

Conflicting laws repealed. SECTION 5. Chapter 32, laws of 1882, as amended by chapter 393, laws of 1887, and chapter 78, laws of 1891, and chapter 102, laws of 1897, are hereby repealed so far as they conflict or are inconsistent with this act.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved May 21, 1903.

No. 564, A.]

[Published May 26, 1903.]

CHAPTER 396.

AN ACT, to create a municipal court in the county of Brown, and the city of Green Bay.

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 the county of Brown and the city of Green Bay, a municipal court, and for that purpose the county of Brown and the city of Green Bay are hereby declared a municipality under the jurisdiction of said court which shall have power and jurisdiction as hereinafter specified and provided.

Court, how designated and where held. SECTION 2. The court hereby established shall be known as the municipal court for Brown county, and the judge thereof as the municipal judge. Said municipal court shall be held at the city of Green Bay in a suitable place to be provided and suitably furnished and maintained by said county of Brown. All fines and penalties collected in criminal cases in which the state is a party, shall be immediately paid by the judge to the treasurer of said county of Brown. All fines collected in city prosecutions shall be immediately paid by the judge to the treasurer of said county.

Eligibility of judge; may call in county judge, when. SECTION 3. 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 Brown county, and said judge shall hold no other county office during the term for which he is elected or appointed. Said judge may, by an order in writing to be filed in said court, appoint the county judge thereof to discharge the duties of such judge during his absence, sickness, or other temporary disability. The appointee shall have all the powers of such judge while administering such office except the power to try cases begun by information and cases not originally begun in said court. The order appointing any such county judge may be revoked by said municipal judge at any time.

Oath and bond of judge. 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 in the office of the clerk of the circuit court for Brown county and a duplicate copy thereof in the office of the clerk of the city of Green Bay; and shall execute to the county of Brown a bond in the penal sum of five thousand dollars, with two sureties to be approved by the treasurer of said county and recorded and filed as provided in section 702 of the statutes of 1898, conditioned for the faithful performance of the duties required of him by law and the faithful application and payment of all moneys and effects which may come into his hands in the execution of the duties of his office.

Criminal jurisdiction; appeals from justice courts; jury. SECTION 5. The municipal court shall be a court of record, with a clerk and seal, and shall have concurrent jurisdiction with the circuit court of Brown county, with full power and authority to hear, try and determine all cases of crimes and misdemeanors of whatever kind, except murder, that are or may be cognizable before the circuit court which may be committed in the county of Brown, provided, that in all cases in which the defendants are charged with committing offenses punishable by imprisonment in the state prison, the said municipal court shall not proceed to try and determine the same unless the defendant or person charged with such offense shall first signify his desire or willingness to be so tried, in said municipal court, by giving his or her consent, in open court, to be entered on the minutes or docket of said court, or in writing signed by him or her, to be filed in said municipal court; provided further, that in all cases in which the person charged with crime shall

plead guilty to the charge, the said municipal court shall have full power and authority to sentence such person, so pleading guilty, to hard labor in the state prison, in case the offense is liable to such punishment, or to inflict any other punishment or penalty under the laws of the state in as full a manner as the circuit court could do in such cases and the said municipal court shall have power to commit or to bail over to such time as may be convenient, such persons as may be found on examination before it to be indictable or subject to a criminal information in which such persons are charged with an offense punishable by imprisonment in the state prison. In case such person shall consent to be tried in said municipal court as provided herein; and on or before the time fixed for the trial of such persons so committed or bailed over, the district attorney shall file in said municipal court, the proper information against such person, and the court shall then proceed to hear, try and determine the same, unless the said cause is continued by the court for cause. And in any criminal cause, not cognizable, before a justice of the peace, and in which an information may be filed as aforesaid, after the same is at issue, the judge may fix a day for the trial of the same, and the same may then be tried by the court, in case a trial thereof by jury is waived by the accused, in writing, or in open court, to be entered upon the minutes, and in case the trial by jury is so waived, the cause shall be tried by the court. No justice of the peace, police justice or court commissioner within said city of Green Bay, shall exercise any jurisdiction in criminal or bastardy cases, but all such jurisdiction is vested in the judge of said court; and all examinations, recognizances and commitments from said judge, justices of the peace and police justices of said county, in criminal cases (except murder), and in bastardy cases, shall be certified and returned to said municipal court instead of said circuit court, at least five days before the time fixed for the appearance of the accused; and the accused shall, and all witnesses required to attend may be committed to be brought or recognized to appear before said municipal court, on a day certain, not more than twenty days from the date of said commitment or recognizance. Said court shall have jurisdiction to try and determine all appeals in civil and criminal cases from justices of the peace and police justices in said county, and in all cases removed from said justices' or police courts on account of the title to lands coming in question, and all such cases shall be certified and returned to said municipal court instead of the circuit court of said county, within ten days after the perfection of the appeal, in appealed cases, or the joining of issue, in other

cases; provided, that in civil cases appealable from justices' judgments, the party appealing may, at his option, appeal to the circuit court for Brown county instead of to said municipal court. Transcripts of all judgments rendered in said court shall, immediately after the entry of such judgments, be filed by the clerk of said court, in the office of the clerk of the circuit court of Brown county, and shall be docketed by said clerk of the circuit court, who shall receive the same fees therefor as provided by law in other cases, and such transcripts of judgments so filed and docketed, shall have the same force and effect as constituting a lien upon real estate that judgments rendered and docketed in said circuit court have by law, and be carried into execution, both as to the principal judgment debtor and his surety, if any, in the same manner and with like effect as the judgment of said circuit court. A jury in said municipal court in criminal cases shall consist of twelve men, qualified to sit as jurors under the laws of this state.

Civil jurisdiction. SECTION 6. The municipal court shall have civil 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 fifteen hundred dollars; actions founded on an account when the same shall be reduced to an amount not exceeding one thousand dollars, by credits given or by the set-off or demand of the opposite party; actions to recover the possession of personal property, damages for the unlawful taking or detention thereof, wherein the value of the property claimed shall not exceed the sum of one thousand dollars.

Judgment by confession, when and how entered. SECTION 7. A judgment by confession may be entered by the judge of said municipal court in any sum not exceeding twenty-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 be made in writing signed by the defendant, and verified by his oath to the following effect;

1st. It must state the amount for which judgment may be entered and authorize the entry of judgment therefor by the judge of said municipal court.

2d. If it be for money due, or to become due, it must state concisely the facts out of which the indebtedness arose, and it must show that the amount confessed therefor is justly due or to become due.

3d. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the contingent liability, and must show that the sum confessed does not exceed the same.

Territorial jurisdiction. SECTION 8. The territorial jurisdiction of the said municipal court shall extend to all parts of the county of Brown, and the judge of said court shall have exclusive jurisdiction of all criminal offenses within the city of Green Bay arising under the provisions of the charter, ordinances and by-laws of the city of Green Bay and all other laws of the state relating to the police court shall be so construed as to apply to the said municipal court.

Seal of court; rules; service of process; duty of district attorney; officers of. SECTION 9. The judge of said municipal court shall provide a seal for said court and all papers, depositions, certificates, acknowledgments, examinations or other documents, executed or signed by said judge, when sealed with the seal of said court, shall be evidence in all courts and places in the state. The general provisions of law which shall at any time be in force relative to circuit courts, and actions and proceedings therein including the enforcement of judgments, shall relate also to said municipal court unless inapplicable, and the rules of practice prescribed by the justices of the supreme court for circuit courts shall be in force in said municipal court, and its rules of practice and proceedings shall conform as nearly as practicable to the rules and practice of circuit courts, but in case of the change in the place of trial of any cause not originally commenced in said court, or of any criminal case begun by information or of any bastardy case certified to said court, said case shall be removed to the circuit court for Brown county, unless such change is taken on the ground of prejudice of the people of said county, in which case the place of trial shall be changed to the circuit court of an adjoining county within this state. All civil actions originally commenced in said municipal court of which a justice court would not have jurisdiction, shall be commenced by the service of a summons as provided in chapter 120 of the Wisconsin statutes and the provisions of chapter 120 and 121 of the Wisconsin statutes shall, so far as applicable, govern said actions. All civil actions originally commenced in said court, of which a justice court would have jurisdiction, shall be commenced by the service of process as provided in chapter 155 of the Wisconsin statutes and the pro-

visions of chapters 155 and 156 of the Wisconsin statutes shall, so far as applicable, govern such actions. Said court shall have power and authority to issue all process necessary to carry into effect its jurisdiction; which process shall in substance be the same, when applicable, as used in circuit courts, or shall be as directed by the judge thereof. Process issued by said court, its judge or clerk, in criminal cases, or in civil cases, may be executed in any part of the state by the officer to whom it is addressed. All informations for criminal offenses, except murder, committed in said county of Brown, shall be filed in said municipal court by the district attorney of said county before the day fixed for the trial thereof. It shall be the duty of said district attorney to prosecute all criminal actions in said court in which the state is a party. The sheriff of Brown county and his deputies shall be officers of said court, and may execute all process, sentences and judgments thereof.

Contempt of court, powers to punish conferred. SECTION 10. The judge of the municipal court shall have the same power to punish contempt, in the same manner and for like causes, and to the same extent, that the judges of the circuit court are or may be authorized by law to punish for contempts, and the said judge of said municipal court may by rule direct the practice in his court and the form and direction of process, when not otherwise provided by law; and the criminal process of said court may, under the direction of said judge, be served in any part of the state.

General powers and duties of judge. SECTION 11. The municipal judge shall be the chief magistrate of the city of Green Bay, and possessed of all the powers of a justice of the peace in civil and criminal cases and in city prosecutions he shall see that the criminal laws of the state and the ordinances, laws, rules, regulations, resolutions and by-laws of the city of Green Bay be observed and executed, and for that purpose, shall open court every morning (Sundays and legal holidays excepted), and proceed to hear and dispose of, in a summary manner, all cases which shall be brought before him by the police officers of the city or otherwise, either with or without process for violations of the criminal laws of the state, committed in the county of Brown, or the ordinances and by-laws of the city of Green Bay. In all actions or prosecutions for violation of the city ordinances or by-laws the city attorney shall prosecute. The general provisions of law relative to civil and criminal

actions before justices of the peace shall apply to said municipal court so far as applicable, except that no change of venue shall be taken from said court in any civil case originally commenced in said court, or in any criminal or bastardy examination, or criminal trial, except cases tried upon information as hereinbefore provided. In all actions brought in said municipal court, where an attachment shall be issued upon an affidavit made by or on behalf of the plaintiff, and the debt or demand mentioned in such affidavit exceeds the sum of two hundred dollars, such attachment shall be issued in the manner provided in chapter 124, of the Wisconsin statutes of 1898, entitled, "of attachment," and all the provisions of said chapter 124 shall be applicable to any such attachment in said court. In all actions of replevin in said court, wherein the value of the property shall exceed two hundred dollars, all the provisions of chapter 123 of the Wisconsin statutes of 1898 shall be applicable. Whenever in any case commenced in any of the justice or police courts of said county, a plea of title to land shall be interposed in such manner as to entitle the defendant to a removal of such case, the same shall be certified to said municipal court instead of the circuit court, in the same manner as such cases are now required to be certified to the circuit court; and said municipal court shall have full power and authority to hear, try and determine the same in the same manner as cases brought to said court on appeal. The city marshal of the city of Green Bay, constables of said county, and other officers having the same power and authority as constables of said county, shall be officers of said court, with the same powers and duties as are or shall be conferred upon them by the laws of this state in reference to justice or police courts, in cases wherein said court or the judge thereof exercises original jurisdiction in civil actions, and in all criminal cases and examinations, including examinations in bastardy cases, except appeal cases and cases in which informations have been filed; and such officers shall receive the same fees for such services as if performed in justice's court. All provisions in the charter and ordinances of said city relating to the police court or justice courts, or to criminal prosecutions shall be held applicable to said municipal court. The judge of said court shall have the same power to solemnize marriages, take acknowledgments and depositions, and administer oaths, as a justice of the peace, and shall receive like fees therefor. The judge of said court may, in his discretion, summon witnesses before him and examine them on oath for the purpose of determining whether a warrant should be issued, and witnesses so summoned shall be compelled to attend

before him and answer all pertinent questions relative to the subject of inquiry, and shall be subject to punishment for contempt for refusal to attend and answer.

Clerk, qualifications and duties of; deputy clerk. SECTION 12. The judge of said municipal court shall appoint under his hand and the seal of said court, some suitable person as clerk of said court, who shall be an expert stenographer and typewriter. The said clerk, when so appointed, shall, before entering upon his duties, take and subscribe an oath to support the constitution of the United States and the state of Wisconsin, and faithfully to discharge the duties of his office, which appointment and oath shall be filed in the office of the city clerk of Green Bay, and a duplicate of the same in the office of the clerk of the circuit court of Brown county. The duties of such clerk shall be to do and perform all such ministerial acts as shall be required of him, by the judge of said court. He shall have power to administer oaths, take acknowledgments of bail and other instruments, and under the direction of the judge of said court to take testimony and record the judgments, orders and sentences of the said municipal court. The clerk of said court shall receive no compensation in the event of his sickness, absence or other disability, but the judge of said court in such cases, shall have power to appoint a deputy clerk, whose powers and duties shall be the same as those of the said clerk and he shall receive the same compensation for the time he shall actually serve as the said clerk to be paid in the same manner as the clerk.

Change of venue, how had. SECTION 13. Any person charged upon information of a criminal offense, in the municipal court of Brown county, may, at any time before a jury is drawn for the purpose of a trial in said court, obtain a change of venue to the circuit court of said Brown county, upon making affidavit that he believes that he cannot obtain a fair and impartial trial in said municipal court; and thereupon, the said municipal court shall commit, or hold the party to bail, to appear at the next term of said circuit court, shall transmit all the papers, and a copy of the records of the proceedings in such cause, properly certified to be such, to the said circuit court, which shall then proceed to hear and determine the same, and all recognizances, previously given in such cases, and returned to said municipal court, may be enforced by said circuit court as fully as if they had originally run, and been certified and returned thereto.

Election and term of judge. SECTION 14. On the first Tuesday of April, A. D. 1904, and every four years thereafter, there shall be elected in the county of Brown, 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 in the May next following said election, and until his successor is elected and qualified, and in case of a vacancy occurring in the office of municipal judge, the vacancy shall be filled by appointment by the governor of the state, and the person appointed to fill such vacancy shall hold said office for the residue of the term for which his predecessor was elected or appointed, and until his successor is elected and qualified.

Jury, how drawn; account of fees and costs to be kept; suit tax. SECTION 15. The municipal court jury commission hereinafter provided for shall, on or before the first Tuesday in June in each year, and from time to time thereafter as it may be deemed necessary and ordered by the judge of said court, make a list of three hundred qualified electors of the city of Green Bay, who are citizens of the United States, to serve in said court as jurors for one year from the said first Tuesday in June, or for one year from the time they may be placed upon said list, and deliver the said list to the judge of said court. In civil cases the jury shall be deemed waived unless demanded by one of the parties before entering upon the trial. In all criminal prosecutions for crimes punishable by imprisonment in the state prison or Wisconsin state reformatory and in all civil cases of which a justice of the peace would not have jurisdiction, a jury shall consist of twelve jurors. The fees of jurors shall be two dollars per day, for each day's actual attendance, and six cents per mile for each mile actually traveled in going and returning by the most usual route, in all cases in which there shall be twelve jurors and in all other cases the fees of jurors shall be one dollar per day for each day's actual attendance and six cents per mile for each mile actually traveled in going and returning by the most usual route. In all cases the court may fix a particular day for the trial of the case which shall not be more than twenty days after the day fixed in the recognizance or commitment for the appearance of the accused, in criminal cases, and not more than twenty days after the filing of the return on appeals to said court, and not more than twenty days after the joining of issue in civil actions originally commenced in said court and may adjourn the trial of any case for cause. A jury shall be drawn in open court in

the presence of the accused and prosecuting officer in all criminal and bastardy cases, and of the parties or their attorneys in civil cases, on the day of the trial; but such jury may be drawn in a like manner at any previous time by consent of the parties. All such juries shall be drawn in the manner following: The clerk of said court shall draw, in the presence of the court, from a box containing the names of all persons not disqualified by previous service, furnished by the jury commission hereinafter provided, thirty-six names, and shall make a list thereof, and each party alternately, beginning with the prosecution or plaintiff, shall strike a name from said list until only twelve names remain. In case either party shall neglect or refuse to strike out such names, the judge shall appoint some person to strike for him. The twelve persons whose names remain shall be summoned as jurors in such case. In civil and criminal actions before said judge, originally commenced in said court, of which a justice of the peace has jurisdiction, and in all actions arising under the charter, ordinances and by-laws of the city of Green Bay, eighteen names from whom a jury shall be struck, shall be drawn from such box in like manner, each party striking six names, instead of twelve, in the manner aforesaid. The day for trial may be adjourned from time to time in the discretion of the court. If any person thus drawn cannot be summoned, or be excused or set aside as incompetent, another name may be drawn from said list to supply his place and the person whose name is so drawn shall be summoned in like manner, or the judge may direct the issue of a venire to the sheriff of said county to summon the necessary jurors to complete the panel from said county at large. In any case where a jury of twelve is required, said judge may at his option, and shall, at the request of the defendant or prosecuting officer, in a criminal case, and of either party, in a civil action, direct the sheriff or one of his deputies to make a list of thirty-six qualified electors from any or all of the towns of said county, from which list a jury shall be struck and summoned in the same manner as above provided. And in case any of said jurors cannot be summoned or be excused for any cause, a sufficient number of talesmen to complete the panel may be summoned in the manner hereinbefore provided and upon the written request of either party that a jury be drawn from the body of the county, the judge shall direct such list to be made from the body of the county, and a jury shall be obtained by striking twenty-four names from such list, and the persons represented by the twelve names remaining shall make

a jury and be summoned as aforesaid; and talesmen necessary for any cause, to complete the panel and make a jury may be summoned from the body of the county. Every person having served as a juror of said court, shall be disqualified from serving as a juror for three months next succeeding such service. The clerk shall not replace in the box from which the names of jurors are drawn the name of any person while such person is disqualified from acting as a juror by reason of previous service. The judge of said court shall keep or cause to be kept by the clerk of said court, a full and complete record and account in a book to be furnished as the other records and books of said court are furnished, of all fees and costs so received by said judge or clerk, in such a manner that such record shall show the exact amount paid, by whom, at what time, and on what account, and if paid in any case, what case. Said judge shall also make duplicate certificates showing the same facts and file same with the county clerk. In all civil cases coming before said court there shall be paid to the judge the sum of three dollars at the time of issuing the summons, in actions originally commenced in said court and at the time of filing the papers, in actions brought into said court by appeal on change of venue, and no appeal to said court or change of venue to said court in civil cases shall be of any effect unless said sum is paid. Said sum of three dollars shall be applied by said judge to the payment of the costs of said court, and if there be any surplus such surplus shall be refunded to the party paying. If the party paying such sum shall obtain judgment for his costs in such action, the amount so paid by him shall be included in his judgment, but if the adverse party have judgment for cost, such sum shall not be included therein.

Salaries of judge and clerk. SECTION 16. The county board of said county of Brown shall have the power to fix the amount of the salary of said judge and clerk, and until the said salaries shall be so fixed the salary of the judge of said municipal court shall be eighteen hundred dollars per annum, and the salary of the clerk of said court shall be nine hundred dollars per annum. The said salaries shall be paid monthly out of the county treasury of Brown county.

Fees and costs, how taxed and to whom paid. SECTION 17. The judge of said municipal court shall tax such fees and costs as are taxed by a justice of the peace in proceedings had before him, wherein a justice of the peace has jurisdiction, except as

herein otherwise provided, and said fees when so collected shall be paid into the county treasury at the end of each month. In all other actions the costs and fees shall be the same as now provided in the circuit courts of Wisconsin. The fees of jurors in said court shall be paid by the county of Brown upon voucher of the clerk of the said municipal court in the same manner as fees of jurors in circuit court are paid; provided, however, that the party calling for a jury in a civil case properly triable by a jury of six jurors, shall pay to the clerk of said municipal court three dollars at the time of making such demand, which sum shall be paid into the county treasury as aforesaid, and which sum shall be taxed against the losing party as a part of the costs in such case, and provided further, that the judge of said court shall in all cases of which justices of the peace now have original jurisdiction, tax as fees the sum of two cents per folio only for each folio of testimony taken on the trial.

Appeals. SECTION 18. Appeals from the justice court of Brown county shall be made to the municipal court for Brown county in the manner and form of taking such appeals to the circuit court, and appeals from the municipal court in all prosecutions for crimes and misdemeanors, or the violation of city ordinances or by-laws, shall be made to the supreme court of Wisconsin in the same manner as appeals from circuit courts are now taken. In all civil cases originally brought in the municipal court appeals shall lie to the circuit court of Brown county in the same manner as appeals from justice courts are now taken. In all other cases the appeal shall lie to the supreme court of Wisconsin in the same manner as appeals are now taken from circuit courts. The clerk of said municipal court shall be allowed the sum of five cents per folio for each folio of testimony written out in long hand on the request of a party, to be paid by the party demanding the same.

Justice court appeals, how heard and determined. SECTION 19. Where an appeal is had from a justice court to the municipal court, it shall be the duty of the judge of said court, on receipt of the records in said cause, to cause the case to be duly entered in the court docket. And on the time fixed by the judge for the hearing thereof, the said municipal court shall proceed to hear, try and determine the same, unless it be continued by the said judge or by the parties for cause. Nothing in this act shall be construed as in any manner affecting the right or jurisdiction of any court, judge, justice of the peace

or police justice to hear, try and determine any cause now pending in any such court or before such judge, justice of the peace or police justice, or which shall be commenced before said municipal judge shall enter upon the duties of his office.

Municipal court jury commission; terms of members; compensation. SECTION 20. The judge of said municipal court shall, on or before May 10th, 1904, appoint a commission to be known as the municipal court jury commission, and consisting of three members. The persons so appointed shall be freeholders residing in the city of Green Bay, citizens of the United States and qualified electors of the state of Wisconsin; one of said commissioners to hold office for one year, one for two years and one for three years, and the said judge shall designate the terms of each commissioner so appointed. Thereafter said judge shall appoint one such commissioner each year to serve for three years from the tenth day of May. Vacancies shall be filled for the unexpired term and any commissioner may be removed by the judge at will. Each commissioner shall, before entering upon his duties, take and subscribe before the clerk of said court an oath to support the constitutions of the United States and of the state of Wisconsin and faithfully to discharge the duties of the office of jury commissioner to the best of his ability. Such oath shall be certified by said clerk and filed in his office. Two of said commissioners shall constitute a quorum. Said commissioners shall receive the sum of five dollars for each day actually spent in official service, to be paid by the county of Brown on the order of the clerk of said court, countersigned by said judge.

SECTION 21. This act shall take effect and be in force from and after its passage and publication, but no provision herein contained shall limit, change or affect the jurisdiction of any court whatever until the first day of May, 1904.

Approved May 21, 1903.