

No. 3, A.]

[Published July 17, 1907.]

CHAPTER 651.

AN ACT to create sections 2523—1 to 2523—21, inclusive, of the statutes, creating and establishing special municipal courts in counties and defining the powers and jurisdiction thereof.

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

SECTION 1. There are added to the statutes twenty-one new sections, to read:

* * * * *

Approved July 15, 1907.

(In effect from and after date of publication.)

No. 639, S.]

[Published July 17, 1907.]

CHAPTER 652.

AN ACT to create sections 926—41 and 926—42 of the statutes, relating to the powers of officials and of common councils in cities of the first class.

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

SECTION 1. There are added to the statutes two sections to read:

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Approved July 15, 1907.

(In effect from and after date of publication.)

all other cases two dollars per day besides mileage. The fees of said judge, witnesses, sheriff and other officers, shall be the same in cases not cognizable before a justice as in circuit courts and in cases so cognizable the same as in courts held by a justice of the peace, except as herein provided, and shall be paid in like manner as in circuit and justices' courts respectively.

(Ch. 433, 1907.)

Special municipal courts. SECTION 2523—1. There is hereby created and established in each county of this state one or more courts, as may be provided for, to be known and designated as special municipal courts and with the powers and jurisdiction as hereafter provided.

(Ch. 651, 1907.)

County boards may establish. SECTION 2523—2. The county board of supervisors of any county may, by a majority of all members elect, adopt the provisions of this act by resolution and upon such adoption may thereafter, in like manner and upon a like vote, provide for a special municipal court or courts as herein provided, to be known and designated as the First (or other numerical designation) Special municipal Court of _____ county; and such board shall determine the place or places where the judge of any such court shall hold his office and provide suitable quarters therefor. Such court shall be provided with an official seal, necessary dockets and records, stationery and blanks.

(Ch. 651, 1907.)

Judge: qualifications, election, term, vacancies, removal. SECTION 2523—3. On the first Tuesday of April following the adoption of a resolution by the county board of supervisors of any county providing for a court or courts under the provisions of this act and every four years thereafter there shall be elected, in the same manner as county judges are elected, a judge for each such special municipal court which shall have been provided for by such resolution. No person shall be eligible to the office of judge of said court except an attorney of a court of record and such judge shall hold no other county office during the time that he is judge thereof. He shall hold his office for the term of four years from the first Monday of June next following his election and until his successor is elected and qualified, and in case of a vacancy oc-

curing in such office the same shall be filled by appointment by the governor and the person appointed to fill such vacancy shall continue his office for the residue of the term for which his predecessor was elected or appointed or for the regular term thereof. The judge of any such court may be removed from office in the manner now provided by section 968 of the statutes for the removal of county officers. The county clerk of any county, that may have provided for one or more of such courts, shall give the same notice of the election of the judge thereof as in other judicial elections.

(Ch. 651, 1907.)

Judge: oath, bond sureties. SECTION 2523—4. Each judge of a special municipal court, before entering upon the duties of his office, shall take and subscribe to 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 one thousand dollars with two or more sureties to be approved by the chairman of the board of county supervisors of said county and recorded and filed as provided in section 702 of the 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.

(Ch. 651, 1907.)

Original jurisdiction. SECTION 2523—5. Said special municipal court shall have original jurisdiction to hear, try and determine all actions and special proceedings (except the actions mentioned in subdivisions 1 and 2 of section 3573 of the statutes, and for divorce and bastardy) which may arise in said county and be of any of the following classes, namely:

1. Crimes and misdemeanors excepting such as shall or may be punishable by commitment to the state prison.

2. Civil actions and special proceedings in law and equity where the value of property in controversy or the amount of money claimed or sought to be recovered, after deducting all payments and setoffs, shall not exceed five hundred dollars, and also of all actions for the foreclosure of mortgages and mechanic's liens in which the amount claimed does not exceed the sum aforesaid, although the value of the property to be affected may exceed that sum.

3. Offenses arising under the charter and ordinances of any incorporated city or village.

4. Forfeitures and actions for the breach of any recognizance given in said court.

(Ch. 651, 1907.)

Judgment by confession. SECTION 2523—6. A judgment by confession may be entered before the judge of said court in any sum not exceeding one thousand 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 in the manner prescribed by section 3657 of the statutes.

(Ch. 651, 1907.)

Grant of justice court powers. SECTION 2523—7. The judge of said court shall have and exercise all powers conferred upon justices of the peace by chapters 64 and 195 of the statutes, as amended, in all cases not triable and determinable in his said court.

(Ch. 651, 1907.)

Judge ex-officio court commissioner. SECTION 2523—8. The judge of said court shall be ex-officio a court commissioner and shall have and may exercise all of the powers conferred upon court commissioners by the laws of this state.

(Ch. 651, 1907.)

If judge an interested party. SECTION 2523—9. No action, examination or other proceeding shall be removed from said court but whenever, prior to joining issue in any action or before the commencement of any examination, it shall appear by affidavit that from prejudice said judge will not decide impartially in the matter or that he is interested pecuniarily in the action, examination or other proceeding or is a material witness or is within the forbidden degree of consanguinity the said judge shall notify a county judge or other municipal judge not having appellate jurisdiction, who shall be eligible to the office of judge of said court and not disqualified to forthwith appear in said court to try or hear said cause. And it shall be the duty of said judge to forthwith appear in said court and discharge the duties of said judge in the trial or hearing of said cause in the same manner and with like effect as said judge would if not disqualified to act. Said magistrate while pro-

ceeding in said court shall receive such per diem as may be fixed by the county board of such county.

(Ch. 651, 1907.)

Sickness, absence or disability. SECTION 2523—10. In case of sickness, absence or temporary disability of the judge of any such court he may by an order in writing to be filed in said court appoint any of the persons specified in section [2523—9] 9 of this act, to discharge the duties of said judge during such sickness, absence or disability, and who shall have the powers of such judge while administering such office.

(Ch. 651, 1907.)

Appeals from said court. SECTION 2523—11. Appeals from such special municipal court may be had to the circuit court of said county or to the county court when said county court shall have jurisdiction of the cause or to any general municipal court of said county provided that appeals therefrom may be taken directly to the supreme court and not otherwise. Appeals from said special municipal court shall be taken in the same manner as provided by law for appeals from courts of justices of the peace.

(Ch. 651, 1907.)

Processes and practice. SECTION 2523—12. The processes, proceedings and practice of the courts of justices of the peace are hereby adopted as far as practicable for said special municipal courts, and transcripts of judgments of any such court may be filed and docketed with the clerk of the circuit court of the county wherein any such court may be with the same effect as transcripts of judgments from the courts of justices of the peace.

(Ch. 651, 1907.)

Jury trial. SECTION 2523—13. Trial by jury may be had in any such special municipal court in the same manner and upon the same process as in courts of justices of the peace.

(Ch. 651, 1907.)

Court officers. SECTION 2523—14. Sheriffs and constables of any county wherein any special municipal court may have been provided for shall have the same power to serve and to execute any process of said court as of courts of justices of the

peace and be entitled to receive the same fee and be subject to the same liability and penalty.

(Ch. 651, 1907.)

Dockets; summons in blank. SECTION 2523—15. The judge of each special municipal court shall keep a docket for criminal trials and proceedings and also a docket for civil actions. All docket entries shall be made and kept as far as practicable in the same manner as required in courts of justices of the peace. In all civil actions the judge of any such special municipal court may sign in blank and deliver to attorneys of record in the county to be issued by them as occasion may require blank summons, writs and other processes of said courts. Any such attorney upon issuing any such summons, writ or other process shall file within three days 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 same is returnable, and the nature of the demand or claim. Upon the filing of such affidavit and statement the judge of said court shall forthwith docket such case, and such docket entries shall have the same force and effect as if made at the time of the date or issuing of such summons, writ or other process.

(Ch. 651, 1907.)

Publicity of records. SECTION 2523—16. The dockets and records of any said special municipal court shall be public records and open to the inspection of all persons at any and all reasonable hours.

(Ch. 651, 1907.)

Documents: force and effect. SECTION 2523—17. All papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by the judge of any municipal court, when sealed with the seal of the court, shall be of the same force and effect as of other courts of record and shall be receivable as evidence in like manner.

(Ch. 651, 1907.)

Stenographic reporter. SECTION 2523—18. The judge of any special municipal court shall in all actions in which the parties stipulate therefor and may in other cases upon his own

motion call in a stenographic reporter to take the testimony in such action or proceeding, and may file the said reporter's notes in lieu of the minutes of the testimony required by law to be taken in courts of justices of the peace. Whenever a stenographic reporter shall be called in for any trial or hearing such reporter shall receive for the time actually employed in open court in said cause four dollars for each day and two dollars for each one-half day, and when a transcript of the testimony taken may be required on appeal five cents per folio for such transcribing; and in case such reporter is called in the judge of said court shall not be entitled to receive the fees provided for the taking of such minutes in courts of justices of the peace, but in lieu thereof shall receive for each day actually engaged in the trial of said cause the sum of five dollars and for each one-half day the sum of three dollars. Such sums for per diem and for such transcript when required shall be taxed as costs in any such action or proceeding.

(Ch. 651, 1907.)

Attorneys' fees. SECTION 2523—19. In all civil actions and special proceedings in any such special municipal court attorney's fees shall be taxed and allowed on all judgments of the sum of one hundred dollars or less in a sum equal to ten per cent. of the judgment, and on all judgments over one hundred dollars ten per cent. on the first one hundred dollars and five per cent. on such sum as may be in excess thereof, but providing that the total amount that may be so taxed and allowed shall not in any case exceed twenty-five dollars.

(Ch. 651, 1907.)

Judge's salary and fees. SECTION 2523—20. Except as otherwise provided herein, the judge of a special municipal court shall have and receive and is empowered to tax in any cause the same fees allowed by law to justices of the peace, and in addition thereto shall receive such salary as may be fixed by the county board of supervisors, provided that said board may by resolution require the payment of all such fees to such county and that such judge shall receive only such salary as said board may determine.

(Ch. 651, 1907.)

Annual accounting of fees. SECTION 2523—21. The judge of every special municipal court in this state shall at the time

and in the manner provided by section 679 and section 680 of the statutes, file with the county clerk of the county, wherein his said court shall be, a full and complete statement of all fees collected by him in all actions and proceedings, civil and criminal, had before him during the preceding year and further make and file full and complete statements as required by said sections; and no such judge who shall neglect to make and file such statements within the time and as above provided shall receive any compensation from such county for his services
(Ch. 651, 1907.)

Petit jurors: drawn names discarded, when: SECTION 2533b. 1. Such commissioners shall provide from time to time, as may be necessary, one list of names to be drawn from the body of the county to serve as jurors in each of the courts specified in the preceding section; and in making such lists shall put thereon only the names of such persons as they believe to be possessed of the qualifications prescribed in sections 2524 and 2530. The number of names to be placed on such lists shall be determined by the judges of said several courts from time to time by order filed in the office of the clerk of the circuit court. Such lists shall be furnished by said commissioners to the clerks of the respective courts, who shall write the names thereon on separate slips of paper, each in the same manner as near as may be, and fold each slip so that the name shall not be visible, and deposit said slips in a box, containing but one compartment, in the presence of said commissioners, from which they shall be drawn in the following manner, viz:

2. At least fifteen and not more than thirty days before the sitting of either such court at which a jury is required to attend, the clerk thereof shall, in the presence of said commissioners, proceed to draw the names of thirty-six jurors from said box to serve as petit jurors in said court; such names, as they are drawn, shall be entered upon a suitable record book to be kept by said clerk, and a list of the names so provided shall be kept by him and a separate list thereof by at least one of the commissioners. *If the name of any person known to be no longer liable to jury duty in said county be drawn, such name shall be cast out and the name of another juror drawn to take his place.*

3. No advertisement of the time and place of drawing need be given, but the clerk shall fix the date of drawing and give five days' notice thereof to each commissioner.