

No. 845, A.]

[Published March 26, 1909.]

CHAPTER 18.

AN ACT to establish a municipal court at the city of Kenosha, in and for the county of Kenosha.

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

SECTION 1. There is hereby created and established in the county of Kenosha, state of Wisconsin, a court to be known and designated as the "Municipal court of Kenosha county," having the powers and jurisdiction hereinafter specified and provided, and presided over by a judge to be known as the "Municipal Judge."

SECTION 2. The municipal court of Kenosha county shall be a court of record and have a clerk, and a seal with a suitable device to be procured under the direction of the judge thereof.

SECTION 3. The municipal court of Kenosha county shall have and exercise powers and jurisdiction concurrent with and equal to the circuit court of Kenosha county in bastardy cases and in all cases of crimes and misdemeanors arising in said county, wherein the maximum penalty does not exceed five years in the state prison.

SECTION 4. Said municipal court shall have and exercise powers and jurisdiction in all civil actions and special proceedings within the county of Kenosha in law and equity, concurrent with, and equal to the jurisdiction of the circuit court for Kenosha county, where the value of the property in controversy, or the amount of money claimed or sought to be recovered, after deducting all payments and set-offs, shall not exceed five thousand 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 exceed that sum.

SECTION 5. The judgments and orders of said municipal court in civil and criminal actions, except such as would otherwise be cognizable by justices of the peace, may be reviewed by the supreme court in the same manner that judgments and orders of circuit courts may be.

All judgments in civil actions, except such as would otherwise be cognizable by justices of the peace, rendered in said municipal court and docketed, as prescribed by law, in the office of the clerk of said court, shall for a period expiring ten years from the date of the rendition thereof, be a lien upon the real property

in said county of Kenosha except the homestead mentioned in section 2983 of the statutes of Wisconsin, of every person against whom such judgment shall be rendered and docketed, and which he may have at the time of docketing thereof in said county of Kenosha or which he shall acquire at any time thereafter within said period of ten years. Such judgments shall have the same force and effect and be subject to the same limitations as judgments of the circuit court and said judgments shall be enforced and executions thereon be issued from said municipal court in the same manner and with the same force and effect as judgments and executions of and from the circuit court of Kenosha county.

SECTION 6. The municipal judge, in addition to the powers vested in said municipal court, as aforesaid, shall have all the powers and jurisdiction of a justice of the peace in said county in all civil and criminal actions and proceedings, and the power to hear and determine any such cases although the title to land may come into question therein, and shall have power to hold preliminary examinations in criminal cases; and shall have exclusive jurisdiction of all prosecutions for breach of the charter and of any ordinance of the city of Kenosha, and in the trial of criminal actions for offenses committed within said city which would otherwise be cognizable by justices of the peace, subject to an appeal to the circuit court for Kenosha county from any judgments or orders made in such actions. Said judge and the several circuit court commissioners shall have exclusive jurisdiction to institute and conduct examinations in all criminal and bastardy cases arising within the county of Kenosha, and the power and jurisdiction to cause to come before him or them the persons so charged with committing bastardy or any criminal offense, within such county and commit them to jail or bind them over for trial at the next term of said municipal court or to the circuit court as the case may require, and 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.

SECTION 7. All examinations, recognizances and commitments from or by said municipal judge or other examining magistrates of said county of Kenosha in bastardy cases, and in all criminal cases wherein the maximum penalty does not exceed five years in the state prison shall be certified and returned to such municipal court instead of to the circuit court for said county of Kenosha, within the time prescribed by law, and the attendance of witnesses required upon the trial of any person so committed shall be secured in the same manner as provided by law in the

circuit court, and all such cases shall thereafter be proceeded with and tried in said municipal court, as provided by law in similar cases in circuit courts.

SECTION 8. Appeals from judgments of justices of the peace in said county may be taken either to such municipal court or to the circuit court of Kenosha county, and when so taken to said municipal court shall be heard and disposed of in accordance with the rules and practice of the circuit court of Kenosha county.

SECTION 9. The general provisions of law which may at any time be in force relative to circuit and justices' courts, and actions and proceedings therein, in civil and criminal cases, shall apply also to said municipal court unless inapplicable and except as otherwise provided in this act; and the rules of practice prescribed or which may hereafter be prescribed by the justices of the supreme court for circuit courts, shall be in force in said municipal court; said court may make rules of practice which shall conform as nearly as applicable to the rules of practice of circuit courts, but the laws of the state relative to change of venue in criminal actions which have heretofore been within the jurisdiction of justices of the peace shall not apply to said municipal court or to the judge thereof. Court commissioners in said county shall have the same powers and be subject to the same duties in respect to actions and proceedings in said municipal court as in the circuit court.

SECTION 10. The provisions of law applicable to change of venue in the circuit courts of this state, shall be applicable to said municipal court, except that when the venue of any action shall be so changed, it shall be changed to the circuit court of Kenosha county, and such change of venue shall not prevent the granting by said circuit court of a further change of venue as provided in section 2622 of the statutes of this state, provided, however, that nothing herein contained shall be construed as abrogating the right to the change of venue provided for by section 2621 of the statutes of this state and when such change of venue shall be made it shall be by said municipal court direct to the proper county for the trial of the action, and provided further that section 2625 of the statutes of this state so far as applicable shall apply to said municipal court and that the judge thereof shall have the right to call upon a circuit judge to attend, hold court and try such action and while so doing he shall have the same powers as if elected judge of said municipal court. If any person charged upon indictment or information with a criminal offense shall have procured a change of venue to the circuit court of Kenosha county, said municipal court shall com-

mit or hold the party to bail to appear at the next term of the circuit court, and the clerk of said municipal court shall transmit all papers and a copy of the record and proceedings in said case properly certified to be such under the seal of said court, to the said circuit court, which shall then have full jurisdiction of the action. 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 been originally certified and returned thereto.

SECTION 11. The qualified electors of the county of Kenosha shall, on the first Tuesday of April, 1909, and on the same day of the same month each four years thereafter, elect a suitable person to the office of judge of said municipal court, to be called municipal judge, who shall hold his office for the term of four years from the first Monday of January next succeeding his election, and until his successor is elected and qualified, and who may be removed from office in the manner provided by the constitution of this state for the removal of the judges of the supreme and circuit courts; provided, however, that for the first election under this act, it shall not be necessary to give more than eight days' notice thereof. The municipal judge who shall have been elected in the year 1909 as aforesaid, shall, in addition to the term for which he is elected as aforesaid, hold his office from the first Monday of May, 1909, to the first Monday of January, 1910. Whenever a vacancy shall happen in the office of municipal judge, the governor of the state of Wisconsin shall appoint a suitable person, duly qualified, to fill such vacancy until a successor is elected and qualified. Elections to fill vacancies for the residue of the term shall be held and notice thereof shall be given in the same manner as for the election of county judges. Such judge shall be an attorney at law, admitted to practice in the courts of this state; shall receive no fees of office or compensation other than his salary. He shall have the qualifications, be subject to all the liabilities, prohibitions and restrictions of circuit judges, and may exercise the powers of circuit judges except as herein provided. Such judge before entering upon the duties of his office shall take and subscribe the oath of office prescribed in the constitution, and file the same in the office of the county clerk of the county of Kenosha. The salary of such judge shall be two thousand dollars per annum until otherwise fixed by the county board, which shall be paid to him monthly by the county treasurer of said county, and while he holds the office of municipal judge he shall not practice his profession.

SECTION 12. In case of sickness, temporary absence or dis-

ability of said judge he may, by order in writing, filed and recorded in said court, appoint either the county judge of said county of Kenosha or a justice of the peace of said county to discharge the duties of said judge during such sickness, temporary absence or disability, who shall have all the powers of said judge while administering such office, except in the trial of informations, appeals and actions beyond the jurisdiction which is conferred upon justices of the peace by law, and when a justice of the peace is so appointed he shall be paid for his services by said judge. In all other cases any circuit judge or the judge of the county court, may hold court as the judge of said municipal court in case of the absence, sickness or other disability or upon the request of the judge thereof, and while so doing he shall have the same powers as if elected judge of said court.

SECTION 13. The judge of said municipal court shall appoint a suitable person to the office of clerk of said municipal court who shall hold his office during the pleasure of said judge and until his successor is appointed. Said clerk shall be a phonographic reporter skilled in the art of shorthand reporting.

Said clerk and reporter shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed in the constitution, and file the same in the office of the county clerk of Kenosha county, and shall also execute and deliver to said county clerk a bond with sufficient sureties, to be approved by the chairman of the county board of said county and the mayor of the city of Kenosha, conditioned that he will account to and pay over to the city treasurer of said city, and to the county treasurer of said county, all fines and penalties and other moneys belonging to the treasury of the city or county of Kenosha, and will pay over all moneys which shall come into his hands by virtue of his office as clerk, to the persons entitled to the same, and perform all of the duties of his office as required by law. Said clerk shall keep justice dockets for civil and criminal actions heretofore cognizable by justices of the peace, and shall also keep a record book, a criminal record, a judgment book, a lien docket and a minute book, in the manner and form now in use in the circuit courts of this state and containing the entries as provided by law in section 742, of the statutes of the state of Wisconsin. He shall have the care and custody of all books, papers and records of the courts; he shall be present at all trials, and may administer all necessary oaths. He shall keep the minutes of all proceedings, issue the commitments and executions and enforce the same, and make up and keep the record of the court in all cases therein, under the direction of the

judge. He shall issue all processes excepting summons in civil actions, under his hand and the seal of the court and teste them in the name of the judge, signing them by his title of office, and tax the costs, including one dollar for state tax, in the cases required by law; provided always that the summons in civil actions may be issued and served in the same manner as in actions commenced in the circuit court. He may take bail from persons arrested, when court is not in session, subject to the revision of the court, and shall under the direction of the judge perform all other acts necessary to carry out the jurisdiction herein given to said court. He shall procure all necessary supplies for the use of said court, and perform all ministerial acts required of him by and under the direction of said court. He shall render an account to the county treasurer quarterly, which shall be so itemized as to show the fines, penalties and officers' fees in each case, and in criminal cases a brief statement of the character of the prosecution and the judgment of the court. He shall receive a salary of nine hundred dollars per annum, until otherwise fixed by the county board, payable monthly out of the county treasury. Such salary shall be in full compensation for services and for making such transcripts from shorthand notes as shall be required by the judge. Said reporter shall furnish to parties to actions or their attorney requiring them, certified transcripts at a price not to exceed five cents per folio, and two and one-half cents per folio for copies. He may appoint a deputy, subject to the approval of the judge. The clerk shall be liable for the official acts of his deputy and for his compensation.

SECTION 14. The sheriff of Kenosha county shall be the executive officer of said municipal court, and shall execute all processes issuing out of said court, excepting processes for violation of any provision of the charter or ordinances of the city of Kenosha, excepting summons in civil actions beyond the jurisdiction of the justices of the peace, unless he is ordered to serve the same by the plaintiff thereon or his attorney. He shall be subject to the same rules and liabilities, and have the same powers as provided for by the statutes of this state with reference to the circuit court and courts of justices of the peace. In all matters heretofore cognizable by justices of the peace the constables of said county shall be deemed officers of said municipal court, and in all criminal actions for offenses committed in the city of Kenosha and actions brought for the violation of any provision of the charter or ordinances of said city; the members of the police force of the city of Kenosha shall have the powers and be subject to the liabilities of constables, and for such purpose shall be

deemed officers of said municipal court, but the city of Kenosha shall be entitled to the fees for services so rendered.

SECTION 15. Said municipal court shall be open for business every morning, Sundays and legal holidays excepted, to hear and determine in a summary way, all cases which shall be brought before it by the officers of said city or otherwise, with or without process, for violation of the laws of this state or of any of the provisions of the charter or ordinances of said city, and all cases of crime and misdemeanor arising in said city or county, and which are not indictable: and said court may in its discretion grant such continuances of cases as may be necessary to the ends of justice, with or without bail. In offenses not indictable, the court shall cause to be entered upon the record in a docket kept for that purpose, a statement of the offense of which the accused is charged, which shall stand as the complaint unless the court or judge shall direct a formal complaint to be made, and the defendant's plea shall be guilty or not guilty, which shall be entered by the clerk, and, on failure to plead, a plea of not guilty shall be entered: the plea of not guilty shall put all matters in such case at issue.

SECTION 16. The defendant in every criminal action or bastardy proceeding, pending in the municipal court sitting as a court of record, may waive a trial by jury by notice in writing filed with the clerk in said court or by waiver in open court and entered in the clerk's minutes.

SECTION 17. Said municipal court shall hold regular terms, commencing on the first Monday of the months of January, April, July and October of each year, but no jurors shall be summoned to attend upon any term of said court unless it shall appear to the satisfaction of the judge that a jury panel is necessary. Jurors shall be chosen for each term of said municipal court by the same persons and in the same manner as jurors in the circuit court, and all provisions of law, rules and practices relating to the selection, qualifications, duties and compensation of jurors in the circuit court shall be applicable to said municipal court, except as hereinafter provided.

SECTION 18. The jury commissioners appointed by the circuit judge for Kenosha county shall at the meetings for drawing the jury for the March and September terms of each year for the circuit court for Kenosha county furnish to the clerk of said municipal court a list containing such number of names as the municipal judge shall direct of persons of like qualifications as prescribed for jurors of the circuit court in the same manner that the names are furnished for the drawing of the jurors for the said circuit court. The list so prepared shall be known as

“the county at large list.” The jury commissioners shall also furnish to the clerk of said municipal court a list containing such numbers of names as the municipal court judge shall direct of persons of like qualifications residing within the city of Kenosha. Such list so furnished shall be known as “Kenosha jury list.” Whenever either of the several lists shall from any cause be entirely lacking or shall have become depleted by reason of removals, exemptions or, otherwise, the court may in its discretion require the commissioners to meet and certify new lists or to certify additional names of persons eligible for jury service and the clerk shall forthwith prepare such new lists or enter such additional names on the proper list.

SECTION 19. In all justice court actions tried before the municipal judge in which a jury trial may be had, the jury shall consist of six persons and shall be drawn in the following manner: The clerk if in attendance and if not, the judge shall draw by lot eighteen names from the box containing the names on the “Kenosha jury list.” The jury shall be struck from this list in the same manner as is now provided for in justice court trials, except that instead of summoning talesmen the panel shall be completed by drawing from the same box from which the original list was obtained unless the municipal judge orders the completion of the jury by summoning talesmen. Nothing herein contained shall be construed as denying to the court or judge thereof the power of ordering that any trial jury may be completed by the summoning of talesmen. Examinations of jurors on their voir dire shall be allowed.

SECTION 20. To carry out its jurisdiction the said municipal court shall have all the powers of circuit courts and shall have full power and authority to issue all legal process, proper and necessary to carry into effect the jurisdiction given by law, within the limitations prescribed by said chapter 72 and the amendments thereto.

SECTION 21. All judgments, orders and decrees made and entered in by said municipal court in all actions and proceedings not heretofore cognizable by justices of the peace, shall have the same force, effect and lien, and be executed and carried into effect and enforced, as judgments, orders and decrees made and entered in the circuit court, and all the remedies given, and proceedings provided for the collection and enforcement of the judgments, orders and decrees of the circuit court, shall apply to and be exercised by said municipal court.

SECTION 22. All fines and costs collected by the clerk of said court in all actions for violation of the charter or any ordinance of the city of Kenosha, or any other action in which the city of

Kenosha shall be a party, shall be accounted for and paid by said clerk unto the city treasurer of the city of Kenosha. All fines and costs in every civil action, and in all criminal prosecutions and proceedings under the general statutes of this state, shall be accounted for and paid over quarterly by said clerk unto the county treasurer of the county of Kenosha.

SECTION 23. The fees of the clerk, witnesses, jurors and officers in all cases within the jurisdiction of justices of the peace, shall, except when otherwise herein provided, be the same as they have heretofore been allowed in courts of justices of the peace, and in all actions beyond the jurisdiction of justices of the peace, the fees of the clerk, witnesses, jurors and officers shall be the same as are allowed by law to the clerk, witnesses, jurors and officers in the circuit court of Kenosha county; provided, always, that the fees of said clerk shall in no event exceed the sum of five dollars in all civil actions within the jurisdiction of justices of the peace; and provided, further, that the fees of said clerk in all civil actions beyond the jurisdiction of the justices of the peace shall not exceed the sum of six dollars, exclusive of state tax.

SECTION 24. The costs and fees of the prevailing party in all civil actions shall be taxed and allowed as follows: In actions cognizable by justices of the peace, the costs and fees shall be taxed and allowed in the same amount as would be allowed in case said action had been commenced in the court of a justice of the peace. In all other actions of which said municipal court has jurisdiction, all costs, fees and disbursements shall be taxed and allowed in the same manner and to the like amount as they are taxed and allowed in the circuit court, except as hereinbefore provided.

SECTION 25. It shall be the duty of the mayor of the city of Kenosha and the chairman of the board of supervisors of the county of Kenosha, immediately after the passage and publication of this act, to appoint a commission of three men, one of whom shall be the county purchasing agent of Kenosha county, one an alderman of the city of Kenosha, and one a member of the bar of Kenosha county, who shall have his office in said city of Kenosha. It shall be the duty of said commission forthwith to procure, provide and furnish suitable room or rooms in the city of Kenosha for holding court and for offices of the judge and clerk of said court, as in this act provided; said room or rooms to be managed and paid for as hereinafter provided for.

SECTION 26. The salary of the judge and clerk, and all other expenses necessarily incurred in the maintenance of said court, are hereby adjusted and divided as follows: Two-thirds of

said salaries and expenses of maintenance shall be paid by the county of Kenosha, including the city of Kenosha and the remaining one-third shall be paid by the city of Kenosha. Said salaries and expenses shall, in the first instance be paid out of the county treasury of Kenosha county as hereinbefore provided. At the annual accounting between the city and county of Kenosha, the county treasurer shall furnish unto the proper officer of the city of Kenosha, a detailed statement of the amounts paid out of the county treasury as aforesaid. And it shall be the duty of the said treasurer of the city of Kenosha when said account shall have been rendered and allowed, and he is hereby authorized and empowered, to pay unto the said county treasurer a sum equal to one-third of said expenses.

SECTION 27. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECTION 28. This act shall take effect and be in force from and after its passage and publication.

Approved March 26, 1909.

No. 13, S.]

[Published March 26, 1909.

CHAPTER 19.

AN ACT to amend section 694 of the statutes, as amended, relating to the salaries of county officers.

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

SECTION 1. Section 694 of the statutes, as amended by chapter 376, laws of 1907, is amended by adding thereto a new subdivision to be known as subdivision 7, to read: 7. No county judge shall receive or be allowed to draw any salary, unless he shall first take and subscribe an oath before an officer entitled to administer oaths, that no cause or matter in his court remains undecided that has been submitted for decision for the period of ninety days, exclusive of the time that he shall have been actually disabled by sickness, which affidavit shall be presented to and filed with the county clerk of such county.

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

Approved March 26, 1909.