

No. 268, S.]

[Published May 12, 1903.]

CHAPTER 193.

AN ACT amendatory of chapter 17, laws of 1895, relating to the municipal court of Manitowoc county.

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

Jurisdiction of municipal judge defined. SECTION 1. Section 5 of chapter 17, laws of 1895, is hereby amended so as to read as follows: Section 5. The judge of said municipal court shall have all the jurisdiction, authority, power and rights given by law to justices of the peace in criminal actions; he shall have exclusive original jurisdiction to hear, try and determine all criminal actions arising within said county which are not punishable by commitment to the state prison, and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction; he shall have exclusive jurisdiction throughout said county to institute and conduct examinations in all criminal cases occurring 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 or bastardy, and commit them to jail, or bind them over as the case may be: on a plea of guilty by the accused, and a request by him to be sentenced, the said judge shall have power, authority, and jurisdiction to sentence the accused for any offense except homicide, and no justice of the peace, police justice or court commissioner within said county shall exercise any jurisdiction in criminal or bastardy cases or proceedings, except that in felony or bastardy cases justices of the peace may issue warrants returnable before the judge of said municipal court, and when so doing, they shall cause the complaint in such action to be forthwith filed in said municipal court.

Dockets to be kept; trial by jury. SECTION 2. Section 7 of chapter 17, laws of 1895, is hereby amended so as to read as follows: Section 7. The judge of said municipal court shall keep one docket for criminal trials and proceedings, and a sepa-

rate docket for civil actions, in the same manner, as far as applicable, as dockets of justices of the peace are required to be kept. The practice and procedure in said court, so far as applicable, shall comply with the laws relating to justice courts. Trial by jury may be had in the manner hereafter provided by this act. The judge of said court shall have the power and right in his discretion to instruct the jury in the same manner juries are instructed in the circuit courts of this state. Appeals may be taken in the same manner and with like effect as from courts of justices of the peace. Transcripts of judgments of said 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 judgments rendered by justices of the peace of said county.

Actions, how removed; county judge called in, when. SECTION 3. Section 8 of chapter 17, laws of 1895, is hereby amended so as to read as follows: Section 8. Actions pending in said municipal court may be removed from the judge thereof in the following manner: In all civil cases if the defendant shall, on the return day of the process and before any proceedings are had on his part, and in all criminal cases within the jurisdiction of said court to try and determine, if the defendant shall, before he pleads to the complaint, make and file an affidavit that from prejudice or other cause, he believes the judge of said court will not decide impartially in the matter, the judge of said court shall, by an order in writing, to be filed in said court, call in the judge of the county court of said county, and in case of the latter's inability to respond, any justice of the peace of said county to try the same; and said county judge of said justice of the peace is hereby authorized to act as judge of said municipal court in such action and when so acting shall have and possess all the powers and authority imposed by law upon the judge of said municipal court. Whenever any person charged with having committed any offense, including bastardy, shall be brought before the judge of said court for examination in accordance with the provisions of law and shall, before the commencement of the examination, make and file an affidavit, that, from prejudice or other cause he believes the judge of said court will not decide impartially in the matter, the judge of said court shall, by an order in writing, to be filed in said court, call in the judge of the county court of said county, and in case of the latter's inability to respond, any court commissioner of said county to hold and con-

duct such examination, but no case shall be removed after a second adjournment had therein; and said county judge or said court commissioner is hereby authorized to act as judge of said municipal court in such action and when so acting shall have and possess all the powers and authority imposed by law upon the judge of said municipal court. In case of the absence, sickness or temporary disability of the judge of said court, he is unable to perform his duties, he may, by order in writing, to be filed in said court, call in the judge of the county court of said county, and in case of the latter's inability to respond any justice of the peace of said county to act in the stead of the judge of said court; and said county judge or said justice of the peace is hereby authorized to act as the judge of said municipal court in any and all matters, actions or proceedings pending or that may come before said court and when so acting shall have and possess all the powers and authority, and may perform and discharge all the duties imposed by law upon the judge of said municipal court. All papers to be subscribed by the county judge, justice of the peace or court commissioner shall be subscribed in form as follows. A. B., county judge, justice of the peace, court commissioner (as the case may be) and acting judge of municipal court. Such justice of the peace or court commissioner shall receive for his compensation two dollars for each half day actually spent by him in the discharge of his duties as aforesaid, to be paid by the county of Manitowoc in the same manner as fees of other attending officers are paid.

Collection of fees, fines, penalties. SECTION 4. Section 11 of chapter 17, laws of 1895, is hereby amended so as to read as follows: Section 11. It shall be lawful for the judge of said municipal court to charge, tax and collect the same costs and fees in all actions in said court as are allowed by law to be taxed and collected in courts of justices of the peace; provided, that no costs or fees shall be taxed for the services of said judge or the services of the clerk of said court for taking testimony in any cause except the legal fees for transcripts furnished by said judge; and in cases of appeal the costs of transcribing the testimony, at the same rate as provided in the circuit court, shall be taxed as an item of subsequent costs in said action.

Said judge shall keep in a separate book provided therefor an itemized account of all moneys received by him by virtue of his office, which said book shall be a part of the records of said court. All fees, fines and penalties by him collected, it shall be his duty to pay over, at the end of each month, to the treas-

ner of Manitowoc county, taking a receipt therefor, which receipt, together with an itemized account of the amount so paid, he shall file in the office of the county clerk of said county.

Jurymen, how selected; compensation. SECTION 5. The senior alderman and supervisor for each ward of the city of Manitowoc, shall each, on or before the first Monday of May in each year, make a list of ten qualified electors in each ward in said city, to serve as jurors for the ensuing year in said municipal court when the same is held at the city of Manitowoc and deliver such list to the judge of said court. The senior alderman and supervisor for each ward of the city of Two Rivers, shall each, on or before the first Monday of May in each year, make a list of ten qualified electors in each ward in said city, to serve as jurors for the ensuing year in said municipal court when the same is held at the city of Two Rivers, and deliver such list to the judge of said court. The first lists so made shall hold good until the first Monday of May, A. D. 1904. In all actions in said municipal court a trial by jury shall be deemed waived unless a demand for a trial by jury shall be made in the manner provided in courts of justices of the peace. A jury in said municipal court shall consist of six jurors. Whenever a trial by jury is demanded when said municipal court is being held at the city of Manitowoc, the clerk of said court shall draw in the presence of the court and the parties to the action or their attorneys, from a box containing the names of all the persons so furnished by the senior alderman and supervisor of the city of Manitowoc eighteen names and makes a list thereof, whenever a trial by jury is demanded when said municipal court is being held at the city of Two Rivers, the clerk of said court shall draw in like manner from a box containing the names of all the persons so furnished by the senior alderman and supervisor of the city of Two Rivers names each party, commencing with the plaintiff, may strike eighteen names and make a list thereof; from such list of out alternately six names; and in case of the absence of either party or his refusal to strike out, the judge of said court shall appoint some other person to strike out such names; the judge of said court shall issue a venire requiring the officer to summon the six persons whose names remain upon said list of names to appear at the time and place mentioned therein to make a jury for the trial of such action; if any person thus drawn cannot be summoned or be excused for any cause the clerk of said court shall draw from said box three names, and each party may strike out one name, and the person remaining

shall be summoned in like manner. Should the whole list be exhausted without procuring a jury in any case, the attending officer shall then be ordered to summon the necessary number of persons from the county at large, and outside of the limits of the city where said municipal court is then being held, to act as talesmen to complete such jury. The fees of the jurors in said court shall be one dollar for each half day actually occupied in the discharge of his duties as such juror to be paid by the county in the same manner as jurors in justices' courts are paid.

Conflicting laws repealed. SECTION 6. All acts or parts of acts in conflict with this act are hereby repealed.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved May 11, 1903.

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CHAPTER 194.

AN ACT to authorize the commissioners of fisheries to remit the damages for a certain trespass on the lands of the fish hatchery grounds near Bayfield, in the state of Wisconsin.

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

Trespass, remission of. SECTION 1. The commissioners of fisheries are hereby authorized to remit, with the approval of the attorney general, any claim for damages by trespass in cutting timber upon lands owned by the state in connection with the hatchery near Bayfield, in the state of Wisconsin, so far as liability therefor falls upon the donor of the lands so trespassed upon.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved May 11, 1903.