

No. 75, A.]

[Published March 23, 1895.

CHAPTER 63.

AN ACT to create a municipal court for the county of Oneida.

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

Municipal
court created.

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

Term of office
—when to be
gin.

SECTION 2. On the first Tuesday in April, A. D. 1895, and every four years thereafter, there shall be elected in the county of Oneida, 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.

Who is eligible
to the office of
judge.

SECTION 3. No person shall be eligible to the office of judge of said municipal court except an attorney of a court of record.

Shall take and
subscribe the
oath of office.

SECTION 4. 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 three 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.

SECTION 5. The judge of said municipal court of Oneida county shall hold his office at the county seat of said county in a suitable room for such purpose, to be provided by the judge of said court at his own expense; provided, that such judge may hold court in the court room of the Oneida county courthouse, if he so desires.

Where the office shall be located.

SECTION 6. The municipal judge of the county of Oneida 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. Said municipal judge shall have and exercise within said county the criminal jurisdiction of justices of the peace in the state of Wisconsin, and the justices of the peace of Oneida county shall not have or exercise any criminal jurisdiction whatever. Said judge shall further have all the jurisdiction, authority, powers and rights, given by law to justices of the peace, and shall be subject to the same prohibitions and penalties as justices of the peace. 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 the judgments of the municipal court may be filed and docketed with the clerk of the circuit court for said county, with the same effect as transcripts of judgments rendered by justices of the peace of said county may be, and appeals, civil and criminal, from said court, may be taken in the same manner and with like effect as are provided by law from courts of justices of the

Jurisdiction and powers of the judge defined.

peace. Nothing herein contained shall be construed to give said municipal judge cognizance of any actions mentioned in subdivisions 1, 2 and 3, of section 3573, of chapter 154, of the revised statutes.

Judgment by confession may be entered.

SECTION 7. A judgment by confession may be entered before the judge of the municipal court for the county of Oneida, in any sum not exceeding five hundred dollars, without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, if a statement in writing be made, signed by the defendant, and verified by his oath to the following effect: First: It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor by the municipal judge of said court. Second: If it be money due, or to become due, it must state concisely the fact out of which it arose, and must show that the sum confessed therefor is justly due or to become due. Third: If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the fact constituting the liability, and must show that the sum confessed does not exceed the same.

In case of absence of the judge, mode of procedure defined.

SECTION 8. In case of the absence of the municipal judge of said county, or his inability to act as municipal judge for any reason, he shall enter an order in his docket, designating some justice of the peace of said county to perform such of the duties of the municipal judge during his absence, or while said inability shall continue, as such justice of the peace has jurisdiction of, and shall cause such justice of the peace to be notified of said order. In case of a vacancy in the office of the municipal judge, or in case he shall be absent or unable for any cause to act as municipal judge, but shall fail to enter the aforesaid order in his docket, the nearest justice of the peace shall have all the powers and jurisdiction of the municipal judge while such vacancy, absence or inability to act shall continue, in relation to matters

and proceedings that he has jurisdiction to try, hear or determine. It shall be the duty of the person so designated by the order of the municipal judge, or in the absence of such order, by his being the nearest justice of the peace as aforesaid, to hold the said municipal court and discharge all the duties of said municipal judge that such justice of the peace has jurisdiction of until such vacancy is filled, or such absence or inability to act by the municipal judge is removed.

SECTION 9. No action, examination or other proceeding shall be removed from said court, but whenever previous to joining issue in any action, or before the commencement of any examination, it shall appear by the affidavit of either party, his agent or attorney, that from prejudice or other cause, specifying such cause, he believes the municipal judge will not decide impartially in the matter, or that said municipal judge is a material witness for such party without whose testimony he cannot safely proceed to trial, or that said municipal judge is near of kin to either party, and the matter or proceeding be one of which a justice of the peace has jurisdiction, then the municipal judge shall notify the nearest justice of the peace in the county of Oneida, qualified to act; whereupon it shall be the duty of said justice of the peace, so notified as aforesaid, to forthwith appear at the court room of said municipal court, and to discharge the duties of said municipal judge 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, when so presiding over said municipal court, shall have and be of the same force and effect as like proceedings of said municipal judge, and when said 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 jus-

Regarding the removal of causes, how and when effected; who may act.

Pay of the justice of the peace.

tice of the peace shall receive from said municipal judge the sum of two dollars and fifty cents for every half day during which he shall preside over said court. In matters or proceedings of which a justice of the peace has no jurisdiction when such affidavit is filed the municipal judge shall transfer the same to the circuit court for Oneida county, which said circuit court shall thereupon have jurisdiction to hear, try and determine the same in the same manner and with the same effect as if such action or proceeding had been originally begun in such circuit court.

Removal of cases from justice's court to municipal court.

SECTION 10. Whenever any action shall be removed from any justice of the peace of said county of Oneida 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 the said municipal court, then the action and all the 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.

Regarding trial by jury.

SECTION 11. 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 12. Sheriffs and constables of Oneida 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.

Dockets to be kept and what to contain.

SECTION 13. The judge of said court shall keep one docket for criminal trials and proceedings, and a separate docket for civil actions, and all docket entries and process shall be made and kept in the same manner as far as 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 civil process, and deliver the same to attorneys of courts of record, to be issued by them. Such

attorneys, upon issuing such summons, writ or other process, shall subscribe the same, and shall file within twenty-four hours thereafter 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 other process, the time when the same is returnable, and the nature of the demand or claim. Thereupon 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. Said judge shall also appoint a competent phonographic reporter, skilled in the art of shorthand reporting, for said court, 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 Oneida county. The reporter shall attend said court whenever requested by the judge, perform such duties as the judge may require, and shall be paid by said judge for all his services in said court. Section 4141, of the revised statutes, shall apply to transcribed copies of the testimony and proceedings taken by the reporter in said municipal court.

SECTION 14. The board of supervisors of the county of Oneida shall fix the salary of said municipal judge the same as the salaries of other county officers are fixed. Such salary shall be not less than eight hundred dollars nor more than twelve hundred dollars per year, and shall be paid out of the county treasury, as the salaries of other county officers are paid, and shall be in full for all services rendered by said court in criminal cases or actions brought by any town or city in the county, for violations of any ordinance of such town or city, including the services of the reporter of said court. Until changed by said board, the

Salary of the
judge to be
fixed by the
county board
of supervisors.

Present salary
of the judge,
\$1,000 per an-
num.

Fees to be paid
over to the
county treas-
urer annually
on Nov. 1st.

Attorney's
fees, what
plaintiff is en-
titled to re-
cover.

salary of said judge shall be one thousand dollars per year. The same fees in all actions, civil and criminal, that are now allowed by law to justices of the peace, it shall be lawful for said municipal judge to charge and collect, and one dollar in addition thereto for every civil action or proceeding in his court. The fees so charged and collected in civil actions shall be retained by said municipal judge for his compensation therein. On the first day of November in each year, said municipal judge shall pay over to the treasurer of said county all fines paid him, imposed under the laws of this state, and all of the aforesaid fees collected by him in criminal actions since the first day of November of the preceding year, taking said county treasurer's duplicate receipt therefor; one of said receipts shall be filed in the office of the county clerk of said county. And said municipal judge shall file with said county clerk on said day a statement, verified by his affidavit, of all fines and municipal court fees received by him in each criminal action in which any such fines or fees have been paid, since the first day of November of the preceding year, together with the statement required of other magistrates by section 679 and section 680, of the revised statutes as amended.

SECTION 15. In all actions in the municipal court for the county of Oneida, the plaintiff, if he shall obtain judgment, shall be entitled to recover attorney fees as follows: On all judgments taken in actions wherein the defendant does not appear and answer or demur, when the amount of the judgment exceeds one hundred dollars and is less than three hundred dollars, ten dollars; when the amount of the judgment is three hundred dollars or upwards, fifteen dollars. On all other judgments, when the amount does not exceed one hundred dollars, an amount equal to ten per cent. of the amount of the judgment. When the amount of the judgment exceeds the sum of one hundred dollars, ten dollars on the first one hundred

dollars and five per cent. on the amount of the judgment in excess of one hundred dollars; provided, that in no case shall the amount of the attorney fee exceed the sum of twenty dollars. And in case judgment shall be for the defendant, he shall be entitled to recover attorney fees as follows: In all cases where the plaintiff shall claim in his complaint one hundred dollars or less, an assessment equal to ten per cent. of his claim; in all cases where the plaintiff shall claim in his complaint a sum over one hundred dollars, ten dollars for the first one hundred dollars, and five per cent. on the amount claimed in excess of one hundred dollars; provided, that in no case shall the amount of attorney fees exceed the sum of twenty dollars. The provisions of this section shall apply to proceedings for the recovery of possession of personal property, and the value of the property, as found, if judgment be for the plaintiff, and as claimed, if judgment be for the defendant, shall be the basis for the taxation of attorney fees; and in all other civil actions not herein provided for, an attorney fee of ten dollars shall be allowed to the party in whose favor the judgment is rendered; provided, however, that no attorney fee shall be allowed unless the party who recovers judgment shall appear by an attorney of a court of record.

SECTION 16. All needful stationery and all blanks required by said court in criminal actions and examinations, and the judge's dockets, required by law, shall be furnished at the expense of Oneida county.

Stationery and
blanks to be
furnished.

SECTION 17. Chapter 312, of the laws of 1887, and chapter 349, of the laws of 1891, are hereby repealed, except as provided in the next ensuing section.

SECTION 18. The provisions of chapter 312, of the laws of 1887, as amended by chapter 349, of the laws of 1891, shall be and remain in full force and effect until the sixth day of May, 1895.

SECTION 19. This act shall take effect and be in force from and after the sixth day of May, A. D. 1895.

Approved March 22, 1895.

No. 187, S.]

[Published March 25, 1895.

CHAPTER 64.

AN ACT to authorize the incorporation of a retail lumber dealers' Mutual Insurance Association.

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

Retail lumber dealers authorized to form an insurance company.

Organization, and how effected.

SECTION 1. It shall be lawful for any number of retail lumber dealers not less than twenty-five who collectively shall have capital invested in the retail lumber business, to the value of not less than fifty thousand dollars, to organize a mutual insurance association, for the purpose of insuring their stock of lumber, sheds, offices and fixtures generally kept in a retail lumber yard, against loss or damage by fire and lightning, by complying with the following conditions, viz.: They shall sign articles of organization which shall be substantially in the following form: "The undersigned retail lumber dealers of the state of Wisconsin and owners of more than fifty thousand dollars capital invested in the retail lumber business, do hereby associate together, by forming a mutual insurance association, under the name of the Retail Lumber Dealers' Mutual Insurance Association of Wisconsin, for the purpose of insuring the stock of lumber, sheds, offices and fixtures generally kept in a retail lumber yard, against loss or damage by fire and lightning. The elective officers of said association shall be a president and a