

caucus committee of three and nominate candidates for the different town and village offices. Each caucus committee shall give at least five days' written notice of the time and place of holding the caucus next following their election, such notice to be given either by publishing a copy thereof in some newspaper published in such village or town or by posting copies of such notice in at least five public places. The two candidates for each office at such caucus who receive the highest number of votes shall be certified by the caucus officers to the town or village clerk together with the number of votes cast for each and the names of such candidates shall be placed on the official ballot. Provided, that if the vote of the candidate receiving the second highest vote for any office at such caucus is not at least one-fifth as great as that of the candidate for the same office receiving the highest vote, or if the candidate receiving the second highest vote for any office at such caucus files with the town or village clerk within five days of the holding of the caucus a request that his name be not printed on the ballot, then only the name of the candidate receiving the highest number of votes shall appear thereon. A tie vote shall be determined by lot.

SECTION 3. This act shall take effect upon passage and publication.

Approved May 15, 1919.

No. 128, S.]

[Published May 19, 1919.

CHAPTER 183.

AN ACT to amend sections 3047, 4031, 4032, 4033, 4035, 4037, 4038, 4040 and 4041, to renumber section 4034 to be subsection 2 of section 4033; to create a new section to be numbered 4034 and to create sections 4043a, 4043b and 4043c of the statutes, relating to appeals and writs of error from county courts, jury trials in county courts and change of venue from county courts to circuit courts.

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

SECTION 1. Sections 3047, 4031, 4032, 4035, 4037, 4038, 4040 and 4041 of the statutes are amended to read: Section 3047. Appeals to the supreme court may be taken from the circuit courts and also from the county courts * * * *in counties having a population of over fifteen thousand* except in cases where express provision is or may be made by law for an appeal to the circuit court, from such county courts and from any court of record having civil jurisdiction when no other court of appeal

is provided by law. Appeals may be taken from interlocutory judgments, subject to the same limitations as from final judgments.

Section 4031. 1. *In counties having a population of fifteen thousand or less, in all cases not otherwise provided for any executor, administrator, guardian, trustee or any person aggrieved by any order, judgment, decree, determination or denial of the county court may appeal therefrom to the circuit court for the same county by filing a notice thereof with said county court within sixty days from the date of the act appealed from, together with such undertaking as is required in subsection 1 of the next section.*

2. *In counties having a population of over fifteen thousand, in all cases not otherwise provided for, any executor, administrator, guardian, trustee, or any person aggrieved by any order, judgment, decree, determination or denial of the county court shall have the right to have the same reviewed by writ of error or appeal from the county court to the supreme court.*

3. But no appeal shall be allowed from the action of
* * * any county court in allowing or disallowing any claim unless a part thereof in dispute amounting to at least twenty dollars shall have been allowed or disallowed. The appeal of any child from an order of adoption may be taken by any person on his behalf. In all other cases the appeal of any minor may be taken in and prosecuted in the name of the general guardian of such minor or by a guardian ad litem appointed generally or for that purpose.

Section 4032. 1. *In counties having a population of fifteen thousand or less, the party appealing, other than an executor, administrator, guardian, trustee or alleged insane or incompetent person, shall, at the time of filing notice of appeal and before his appeal shall be effectual for any purpose, file with the county court an undertaking in such sum and with such surety as the judge thereof shall approve, to the effect that he will diligently prosecute his appeal to effect and pay all damages and costs which may be awarded against him on such appeal; but no bond shall be required of nor costs awarded against any child, or person acting in behalf of a child, on an appeal from an order of adoption.*

Section 4033. 1. *In counties having a population of fifteen thousand or less, the appellant shall give notice of the appeal to such adverse party, and in such manner as the county court shall direct within ten days after taking the same, and the county judge shall, within twenty days after the appeal is taken, file in*

the circuit court the record and proceedings appealed from, together with the notice of appeal and undertaking and proof of service of the notice of appeal on the adverse party, according to the order of the county court.

Section 4035. If any person aggrieved by any act of the county court, * * * (*in counties having a population of fifteen thousand or less*) shall, from any cause without fault on his part, have omitted to take his appeal according to law the circuit court of the same county may, if it shall appear that justice requires a revision of the case, on the petition of the party aggrieved and upon such terms and within such time as it shall deem reasonable, allow an appeal to be taken and prosecuted in like manner and with the same effect as though done seasonably. No such appeal shall be allowed without reasonable notice to the party adversely interested, nor unless the petition therefor shall be filed in the office of the clerk of the circuit court within one year after the act complained of. Whenever the circuit court shall allow or disallow an appeal, as provided in this section, the party aggrieved may appeal to the supreme court.

Section 4037. 1. *In counties having a population of fifteen thousand or less*, the circuit court may reverse or affirm in whole or in part the act appealed from and may render such judgment as may be proper or make such order therein as the county court ought to have made, and may remit the case to the county court for further proceeding in pursuance of the opinion of the circuit court, or may make any order, or take any action therein, or enforce its own judgments, as such circuit court may deem best. *In such counties* in any case appealed to the supreme court such court may remit the same to the county court in its discretion, when no further proceedings are required in the circuit court. In all cases the county court, after such cause is remitted, shall proceed therein as directed by the court remitting the same.

2. *The supreme court upon appeals from county courts having a population of over fifteen thousand shall have the powers upon appeal given by sections 3070 to 3072m, inclusive, of the statutes, relating to appeals from courts of record.*

Section 4038. If the appellant, *in counties having a population of fifteen thousand or less*, shall fail to prosecute his appeal with reasonable diligence the circuit court, on the motion of any person interested in the case, shall dismiss the appeal or affirm the judgment or act appealed from, as such court shall deem just, and may allow costs against the appellant; and when such appeal is from the disallowance of any claim such claim shall be forever barred.

Section 4040. When an executor or administrator shall have a claim against the estate which he represents which shall be disallowed and he shall take an appeal therefrom to the circuit or supreme courts notice of such appeal shall be given to all concerned by personal service thereof or by publication under an order of the county court in a newspaper as provided in section 4045, for three successive weeks, the last publication to be at least four weeks before the hearing of the appeal.

Section 4041. In all contested matters proceeding and cases tried before the county court, *excepting in jury trials*, where an appeal lies to the circuit or supreme courts, such county court may award costs, including attorney fees to the prevailing party, in its discretion, to be paid by the other party or to be paid out of the estate which is the subject of the controversy as justice and equity may require; and when costs are allowed they shall be taxed at the same rates allowed for like services in the circuit court; but the attorney fees shall in no case exceed twenty-five dollars and shall be allowed only when an attorney of a court of record appears for the prevailing party. Whenever the county court shall allow costs as provided in this section such court shall enter judgment therefor in favor of the estate or party prevailing in such matter or proceeding and against the losing party in a book to be kept by such court for that purpose, to be called a judgment book. Such judgment shall clearly state in whose favor and against whom the same is rendered and the amount thereof and a list of the items making such amount shall be filed with the papers in the case.

SECTION 2. Section 4034 of the statutes is renumbered to be subsection 2 of section 4033.

SECTION 3. A new section is added to the statutes to be numbered and to read: Section 4034. 1. In counties having a population of over fifteen thousand the time within which a writ of error may be issued or an appeal taken to obtain a review by the supreme court of any order, judgment, decree, determination, or denial of the county court is limited to sixty days from the date of the entry thereof, except as hereinafter provided, and such sixty days shall begin to run immediately from the entry of such order, judgment, decree, determination or denial.

2. Appeals from such county courts to the supreme court must be taken by serving a notice in writing signed by the appellant or his attorney on the adverse party, and on the judge of the county court or the clerk thereof in which the order, judgment, decree, determination or denial appealed from is entered, stating the appeal from the same and whether the

appeal is from the whole or some part thereof, and, if from a part only, specifying the part appealed from, and, in addition thereto, by filing and serving an undertaking, in such sum and with such surety as the judge thereof shall approve, to the effect that he will diligently prosecute his appeal and pay all damages and costs which may be awarded against him on such appeal, or depositing in lieu of such undertaking with the county court a sum of money equal to the amount for which such undertaking is required to be given, and in lieu of the service of such undertaking serve notice of the making of such deposit. Such deposit and notice shall have the same effect as the service of the required undertaking, and be held to answer the event of the appeal upon terms prescribed for the undertaking in lieu of which the same is deposited. Any such undertaking and deposit may be waived in writing by the respondent for whose benefit the same is required to be made, and such waiver shall have the same effect as the giving of the undertaking would have had; provided, that no bond shall be required or costs awarded against any child or person acting in behalf of the child on an appeal from an order of adoption; provided, that no such undertaking or deposit shall be required of any executor, administrator, guardian, trustee, or alleged insane or incompetent person. If the appellant shall succeed in whole or in part, he shall be allowed costs, unless the supreme court in its discretion determine otherwise. The appellant shall give notice of the appeal to such adverse party and in such manner as the court may, within ten days after service of the appeal on the court, direct in writing.

3. The party or attorney in a cause in such county courts may demand and shall be entitled to receive from the judge of such county courts a bill of exceptions and have the same settled in the same manner and under the same restrictions as are now required by law or hereafter to be required in the circuit court by law, or the rules and practice of the circuit court.

4. Upon an appeal being perfected in such county courts, the judge of the county court from which it is taken shall, at the expense of the appellant, cause to be forthwith transmitted to the supreme court the record and proceedings appealed from and the original papers used by each party on the application therefor. The court may, however, in each case direct copies to be sent in lieu of originals. The judge shall also cause to be transmitted the notice of appeal, the undertaking given thereon and annexed to the papers shall transmit a certificate under his hand and the seal of the court from which the appeal is taken, certifying that they are the original papers, or the

copies, as the case may be, and that they are transmitted pursuant to such appeal. No further certificate or attestation shall be necessary.

SECTION 4. Three new sections are added to the statutes to read: Section 4043a. Writs of error to obtain a review by the supreme court of proceedings of the county court, in counties having a population of over fifteen thousand, shall be allowed in such cases, and taken in the manner and in accordance with the provisions of chapter 132 of the statutes, relating to writs of error to the supreme court.

Section 4043b. 1. Jury trials may be demanded and had in county court, in counties having a population of over fifteen thousand, in all issues of fact, in all appealable cases in which a jury trial may be had in similar matters according to the law and practice in circuit courts.

2. In all cases provided in subdivision 1, any person having the right of appeal from the order, judgment, decree, determination or denial of the court may demand that the issue be tried by a jury in the county court, by filing with the court within ten days after notice from the court that the matter is to be contested, a written demand for a jury trial, and paying to the register of probate or the clerk of the county court, the sum of ten dollars to be paid by him into the county treasury.

3. Upon the filing of such demand, and the payment of such sum, the court may order an issue to be framed by the parties within a time to be fixed by the court, and the matter shall be placed upon the calendar as a jury issue to be tried at the next jury term of the county court; provided, however, that the county court may, thereafter, in its discretion, by order transfer the matter or cause, and the record thereof, to the circuit court of such county to be tried therein as provided by law.

4. There shall be held in each of such counties three jury terms of the county court in each year for the trial of jury cases, when there are jury cases ready for trial at such times, as follows: One commencing on the second Tuesday in January; one commencing on the second Tuesday in April; and the other commencing the second Tuesday in October.

5. Jurors and trial juries shall be drawn in the manner provided by sections 2533a to 2536, inclusive, of the statutes except as otherwise provided herein, and trials by jury shall be in the manner provided by sections 2848m to 2861, inclusive, and the rules of the county court; provided, however, that in the county courts having civil jurisdiction jurors and trial juries may be drawn in probate matters and jury terms had in the same manner and according to the same regulations as required by law in civil cases in such courts.

6. The jury calendar shall be prepared by the court as follows: Not more than ten days prior to the jury terms the clerk shall prepare, in the order of their date of issue, a list of cases in which a trial by jury shall have been demanded, and such list shall constitute the jury calendar for such term of the county court. The cases shall be tried in such order, unless continued for cause shown as in circuit court. Unless the court shall otherwise order, every such case so continued and every other case on such jury calendar which shall not be tried or disposed of at said term shall stand continued to the next regular jury term of the said court, and be placed on the jury calendar for such term; provided, that if the party who shall have demanded the jury trial shall ask to have such action continued to the next jury term for any cause, after the commencement of the term for which such action has been placed for trial, such continuance shall be granted only upon payment of ten dollars motion fees unless such party shall waive a jury trial in such proceeding in which case the action shall stand as a trial before the court without a jury, and, provided further, that in case a continuance in any action upon the jury calendar is asked by any other party, the court may grant such continuance and require payment of ten dollars motion fees in its discretion.

7. In all jury cases costs shall be allowed as a matter of course to the prevailing party, the items and taxation of which shall be governed by the statutes relating to costs in circuit court.

8. Any person having the right of appeal from any order, judgment, decree, determination or denial of the county court in cases of trial by jury as provided in subsection one of this section upon filing with the county court a written demand therefor within ten days after notice from the court that a jury trial has been demanded, may have the matter under consideration transferred to the circuit court of the same county to hear, try and determine. Upon the filing of such demand, the judge of the county court shall immediately cause the record and proceedings in the matter to be certified to the clerk of the circuit court of such county, who shall forthwith assign such matter to the judge of the circuit court for trial or other determination. Such matter shall take precedence over other matters not actually on a pending calendar awaiting trial in the circuit court. Costs shall be allowed to the prevailing party in accordance with the laws and rules of the court applicable to the circuit court, and in case the matter is one where the county court has the right to fix the fees or compensation of the attorneys, executors, administrators or guardians, the judge of the circuit court may by

order fix and determine such fees or compensation. The circuit court may render such judgment as may be proper, or make such order therein as the county court ought to have made and may remit the case to the county court for further proceedings, in pursuance of the opinion of the circuit court, or may make any order or take any action therein or enforce its own judgment as the circuit court may deem best. In all cases the county court, after such cause is remitted, shall proceed therein in accordance with the determination of the circuit court. The right of appeal from the determination of the circuit court to the supreme court shall be governed by the provisions of chapter 132 of the statutes.

Section 4043c. In all matters not otherwise provided for, relating to appeals from county courts to the supreme court, and jury trials in county courts, the law and rules of practice relating to circuit courts shall govern and control.

SECTION 5. This act shall take effect on and after Sept. 1, 1919.

Approved May 15, 1919.

No. 147, A.]

[Published May 19, 1919.

CHAPTER 184.

AN ACT to create section 1494—12a of the statutes, relating to the sale of concentrated commercial feeding stuff, and providing a penalty.

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

SECTION 1. A new section is added to the statutes to read: Section 1494—12a. It shall be unlawful for any manufacturer, company, or person to sell, offer, or expose for sale, or for distribution in this state any concentrated commercial feeding stuff as defined in section 1494—11 used for feeding farm live stock, which shall contain any weed seed in which the germ of life has not been destroyed by grinding, crushing or otherwise. Any manufacturer, company or person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars. This section shall not be deemed to make unlawful any sale by a retailer, who was not able, by reasonable diligence to ascertain before such sale, the presence in any such material sold of such obnoxious seed.

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

Approved May 15, 1919.