

railways and property of said company. *The company shall also have, and may, from time to time as the board of directors shall determine, exercise the power conferred upon railroad corporations and public service corporations, by the laws of the state of Wisconsin, in respect to issuing bonds, notes, or other evidences of indebtedness, and, when deemed necessary by the board of directors, securing the same by executing trust deeds or mortgages on any or all of its franchises, railway property, real and personal, and all its estate of every name, kind, and description. Before issuing bonds, notes, or other evidences of indebtedness, the company shall first obtain authority therefor as by statute in such case made and provided.*

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

Approved April 8, 1913.

No. 581, A.]

[Published April 11, 1913.]

CHAPTER 54.

AN ACT to amend sections 3, 7, 8, 9, 10, 16, 17, 23, 24, 26, 27, 29, 30, 32, 33, 35, 36, 37, 42, 43, 44, 45, 48, 49, 51, 53, 54, 55, 60, 64, 67 and 79 of chapter 23 of the laws of 1907, as amended by chapter 195 of the laws of 1909 and chapters 73 and 257 of the laws of 1911, and to repeal section 25 of said chapter 23, relating to the municipal court of Outagamie county.

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

SECTION 1. Sections 3, 7, 8, 9, 10, 16, 17, 23, 24, 26, 27, 29, 30, 32, 33, 35, 36, 37, 42, 43, 44, 45, 48, 49, 51, 53, 54, 55, 60, 64, 67 and 79 of chapter 23, laws of 1907, as amended by chapter 195 of the laws of 1909 and chapters 73 and 257 of the laws of 1911, are amended to read: (Chapter 23, laws of 1907, as amended by chapter 195 of the laws of 1909 and chapters 73 and 257 of the laws of 1911). 3. Said municipal court shall be held at the courthouse in the city of Appleton, 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 judge shall have power and authority to adjourn the trial of any action or proceeding or any criminal or other examination to any other place in said county when, in his opinion, the costs of said action or examination will be materially lessened thereby or the convenience of parties to the action materially bettered.

7. The municipal 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 Outagamie county, and shall execute to said county a bond in the penal sum of two thousand dollars, with two sureties to be approved by the treasurer 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 the faithful and prompt application and payment of all moneys and effects which may come into his hands in the execution of the duties of his office.

8. The municipal judge shall receive a salary of two thousand five hundred dollars per year, payable * * * *monthly* out of the treasury of Outagamie county and the same shall be in full compensation for all his services as such judicial officer; *provided, however, that the county board of said county may from time to time increase such salary by resolution adopted at the annual meeting of such board held next preceding the regular election of such municipal judge.*

9. The municipal court shall be open for business on all secular days except legal holidays and except as the judge thereof may otherwise order. In case of sickness, temporary absence or disability of said judge he may, by order in writing filed and recorded in said court, appoint the county judge *of said county* * * * to discharge the duties of such judge during such sickness, temporary absence or disability, who shall have all the powers of such judge while administering such office. * * * In all * * * cases any circuit judge may hold court as the judge of the municipal court in the event of the absence, sickness or other disability of the municipal judge or upon his special request. In any such contingency the municipal judge may also, by order transfer to the circuit court for Outagamie county any and all circuit court actions and upon the filing of such order with the clerk of the circuit court, such circuit court shall have jurisdiction thereof, and the said actions shall thereafter proceed as if originally brought in the circuit court.

10. While administering the duties of the judge of the municipal court, the circuit judge *or* county judge * * * shall have the same powers as if elected municipal judge, and at such time shall sign all papers, processes and records as "A. B., Circuit Judge or County Judge * * * (as the case may be), and Acting Municipal Judge."

16. The salary of such reporter shall be seven hundred dollars per year, payable *monthly* from the county treasury on the certificate of the clerk of said court, which shall be in full compen-

sation for such services and including the making of such transcripts from shorthand notes as may be required by said judge, and also the transcript of the testimony taken in any criminal examination or bastardy proceeding, where the defendant is bound over for trial, and in criminal actions appealed to the circuit court; *provided, however, that the county board of said county may at any session thereof, by resolution, increase such salary.*

17. Every reporter shall, upon the request of a party to any action, transcribe in longhand the evidence or other proceedings taken by him in such action, or any part thereof as requested, and duly certify the same to be a correct transcript thereof, and for * * * *the original transcript and not to exceed two carbon copies thereof, as requested,* he shall be entitled to receive and collect from the party requesting the same the sum of * * * *ten cents per folio, * * * and two and one-half cents per folio for * * * each additional copy.*

23. The municipal judge shall have exclusive original jurisdiction to hear, try and determine all criminal actions arising within *said county* * * * which would otherwise be cognizable by justices of the peace, including also proceedings to prevent the commission of crime, * * * and excepting * * * that such jurisdiction in tramp cases shall be exclusive only within the city of Appleton and concurrent elsewhere.

24. 1. Said judge shall have exclusive jurisdiction to institute and conduct examinations in all criminal and bastardy cases arising within * * * *said county* and the power and jurisdiction to cause to come before him the persons so charged with committing bastardy or criminal offense, * * * and commit them to jail or bind them over 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 * * * *such offense* * * * .

2. *Such jurisdiction as may have been heretofore conferred upon other courts or magistrates by the provisions of any special charter or general law of this state is repealed in so far as the same may be in conflict with this and the preceding section.*

* * * 3. The said municipal court shall have and exercise powers and jurisdiction equal and concurrent with the circuit court of Outagamie county in all cases of crimes and misdemeanors arising in said county, except the crimes of murder and manslaughter.

26. Said judge shall have exclusive original jurisdiction of prosecutions for the violation of the ordinances and charter pro-

visions of the city of Appleton, and concurrent with justices of the peace in prosecutions for the breach of the ordinances and charter provisions of the several other cities and villages throughout the county * * *

27. * * * In case of bastardy, felony or any misdemeanor except assault, assault and battery, abusive language, drunkenness, malicious trespass, violation of the Sunday law and of the excise laws, if the complaining witness shall make and file with any * * * justice of the peace or circuit court commissioner a written statement, verified under oath before such officer, that he verily believes the person charged with an offense contemplates an escape beyond the jurisdiction of the court and that any delay in the issuance of the warrant, such as would be necessitated by requiring such witness to travel to the seat of said municipal court to make his complaint, would be dangerous, then and in such cases such justice of the peace or circuit court commissioner may, on a proper complaint, issue a warrant for the arrest of the person complained of and made returnable before the municipal judge at his office in the courthouse in the city of Appleton, and when so doing the officer issuing the warrant shall cause the complaint and the verified statement herein provided to be made to be filed, forthwith, in the municipal court.

29. The municipal court shall have and exercise powers and jurisdiction in all civil actions within the county, both in law and in equity, including actions for divorce and the annulment of marriages, concurrent with and equal to the powers and jurisdiction of the circuit court of Outagamie 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 ten thousand dollars, and also of all actions for the foreclosure of mortgages or in proceedings under chapter 143, of the statutes * * * in which the amount claimed does not exceed the sum aforesaid, although the value of the property to be affected by the judgment exceeds that sum, and shall also have and exercise powers and jurisdiction within said county concurrent with and equal to the powers and jurisdiction of the said circuit court in certiorari proceedings, actions brought for breach of any recognizance given in said court and of all actions and proceedings under chapters 142, 145, 147, 148, 149, 150 and 153 of the statutes * * *. In actions for divorce the said court shall have and exercise unlimited powers and jurisdiction respecting property rights therein involved.

30. All examinations, recognizances and commitments from or by * * * the municipal judge, in bastardy cases and in all criminal cases except murder and manslaughter shall be certified

and returned to the municipal court instead of to the circuit court of said county, within the time prescribed by law, and the accused, the complainant, and all other witnesses required to attend shall, in like manner as now provided by law, be committed to be brought or recognized to appear before the municipal court on a day certain, which shall not be more than thirty * * * days from date of such commitment or recognizance, and the said municipal court shall have and exercise all the powers and jurisdiction of the circuit court to hear, try, and determine said bastardy and criminal cases, and to punish for contempt.

32. The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to the municipal court except as herein provided and except that when the venue of an action shall be so changed it shall be changed to the circuit court of Outagamie county, and such change of venue shall not prevent the granting by said circuit court, in its discretion, of a further change of venue as provided in section 2622 of the statutes * * * ; 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 * * * . and when such change of venue shall be made it shall be by the municipal court direct to the proper county for the trial of the action; and provided, further, that section 2625 of the statutes * * * , so far as applicable, shall apply to the 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 power as if elected judge of the municipal court.

33. No change of venue shall be allowed as of course in any civil or criminal action appealed from justice court to the municipal court, except as provided for by section 2624 of the statutes * * * .

35. In any civil or criminal action pending in the municipal court on appeal from justice court, or in any such action or any preliminary examination or proceeding pending before the municipal judge while sitting as a justice of the peace or as an examining magistrate, if it shall appear by affidavit that the municipal judge is pecuniarily interested in the action, examination or other proceeding, or is a material witness, or is within the forbidden degree of consanguinity, or from prejudice will not decide impartially in the matter, he may, in his discretion, in like manner and with like effect as provided by section 9 of this act, call in the circuit judge or county judge * * * to try the said action or take such examination, and while so doing or

proceeding the provisions of said section 9 of this act shall apply in all their force * * *.

36. A change of venue in any civil action or proceeding pending before any justice of the peace of the city of Appleton or the city of Kaukauna may be taken to the municipal court at any time before going to trial in the manner provided by sections 3616 and 3617 of the statutes * * *, without regard to whether the judge thereof is the next nearest officer qualified by law to try the cause, provided either party to the action shall, before the transmission of the papers, by himself or attorney, in writing demand that said action be removed to the municipal court, in which case the justice shall forthwith transmit the papers to the municipal court and the action shall proceed in like manner as if originally commenced in the municipal court. When any such change of venue shall be taken from a justice court in the city of Kaukauna, * * * the papers shall be sealed and delivered to the party commencing the action or his attorney to be forthwith delivered to the said municipal court.

37. A change of venue may be taken from a justice court or the court of any examining magistrate in the city of Kaukauna, to the municipal court in any criminal action or examination on the application of either party in person or by attorney at any time * * *. A change of venue may * * * be taken from any other justice court in the county to the municipal court, in any civil * * * action or proceeding upon consent of both parties or their attorneys, and when so taken proceedings shall thereafter be had in the municipal court in like manner as if originally commenced therein. * * *

42. From the fifteenth to the thirtieth days of April in each year, the supervisor elect for each ward in the city of Appleton shall make and return to the clerk of the municipal court, on blanks furnished for that purpose, a list of not less than twenty-four or more than thirty electors from their respective wards in said city, eligible to serve as jurors in said court for the ensuing year; * * * and within the same time the chairman of each town and the supervisor from each village and the several wards of the other cities in said county shall each make and return similar lists of not less than four or more than six electors from their respective precincts for such service. Failure to file such lists or to file the same in the period limited shall work no error, and the municipal judge may in his discretion, order the delinquent lists to be made and filed forthwith, and the wilful failure of any such officer to comply with the foregoing provisions or the order of such judge may be punished as a contempt.

43. On the first secular day of May of each year, or as soon

thereafter as the municipal judge may order, the clerk of said court shall, in open court, draw by lot thirty-six of the names certified from the city of Appleton * * *, and the names so drawn together with those certified from the other cities and the several towns and villages in the county shall be written out at length on one list and filed by the clerk in said court, and the same shall constitute the "County-at-Large Jury List." The remaining names certified from the city of Appleton shall constitute the "Appleton Jury List," and * * * said * * * list shall be written out at length and filed as above.

44. Any juror on the lists made up exclusively of electors of the * * * city of Appleton * * * who shall remove from said * * * city and any juror on the "County-at-Large Jury List" who shall remove from the county shall have his name stricken from the lists and withdrawn from the box in which it has been placed, upon the order of the court, and the name of any juror on either list who shall be entitled to and claim his exemption from jury service shall likewise have his name stricken from such list and withdrawn from the box.

45. Whenever either of the several lists shall have become depleted by reason of removals, exemptions or otherwise the court may in its discretion require the proper town chairman * * * and supervisors to certify such additional names of persons eligible for jury service as will complete the full quota from each such town, city or village entitled to members on such lists, and the clerk shall forthwith enter such additional names on the proper list.

48. If the defendant in any criminal action in the municipal court except prosecutions for violations of section 4587c of the statutes * * * at or before the time of pleading to the information and in any bastardy proceeding within ten days after filing of the return shall serve and file a written demand for a trial by a jury from the county at large the case shall be so tried, except as herein otherwise provided.

If either party in any civil action commenced originally in the municipal court sitting as a court of record, and which is triable before a jury, within ten days after joining issue shall serve and file a written demand for a trial by jury from the county at large it shall be so tried except as herein otherwise provided.

49. Unless a jury is waived or demand made as provided in the preceding section and in all civil and all criminal actions on appeal from justice court and triable before a jury and in prosecutions for violations of section 4587c of the statutes * * * the same shall be tried before a jury empaneled as follows:

At least two days before the day fixed for trial, unless other-

wise ordered by the court, the clerk shall draw in the presence of the court the names of forty persons from the box containing the names of the "Appleton Jury List." 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 twelve names. When all strikes have been made a venire shall be issued for the persons whose names remain 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. The jury so struck shall be called in the order they appear upon the venire, and the first twelve who shall appear and are not challenged for cause, set aside or excused by the court shall be the jury. If less than twelve of the jurors appearing remain upon the list, the jury shall be completed as follows: The clerk shall as before draw from the box three times as many names as shall be sufficient to complete the panel, and each party shall in like order strike an equal number of names until the number remaining shall fully complete the panel of twelve.

51. 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 from the box containing the names on the "Appleton Jury List" * * * eighteen names and make a list thereof. 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.

53. The judge of said court shall be empowered to set certain dates, not more than four in each year, when regular terms of court will be held, at which time he will take up for trial in the order of issue joined and without notice of trial being served, all jury cases undisposed of wherein a trial by a jury from the county at large shall have been demanded as above provided. *In case the judge of said court does not designate a term or terms of court, then and in that event, each term of said court commences May first each year and ends April 30th following.*

54. At least six days prior to the time set for any such term the clerk of said court, in the presence of the judge, shall draw by lot from the box containing the names on the "County-at-Large Jury List," * * * *thirty-six* jurors for such term, and shall issue a venire to the sheriff of Outagamie county to summon them as such.

Upon the trial of all such cases at term time, the trial jury shall be drawn and empaneled as in the circuit court.

55. The court may in its discretion for good cause shown allow a trial by a jury from the county at large or at term time, in appeal cases from justice court, prosecutions for violation of section 4587c of the statutes * * * , and in those cases where the parties have failed to make a demand therefor as hereinbefore required.

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.

In all prosecutions in the municipal court for a breach of the ordinances or charter provisions of any city or village, such city or village shall be entitled to a trial by jury and shall not be required to advance the jurors' fees.

60. In any action proceeding according to justice court procedure, if the defendant shall at the time and in the manner provided by sections 3619 and 3620 of the statutes * * * make an affidavit that the title to land will come in question, and give a bond of the amount and form there provided, conditioned that if on the trial judgment be rendered against him on such issue of title, he will pay such judgment, the case shall thereafter proceed in said court according to the same procedure as if it were removed on such issue and bond to the circuit court.

64. The municipal judge may sign in blank, any summons, writ or other process common to the practice in civil actions in justice court, and deliver the same to attorneys of courts of record to be issued by them as occasion may require, substantially in the manner provided by section 3594 of the statutes * * * . The attorney issuing the same shall within twenty-four hours thereafter file with the municipal court 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 process, the time when the same is returnable and the nature of the demand or claim, upon which the judge of said court shall forthwith docket said case, and which docket entries shall have the same force and effect as if made at the time of issuing the summons, writ or other process.

67. The provisions of sub-division * * * (4) of section 3775 of the statutes * * * shall apply to similar actions tried in the municipal court according to justice court procedure, except that where the judgment is in excess of two hundred dollars the municipal judge shall tax as costs an additional sum for attorney's fee equal to five per cent of such excess.

79. Nothing in this act contained shall be construed as in any-

wise affecting the right of jurisdiction of any court, judge, justice of the peace or other magistrate over any action or proceeding commenced before or pending on the first day of May, A. D. 1907, nor in anywise affecting any action or proceeding now pending in said court.

SECTION 2. Section 25 of chapter 23 of the laws of 1907 is repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved April 10, 1913.

No. 275, A.]

[Published April 11, 1913.

CHAPTER 55.

AN ACT to create section 1670n of the statutes, relating to the purchase of certain crops and the manner of weighing and paying therefor.

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

SECTION 1. There is added to the statutes a new section to read: Section 1670n. 1. Any person, firm or corporation transacting business in this state that shall enter into any contract for the purchase of any crop that is not ready for immediate delivery shall in all cases weigh, or cause to be weighed, the crop so purchased, at or before the time such crop is delivered to the purchaser, or to a common carrier at the direction of the purchaser for shipment, and every such person, firm or corporation shall ultimately make payment in full for all of the crop so purchased according to the weight so ascertained and at the price or amount specified in the contract, without regard to the quality or condition of such crop or portions thereof at the time of delivery, unless any inferior quality or unsound condition of such crop shall be due to the negligence or wilful act of the vendor, subsequent to such purchase, and in case any purchaser shall fail or refuse to comply with his contract as provided in this section, the vendor, in any action prosecuted by him to recover for any crop sold to such purchaser, shall recover as damages for such failure or refusal, double the contract price of such crop at the weight thereof when ready for delivery and offered to or accepted by the purchaser.

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

Approved April 10, 1913.