

No. 87. S.]

[Published June 27, 1907.]

CHAPTER 422.

AN ACT to create a second municipal court for Oneida county.

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

Designation. SECTION 1. There is hereby created and established in and for the county of Oneida a municipal court which shall be known and designated as "the second municipal court of Oneida county" with the powers and jurisdiction hereinafter provided and specified.

Judge: election, term, vacancies. SECTION 2. On the first Tuesday of April, 1908, and every four years thereafter there shall be elected in the county of Oneida in the same manner as county judges are elected, a municipal judge for said court 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 said 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; provided that upon the passage and publication of this act the office of judge of said court shall be deemed vacant and shall be filled by appointment as herein provided.

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

Judge: oath, bond, sureties. SECTION 4. The said 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 said county and execute to 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 statutes of 1898 as amended, 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.

Office in Minocqua. SECTION 5. The judge of the second municipal court of Oneida county shall hold his office at the village of Minocqua.

Jurisdiction: civil and criminal. SECTION 6. The said court and judge thereof shall have cognizance of and jurisdiction to hear, try and determine:

1. 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;

2. 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;

3. Actions founded on an account when the same shall be reduced to an amount not exceeding five hundred dollars by credits given;

4. To hear, try and determine all actions arising under chapter 145 of the statutes as amended when the amount claimed shall not exceed five hundred dollars;

5. All actions founded on charges for offense arising within said county and which are not punishable by commitment to state prison;

6. Offenses against the charter, ordinances, by-laws, rules and regulations of any city in said county and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction.

Preliminary hearings; justice court powers. SECTION 7. Said judge shall have power and jurisdiction throughout said county to cause to come before him, persons who are charged with having committed any criminal offense and commit them to jail or bail them 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 in all cases tried before him and he shall be subjected to the same prohibitions and penalties as justices of the peace.

Justices of the peace; jurisdiction. SECTION 8. No justice of the peace within the towns of Minocqua or Woodruff

in said county shall exercise any jurisdiction in criminal cases except as provided in sections 13, 14 and 15 of this act but all such jurisdiction is vested in said court and in the municipal court of said county and the judges hereof.

Municipal courts: concurrent power. SECTION 9. The provisions of chapter 244 of the laws of 1905 providing that the municipal court of said county shall have exclusive criminal jurisdiction shall not apply to the court hereby created nor to the judge thereof.

Fees; transcripts of judgments; limit on jurisdiction. SECTION 10. The fees of said judge and the proceedings and practice in said second municipal court shall in all respects be governed, so far as practicable, by the law relating to justice courts of this state and transcripts of judgments of such court may be filed and docketed with the clerk of the circuit court of said county with the same effect as may be transcripts of judgments rendered by justice of the peace. Nothing herein contained shall be construed to give to the said second municipal court or the judge thereof cognizance of any action under subsections 1, 2 and 3 of section 3573 of the statutes of 1898.

Judgment by confession; required statements. SECTION 11. A judgment by confession may be entered by the judge of said court in any sum not exceeding one thousand dollars without action, whether 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 or some person in behalf of the defendant and verified by his oath to the following effect:

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

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

3. 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.

Absence or disability. SECTION 12. In case of absence or temporary disability of the 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 the duties of said judge during such absence or disability who shall have the powers of such judge while administering such office.

If judge an interested party, who to preside. SECTION 13. Whenever it shall appear by affidavit that the said judge is interested, pecuniarily in the action, examination or other proceeding brought in said court, or that said judge is a material witness or within the forbidden degree of consanguinity or from prejudice will not decide impartially in the matter, and the matter or proceeding is one of which a justice of the peace has jurisdiction, the said judge shall notify the nearest justice of the peace in the county of Oneida, not disqualified or otherwise unable to try said case or to hear said examination or other proceedings as the case may be.

Trials by justice of the peace. SECTION 14. Thereupon it shall be the duty of said justice so notified as aforesaid, to forthwith appear at the court room of said court and to discharge the duties of judge of said court on trial of said case or the hearing of said examination or other proceeding, in the same manner and with like effect as said judge would if not disqualified to act, and the doings of said justice of the peace while so presiding over said court shall have and be of the same force and effect as proceedings of said 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 executions and commitments may be issued as in other cases tried and in other proceedings had before said second municipal judge. Said justice of the peace while presiding over said court shall receive the same fees as are allowed by law to justices of the peace for his services.

Transfers to first municipal court. SECTION 15. In matters or proceedings of which a justice of the peace has no jurisdiction, when such affidavit is filed the said judge shall transfer the same to the municipal court of Oneida county, which municipal 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 begun in said municipal court.

Judge: court commissioner ex-officio. SECTION 16. The judge of said court shall and may exercise in his county all the powers and may perform all the duties of a court commissioner as defined in section 2434 of the statutes, and every authority granted to or limitation of the powers of a court commissioner by the laws of Wisconsin shall be construed to extend to said judge acting in such capacity, except when otherwise expressly provided. The official designation of said officer in all matters where he shall act, shall be "judge of the second municipal court of Oneida county."

Removal of actions to said court. SECTION 17. Wherever any civil action shall be removed from any justice of the peace in the county of Oneida, upon the oath of the 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 second 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 court hereby created in the same manner as if originally instituted before him.

Jury trial. SECTION 18. Trial by jury may be had in said court in the same manner and by the same process as in justices' courts.

Court officers. SECTION 19. 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 the same fees and shall be subject to the same liabilities as in justices' courts.

Separate dockets, civil and criminal; summons in blank. SECTION 20. The judge of the said court shall keep one docket for criminal trials and proceedings and one docket for civil actions. And in all criminal trials, examinations and proceedings in said court under this act, the docket entires and process shall be made, kept and filed in the same manner, as far as applicable as the same are required to be kept by justices of the peace under the laws of this state, in all civil actions, said judge may sign in blank, summons and other process and deliver the same to attorneys of courts of record throughout the county to be issued by them as occasion may require, and upon the filing of said summons or other process 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 such summons or other process.

Attorneys must endorse summons. SECTION 21. No summons or other process issued by an attorney at law under the provisions of this act, shall be valid unless said attorney shall endorse thereon his name or the name of the firm of which he is a member, which endorsement shall be substantially in the following form: Issued by A. D. attorney at law.

Judge's salary. SECTION 22. The judge of said court shall receive a salary of five hundred dollars per annum and the same shall be paid by said Oneida county at the same time and in the same manner that other county officers are paid and said judge shall provide his own court room. Said salary may be increased by the county board of supervisors of said county and the amount thereof shall be in full for all services rendered in criminal actions and proceedings and for all services in any action or proceeding for the violation of any ordinance of any city in said county.

Fines and fees: annual payment over. SECTION 23. The fees charged and collected in civil actions shall be retained by said judge for his compensation therein but on the first day of November in each year he shall pay over to the treasurer of said county all fines paid to said court imposed under the laws of this state and all of the aforesaid fees collected in criminal actions and the fines and fees collected by him in actions for violation of said ordinances since the first day of November of the preceding year taking said county treasurer's duplicate receipt therefor the other of said receipts shall be filed in the office of the county clerk.

Annual accounting. SECTION 24. Said 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 any criminal action and any action for the violation of said ordinances in which the fine or fees have been paid since the first day of November of the preceding year together with the statement required of other magistrates by sections 679 and 680 of the statutes of 1898 as amended.

Plaintiff's attorney fees. SECTION 25. In all actions in said court under this act, an attorney's fee shall be allowed

to the plaintiff if he recover judgment as follows:

1. If the judgment does not exceed twenty-five dollars, the sum of two dollars and fifty cents;

2. If the judgment exceeds twenty-five dollars and does not exceed one hundred dollars, a sum equal to ten per centum of the judgment;

3. If the judgment exceeds one hundred dollars and does not exceed two hundred dollars, ten dollars on the first hundred dollars and five per centum on the balance of the judgment;

4. If the judgment exceeds two hundred dollars, fifteen dollars on the first two hundred dollars and two and one-half per centum on the balance of the judgment.

Defendant's attorney fees. SECTION 26. In case judgment shall be for the defendant he shall receive the same attorney's fee and the amount claimed by the plaintiff shall be the basis for computing the same.

Replevin: attorney fees. SECTION 27. In actions of replevin, the value of the property as proved shall govern the amount of attorney's fees in case judgment is for the defendant.

Other attorney fees. SECTION 28. In any case not herein provided for, a reasonable attorney's fee shall be allowed in the discretion of the court, provided that no attorney's fee shall exceed the sum of twenty-five dollars; and provided further that no attorney's fee shall be allowed unless the prevailing party shall appear in the action by an attorney of a court of record.

Stationery and blanks. SECTION 29. All needful stationery and all blanks required by said court in civil and criminal actions and examinations and the judges' dockets required by law shall be furnished at the expense of Oneida county.

Seal. SECTION 30. The 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.

Appeals to circuit court. SECTION 31. Appeals from said second municipal court shall be taken to the circuit court for

Oneida 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 given as upon appeal from justices' courts.

Records public. SECTION 32. The documents and records of said court shall be public records, open to the inspection of all persons at every reasonable hour.

Judicial election; notices. SECTION 33. The county clerk of Oneida county shall give the same notice of the election of said judge as in other judicial elections.

Approved June 26, 1907.

(In effect July 1, 1907.)

No. 147, S.]

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CHAPTER 423.

AN ACT to repeal section 5 of chapter 137 of the laws of 1889, relating to the policemen's relief fund of the city of Milwaukee, and to provide for the payment of certain witness fees to the pension fund for members of the police department in cities of the first class.

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

Repeal. SECTION 1. Section 5 of chapter 137 of the laws of 1889 is hereby repealed.

Policemen witnesses: fees to pension fund. SECTION 2. It is hereby made the duty of the clerk of the municipal court of Milwaukee county to tax witness fees in all cases in said court wherein the members of the police department of said city are witnesses for the prosecution, and he shall pay the same when collected on the first Mondays of January, April, July and October, to the treasurer of the pension fund for members of the police department established by chapter 397