provided, always, that the municipal judge may in civil actions sign in blank, summonses, writs and other process and deliver the same to attorneys of courts of record, to be issued by them, who upon issuing any such summons, writ or other process shall file within twenty-four hours thereafter the affidavit (if any) upon which such summons, writ or process was based, and a statement of the names of the parties to the action, the date of the summons, writ or process, the time when the same is returnable and the nature of the demand or claim, upon which the said judge shall forthwith docket said case, which docket entries shall have the same force and effect as if made at the time of issuing the summons, writ or other process.

Dockets to be kept and entries to be made.

SECTION 13. The municipal judge shall have and receive the same fees in all civil actions that are now allowed by law to justices of the peace for every civil action or proceeding in his court. And for his services in conducting criminal trials and examinations he shall receive a salary of three hundred dollars per year for the first term, payable quarterly at the end of each quarter out of the county treasury of said county; and thereafter his salary shall be fixed by the county board at not less than three hundred dollars per annum, but in all criminal actions and proceedings he shall

Fees of the court defined.

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

*Jurisdiction  
under chapter  
145, R. S.*

SECTION 14. Said court shall have jurisdiction to hear, try and determine all actions arising under chapter 145, of the revised statutes, when the amount claimed shall not exceed five hundred dollars.

*May try ap-  
pealed cases.*

SECTION 15. Said court shall have jurisdiction to try and determine all appeals in civil actions from justices of the peace in said county; provided, that in civil cases, appealable from the justices' judgments, the party appealing may, in his option, appeal to the circuit court in Bayfield county, instead of to said municipal court. And all such cases shall be certified and returned to said municipal court within ten days after the perfection of the appeal. Any action appealed to said court may be brought on for trial upon notice of ten days given by either party to the other. In case neither party shall notice such appeal, or bring the same to trial within six months, the appeal shall be dismissed with ten dollars costs against the appellant. Appeals shall be made to such court in the same manner that they are now made from justice to circuit court.

*Fees for ap-  
pealed cases.*

SECTION 16. In appealed cases tried and determined in said court upon the record of the court below, or any question of law or fact appearing in such record, the judge of said court shall be entitled to receive the sum of five dollars and no more, as and for his fees, and the prevailing party in appealed cases shall be entitled to recover the sum of five dollars attorney's fees.

*Seal may be  
provided.*

SECTION 17. 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.

SECTION 18. For ten days after judgment in civil actions, and for twenty-four hours after judgment in criminal causes over which said court has jurisdiction to hear, try and determine, the said municipal judge shall have, and he is hereby vested with the same power over verdicts, judgments, rulings, orders and proceedings in his court as are possessed by the circuit courts over their judgments, orders and proceedings at or before trial or judgment and during trial term. And said municipal judge may direct or set aside verdicts, grant new trials on payment of all costs or on such conditions as to costs as justice requires, modify and reverse judgments and orders, of his said court, or of the judge thereof, or do any act or thing which circuit courts may do during trial term, being governed therein by the general law and practice of the circuit courts, as near as may be, where the rules of law for justice courts are inadequate or do not apply. New trials, if granted, must be granted within ten days after judgment in civil cases, and within twenty-four hours after judgment in criminal causes, except on substituted service by publication in civil cases, where the rules for justices' courts shall apply; if granted upon the grounds of newly discovered evidence, it may be granted at any time within six months after judgment. If a jury should disagree, said judge shall forthwith fix a time for a new trial. All motions and matters of practice subsequent to judgment in said municipal court, shall be decided, except as herein provided, within ten days after judgment.

Jurisdiction after judgments the same as possessed by circuit judges in certain cases.

SECTION 19. Appeals from said municipal court shall be taken to the circuit court for Bayfield 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

Appeals from municipal court to be taken to the circuit court.

Procedure  
defined.

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



of a party to the action, or upon an order or suggestion from the appellate court, all parties interested having notice, correct his minutes or his record, so as to show the very truth of the matter. Attorneys practicing in said court may ask that instructions be given to juries, and allege objections to rulings or orders of said court, according to the rules of practice in circuit courts.

SECTION 20. The dockets and records of said municipal court shall be public records, open to the inspection of all persons at every reasonable hour.

Dockets,  
etc. to be  
public records.

SECTION 21. In all actions in the municipal court for the county of Bayfield attorney's fees shall be taxed and allowed as provided in subdivision 4, of section 3775, of the revised statutes.

Attorney's  
costs.

SECTION 22. The county clerk of Bayfield county shall give at least three days' notice of the election of said judge to be held on the first Tuesday in April, 1895, and it shall not be necessary at said election for the candidates for said office to file nomination papers nor shall it be necessary that the names of the candidates be printed in the official ticket, unless this act shall be published and in force eighteen days before said election.

Election of  
1895, three  
days' notice  
only required.

SECTION 23. All needful stationery and all blanks required by said court in criminal actions and examinations, and judge's dockets required by law, shall be furnished at the expense of Bayfield county.

Needful  
stationery,  
etc. to be  
furnished.

SECTION 24. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved March 14, 1895.