

No. 409, S.]

[Published June 7, 1921.]

CHAPTER 319.

AN ACT to appropriate a sum of money named herein to the state superintendent of public instruction.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is appropriated to the state superintendent of public instruction as an emergency appropriation for the fiscal year ending June 30, 1921, out of any moneys in the general fund, not otherwise appropriated, the sum of not to exceed twenty-one thousand two hundred dollars, in addition to all other moneys heretofore appropriated for the execution of his functions for the fiscal year ending June 30, 1921.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 3, 1921.

No. 290, A.]

[Published June 6, 1921.]

CHAPTER 320.

AN ACT to repeal sections 9, 13, 20, 21, 22, 23, 24, 25, 34, and 36 of chapter 96, laws of 1891, as created by chapter 303, laws of 1913; to amend section 2 of chapter 96, laws of 1891, as amended by section 1 of chapter 303, laws of 1913, and to amend sections 6, 11, 32, 42, and 49 of chapter 96, laws of 1891, as created by section 3 of chapter 303, laws of 1913; and to create two new sections of said chapter 96, laws of 1891 to be numbered 9 and 20, respectively, relating to the municipal court of Langlade county.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Sections 9, 13, 20, 21, 22, 23, 24, 25, 34, and 36 of chapter 96, laws of 1891, as created by section 3 of chapter 303, laws of 1913, are repealed.

SECTION 2. Section 2 of chapter 96, laws of 1891, as amended by section 1 of chapter 303, laws of 1913, and sections 6, 11, 32, 42 and 49 of said chapter 96, laws of 1891, as created by section 3 of chapter 303, laws of 1913, are amended to read: (Chapter 96, laws of 1891) Section 2. On and after the first Tuesday in April, * * * 1923, and every * * * six years there-

after, there shall be elected in the county of Langlade, in the same manner as county judges are elected, one municipal judge, who shall hold his office for the term of * * * *six* years from the first Monday of May next following his election, and until his successor is elected and qualified.

Section 6. Said municipal court shall be held at the court house in the city of Antigo in some suitable room or rooms to be furnished and supplied at the expense of the county under the direction of the county board thereof. *The municipal court shall be opened for business on all secular days except legal holidays.*

Section 11. The clerk of the circuit court for Langlade county and his deputy shall be clerk and deputy, respectively, *in both branches* of the municipal court. In addition to his oath and bond as clerk of the circuit court, he shall file an additional oath as clerk of the municipal court, and shall execute and file with the county clerk a bond with two sureties, or from a surety company, approved by said county clerk, and in such sum as the municipal judge shall order, conditioned that he will pay over to the proper persons all fines and penalties, suit tax and other moneys in his hands as required by law and the order of the court, and will faithfully perform the duties of his office as required by law.

Section 32. Appeals from judgments of the municipal court in all civil and criminal actions and proceedings wherein the same have been tried according to justice court procedure, may be taken to the circuit court of Langlade county *or to the upper branch of the municipal court of Langlade county at appellant's option*, within the same time, and in like manner and with like effect as from justice court; provided, that in civil cases, at appellant's option, a bill of exceptions of the evidence and the rulings of the judge may be settled within thirty days after judgment in like cases and in like manner as in the circuit court, and when so settled an appeal may be taken direct to the supreme court within sixty days after judgment in like manner and with like effect as from the circuit court. An appeal to either court shall be a waiver of the right of appeal here given to the other court but not of the right of appeal from the circuit court to the supreme court after trial in the circuit court.

Section 42. In all trials according to circuit court procedure the jury shall consist of twelve men, except that in civil actions the parties may stipulate for a less number. A jury may be

demand by either party, at least ten days before the day set for trial of the case, by service of written notice and demand on the attorney for the opposite party, which notice shall fix the time for drawing a jury not less than five nor more than seven days before the day set for trial; and if no demand is served by either party within the time above specified, a jury shall be deemed to have been waived. If objection be made at the time fixed for drawing a jury that the issues are not triable by a jury, the court shall forthwith determine whether a jury shall be drawn. Whenever a jury is to be drawn, the clerk shall, at the time fixed in the notice and demand, in the presence of the parties or their attorneys, draw twenty-eight names from the box containing the list of jurors selected from the city of Antigo (the Antigo jury list), unless either party shall on written demand to be filed with the court, demand a jury from the county at large, and unless such demand is filed as aforesaid, a jury from the county at large shall be deemed waived. If such demand is filed, the clerk shall draw said names from "the county-at-large jury list." *In drawing juries for criminal cases there shall be drawn from the box thirty-two names and twenty summoned. The court may in his discretion at the time of drawing the jury in either civil or criminal cases direct the clerk to draw additional names from the box as may be deemed necessary.* The parties shall then strike from the names so drawn, alternately, beginning with the plaintiff, one name at a time until each party has struck six names. When all strikes have been made, a venire shall be issued for the persons remaining on said list, arranged in the same order as they appear on the list, to serve as jurors, and made returnable on the day fixed for trial; but it is hereby made discretionary with the judge of said court, instead of delivering said venire to the sheriff or other officer to summon said jury, to mail a copy of the venire and summons in a registered letter, to each of said jurymen, securely enclosed in an envelope, properly addressed, and when received by said juror said mailing shall have the same force and effect as personal service of the same by the sheriff or other officer; and said judge shall have the same power and authority to fine said juror for contempt in case of his failure to appear for said trial as he would in case said juror is personally served by an officer of said court.

Section 49. For ten days after judgment in civil actions and for five days after judgment in criminal causes, over which the

municipal judge has jurisdiction to hear, try and determine according to justice court procedure, the said judge shall have, and he is hereby vested with the same power over verdicts, judgments, rulings, orders and the proceedings in such matter as are possessed by the circuit court or judge thereof over the judgments, orders and proceedings of said court at or before trial or judgment or during the trial term; and the 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 or reverse judgments and orders of his said court or of the judge, or do any act or thing which the circuit court or circuit judges may do with reference to proceedings therein during term time, being governed by the general law and practice of the circuit courts, as near as may be, where the rules of law and procedure for justice courts are inadequate or do not apply. *The decision of all matters tried before the municipal judge in the lower branch may be taken under advisement by the judge, and his decision rendered any time within twenty days from date of submission of same.*

SECTION 3. Two new sections are added to chapter 96, laws of 1891, to be numbered and read: (Chapter 96, laws of 1891) Section 9. 1. In case of the absence, sickness or temporary disability of the municipal judge, he may, by order in writing to be filed in said court, appoint a justice of the peace, the county judge or a court commissioner of said county, to discharge the duties of such judge during such absence, sickness or disability, who shall have all the powers of such judge while administering such office, except the trials of informations, or appeals, and actions over which a justice's court has no jurisdiction. And the clerk shall make a like record of his proceedings. Such justice of the peace or court commissioner shall receive for his services five dollars a day to be paid by said county; provided, however, that any and all sums in excess of two hundred dollars to be paid to any such justice or court commissioner as aforesaid in any one year shall be paid by the said municipal judge.

2. In case an affidavit of prejudice is filed against the municipal judge and a circuit judge is called in to preside at the trial, if it be an action triable by a jury, the municipal judge may, notwithstanding the affidavit of prejudice, fix the day for trial and the day for drawing a jury and order the jury to be drawn and summoned as in this act provided, and do any other act or thing

necessary to have a jury in attendance on the day fixed for trial ready for the judge called in to proceed with the trial.

Section 20. 1. The municipal court of Langlade county shall be composed of two branches, upper and lower. The upper branch of the municipal court of Langlade county shall have jurisdiction equal to and concurrent with the circuit court of Langlade county in all cases of crimes and misdemeanors arising in said county, except the crimes of treason and homicide, and in all civil actions and proceedings, in law and equity, except in actions and proceedings in which it is sought to recover a sum in excess of one hundred thousand dollars, exclusive of interest and costs. In the exercise of such jurisdiction, such court shall have all the powers, according to the usages of law and equity, necessary to the full and complete administration of justice and to carry into effect its judgments, orders and other determinations, subject to re-examination and review by the supreme court as provided by law.

2. All the provisions of law relating to the circuit court and the judges thereof and to the trial of civil actions and proceedings therein shall apply to the municipal court and the judge thereof in the exercise of the jurisdiction conferred by this act, so far as applicable, except as otherwise herein provided, and whenever the term "circuit court," "circuit judge," "court," "presiding judge of the circuit court," "judge of the circuit court," "presiding judge" or "judge" shall appear in any statute of the state the same shall be deemed to apply to the municipal court and municipal judge in any action within the jurisdiction of said municipal court, except as herein otherwise provided.

3. The jurisdiction of such municipal court of Langlade county shall include the right to try and determine all appeals to such court from justices of the peace in said county. All appeals from justices of the peace in Langlade county shall be taken to said court.

4. Said judge shall have exclusive jurisdiction of prosecutions for the violation of the ordinances and charter provisions of the city of Antigo.

5. The jurisdiction of the lower branch of the municipal court of Langlade county shall be as follows: No justice of the peace within the city of Antigo shall exercise any jurisdiction in criminal or bastardy proceedings, but all such jurisdiction is vested in the judge of said court; and all examinations, recognizances

and commitments from said judge, and the other justices of the peace of said county, in criminal cases and in bastardy proceedings, shall be certified and returned to said municipal court instead of said circuit court at or before the time fixed for the appearance of the accused; the accused and all witnesses shall attend said municipal court on a day certain, not more than thirty days from the date of such commitment or recognizance. Said municipal court shall also have jurisdiction of all actions brought for the breach of any recognizance returned to or given in said court.

o. The municipal judge is also vested with and shall have jurisdiction, authority, powers and rights given by law to justices of the peace generally and in civil actions, special proceedings, actions for recovery of personal property with damages for the unlawful taking or detention thereof and actions brought for any breach of any recognizance given in said court, equal to and concurrent with said justices, and in addition thereto, shall have cognizance of and jurisdiction to hear, try and determine, by and pursuant to the process and procedure common to justices' courts all actions and proceedings at law wherein the amount of the debt, demand, damage, penalty or forfeiture shall not exceed five hundred dollars after deducting all payments and set-offs; and also of 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.

7. The general provisions of law which may at any time be in force relative to circuit courts, and actions and proceedings therein, and appeals therefrom to the supreme court, shall relate also to said municipal court, unless inapplicable, and the rule 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 near as practicable, to the rules and practice of circuit courts, except as herein otherwise provided.

SECTION 4. This act shall take effect upon passage and publication.

Approved June 3, 1921.