

No. 171, A.]

[Published June 9, 1951.

CHAPTER 300.

AN ACT to repeal chapter 209 of the laws of 1927, chapter 63 of the laws of 1935 and chapter 404 of the laws of 1937, relating to the county court of Eau Claire county; and to confer additional jurisdiction and powers and to impose additional duties, as herein provided, on the county court of said county and the branches thereof herein established.

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

PART I**LAWS REPEALED—COURT BRANCHES CREATED**

SECTION 1. Chapter 209, laws of 1927, is repealed.

SECTION 2. Chapter 63, laws of 1935, is repealed.

SECTION 3. Chapter 404, laws of 1937, is repealed.

SECTION 4. For the purpose of this act and in the exercise of the jurisdiction herein conferred upon it the county court of Eau Claire county as to such jurisdiction shall consist of 2 branches. The first branch shall be designated as the "County Court, Circuit Court Branch, Eau Claire County". The second branch shall be designated the "County Court, Justice Court Branch, Eau Claire County". Except as herein provided the trial of all actions in the circuit court branch shall be had in like manner as trials in the circuit court and all provisions of law relating to practice, process, procedure, pleadings, trials and judgments in the circuit court and all provisions of law concerning special proceedings in the circuit court shall be applicable to said circuit court branch. Except as herein provided all provisions of law relating to practice, process, procedure, pleadings, trials and judgments now applicable to justice courts shall be applicable to said justice court branch.

PART II.**CIRCUIT COURT BRANCH**

SECTION 5. All process and pleadings and documents in the circuit court branch shall be entitled "County Court of Eau Claire County, Circuit Court Branch".

SECTION 6. There is hereby conferred on the circuit court branch of said county court jurisdiction concurrent with and equal to the jurisdiction of the circuit court of the county in all civil actions and proceedings in law and in equity wherein the amount claimed, demanded or sought to be recovered does not exceed the sum or value of \$50,000, exclusive of interest, costs and disbursements, including without limitation by reason of enumeration (a) actions properly arising in the county for the foreclosure of mortgages and mechanic liens, in which the amount claimed does not exceed the sum above mentioned, although the value of the property to be affected by the judgment exceeds said sum, (b) actions for divorce or for affirmance or annulment of marriage contracts regardless of the value of the property involved, (c) actions for removing clouds from or quieting the title to real estate, (d) actions for partition of real estate, and (e) proceedings for discharge of mortgages of record; and to the amount and within the limits aforesaid the county court circuit court branch shall be a court of general jurisdiction with the same power and jurisdiction in all civil actions and proceedings, as are now or may hereafter be conferred by law upon the circuit court and are applicable to the circuit court in and for Eau Claire county.

SECTION 7. There is hereby conferred on the circuit court branch of said county court jurisdiction in illegitimacy actions and in all criminal actions and proceedings, except those involving murder and rape, concurrent with and equal to the jurisdiction of the circuit court. All examinations, recognizances and commitments from or by an examining magistrate of the county in illegitimacy actions, and in all criminal actions, shall be returned to the county court or to the circuit court of Eau Claire county in the examining magistrate's discretion, except that the certification and return shall be made to the circuit

court if the defendant so requests. When the county judge is acting as examining magistrate he may make such certification to the county court or circuit court of Eau Claire county except that if requested by the defendant the certification and return shall be to the circuit court. The attendance of witnesses upon the trial of any person so committed shall be secured in the same manner as provided by law in that circuit court, and the county court shall have power to appoint any attorney or counselor to defend a person charged with any offense in the same manner and upon the same conditions as the circuit court may now or hereafter appoint any attorney or counselor to defend persons charged with any offense.

SECTION 8. All actions commenced before a justice of the peace in Eau Claire county where the title to lands will come in question and which were heretofore required by law to be sent and certified to the circuit court may hereafter, at the election of the party making the plea or answer showing that the title of lands will come in question, be sent and certified either to the circuit court or county court of Eau Claire county.

SECTION 9. The circuit court branch, within the limits aforesaid, shall be a court of record, with a clerk and seal, and shall have full power and authority to issue all writs and legal process, proper and necessary to carry into effect the jurisdiction conferred by this chapter and laws of this state, and to carry out such jurisdiction shall have and exercise all powers now possessed or which may hereafter be possessed by the circuit courts of this state, and the same proceedings shall be had by the parties to procure such writs and process in the circuit courts branch as in circuit courts and such writs and process shall be issued, executed and returned in the circuit court branch in the same manner and with like effect as in the circuit courts.

SECTION 10. Said circuit court branch shall have jurisdiction in the matter of liens and the foreclosure of the same as set forth in chapter 289 of the statutes, and the provisions of law with reference to the filing and docketing of claims for liens and the foreclosure thereof now or hereafter applicable in circuit court proceedings shall be equally applicable in similar proceedings in said circuit court branch.

SECTION 11. Every issue of law in any civil action or proceeding in said circuit court branch, and every issue of fact in any action heretofore cognizable only in a court of equity, shall be tried by the court, but the court may order such issue of fact tried by a jury; every issue of fact in a civil case properly triable by a jury, and not heretofore cognizable in a court of equity, shall, unless trial by jury be waived by all parties, be tried by a jury of not less than 12 persons, unless a lesser number be agreed upon by the parties.

SECTION 12. All judgments, orders and decrees, made and entered in and by said circuit court branch, 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 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 and pertain to said circuit court branch.

SECTION 13. All orders and judgments of said circuit court branch may be reviewed by the supreme court in the same manner and with like effect as judgments and orders of the circuit court; and the supreme court shall have the same power and jurisdiction over actions, proceedings, orders and judgments in said circuit court branch as over actions, proceedings, orders and judgments in the circuit court of said county, and the parties shall have the same rights to writs of error and appeal from said circuit court branch to the supreme court of this state as now, or may hereafter be, allowed by law from circuit courts of this state, and may demand and shall be entitled to receive from the judge of said county court a bill of exceptions or case and have the same settled in the same manner and under the same restrictions as in the circuit court, and the same shall be heard and settled within the same time as now required or may hereafter be required by the circuit court by law or the rules and practice of said circuit court or of said county court relative thereto.

SECTION 14. There shall be held at the county seat of said county one general term of said circuit court branch which shall begin at 10:00 o'clock in the forenoon on the third Monday in January of each year, and the term shall continue until the commencement of the succeeding term. The court shall be deemed open at all times. Any trial, hearing or argument or assessment in the circuit court branch, which shall have been commenced during any term but shall not have been concluded before the commencement of any subsequent term, shall be concluded in the manner and with like effect as though it had been commenced at such subsequent term.

SECTION 15. Judgment may be had and entered at all times in said circuit court branch, subject to the limitations of the jurisdiction thereof, if the defendant fails to

answer the complaint, in the same manner and in like cases wherein judgments may now be had and entered in the circuit court, and the clerk of said court shall have the same powers and authority relative thereto as he has by law in circuit court.

SECTION 16. Any circuit judge or any county judge of any county court having additional civil jurisdiction under circuit court practice and procedure, may hold court in and for the county court of Eau Claire county in the event of the absence, sickness or other disability of the judge of said county court upon the request of the judge thereof, and while so doing he shall have and may exercise all the powers of said county court and the judge thereof in all matters and cases whatsoever, including criminal actions and proceedings with the same force and effect as if he were the duly elected and qualified judge of said county court.

SECTION 17. Whenever any civil action is commenced in the circuit court branch the defendant may, within the time provided by law for answer, automatically change the venue of the action to the circuit court of Eau Claire county by serving a written request for such change upon the plaintiff's attorney and filing such request with the clerk of the circuit court branch, whereupon the venue shall be changed and it shall be the duty of the clerk of the county court to forthwith transmit the papers to the circuit court of Eau Claire county. The provisions of law applicable to change of venue in the circuit courts shall be applicable to the circuit court branch, except that when the venue of any action shall be so changed, it shall be changed to the circuit court of Eau Claire 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 261.04 and 356.01 of the statutes; provided that nothing herein shall be construed as abrogating the right to a change of venue provided by section 261.03 of the statutes, and when such change of venue shall be made, it shall be made by said county court direct to the proper county for the trial of the action, and provided that section 261.08 and 356.03 of the statutes, as far as applicable, shall apply to said circuit court branch, and that the judge thereof shall have the right to call upon any circuit judge or any eligible county 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 county court. But the judge of said county court shall have and retain jurisdiction over all other actions and proceedings, and may exercise such jurisdiction and hold court and try such actions and proceedings at the same time the judge called in is trying the action so transferred to him. If any person charged upon indictment or information with a criminal offense shall have procured a change of venue to the circuit court of Eau Claire county, the county court shall commit or hold the party to bail to appear at the next term of the circuit court, and the clerk of the county court shall transmit all papers and a copy of the records and proceedings in the case, properly certified to be such under the seal of the court, to the circuit court, which shall then have full jurisdiction of the action; all cognizances previously given in such cases, and returned to the county court may be enforced in the circuit court as fully as if they had been originally returned thereto.

SECTION 18. (1). Jurors shall be chosen, when directed by the county judge, from the list of petit jurors prepared by the jury commissioners of Eau Claire county for the circuit court of Eau Claire county. Such jurors shall be chosen under the direction of the county judge.

(2). Jurors shall be summoned as in the circuit court, and the county judge may direct at what time jurors shall be summoned to appear; but no jurors shall be summoned to attend upon any term of the court unless it shall appear to the satisfaction of the judge that a jury panel is necessary.

(3). At least 6 days before each term unless otherwise ordered by the judge, the clerk, shall, in the presence of the county judge and in the manner provided for circuit court, draw from the list of persons provided therefor 24 jurors for such term, and the list so selected shall constitute the jury panel and shall forthwith be filed in the office of the clerk. If any person is or becomes disqualified to be a juror or is no longer liable to jury duty in the county, the name of such person shall be stricken from the panel and the name of another juror drawn to take his place thereon.

(4). The panel of jurors selected for any term of the circuit court branch under its civil or criminal jurisdiction shall constitute the panel of jurors until discharged by the court. No panel of jurors shall serve for more than 6 months, and the county judge shall discharge from the panel each juror whose name shall have been on the panel for six months. A person who has served on a jury in circuit court within the preceding year shall be deemed ineligible to be on the panel in the county court until such year period shall have passed. The judge in his discretion may discharge a panel and order a new panel of jurors to be drawn at any time.

SECTION 19. (1). Whenever directed by the judge the clerk of said county court

shall issue a venire to the sheriff of the county to summon such jurors returnable at such time as the judge may direct.

(2). The jury shall be drawn and selected in the manner provided for circuit court and the members of the panel shall be subject to examination as provided in section 270.16 of the statutes. After such examination the district attorney or plaintiff or plaintiffs shall be entitled to 3 peremptory challenges and the defendant or defendants to a like number of challenges, to be made alternately, the district attorney or plaintiff or plaintiffs first challenging. When either party shall decline to challenge in his turn, such challenge shall be made by the clerk by lot. The 12 persons whose names have not been struck shall constitute the jury.

(3). If any of the jurors named in the venire shall not be found or shall fail to appear, or if there be any legal objection to any that shall appear, or if any of them be excused by the court or parties, the deficiency in the panel shall be supplied under direction of the judge from the jury list.

SECTION 20. If a jury shall be required to make an assessment of damages in any case, the same shall be drawn from the names in the box, or the court may direct the same to be had and taken by any jury summoned in any other case, or may direct the clerk to issue a venire to summon a special jury for that purpose, to be composed of persons qualified to serve as jurors in that court, and if all parties agree, such assessment of damages shall be made by the court, or judge thereof, without the intervention of a jury.

SECTION 21. The parties in any case, civil or criminal, wherein a jury trial may be had, may agree upon a trial thereof by any number of jurors less than 12.

SECTION 22. The court may set down any case, civil or criminal, on the calendar for trial on any particular day; and after issue joined in any civil action or proceeding or after information filed in any criminal action pending in said court, any party, may upon 5 days' notice to the other party or parties, and without any notice or trial having been previously served, apply to the court or judge thereof to set down such case for trial on a particular day, and the court or judge shall, if it be reasonably possible, fix a definite time for such trial, which shall not be less than 10 days nor more than 30 days from the time of the hearing of such application, unless for cause the court or judge shall otherwise order. At the time any action or proceeding is so set down for trial, if it be one triable by jury, the court shall require the parties in such action to determine and elect whether they wish a jury, and if or if both parties elect to try such case without a jury, both parties neglect or refuse to so determine or elect at said time, neither party shall be entitled to a trial by jury, but the court may, at its discretion grant a trial by jury; and if a trial by jury is demanded by any party to such action, the court may then or at any time afterwards direct that a jury be selected as aforesaid in such case, and issue a venire therefor, returnable at the time fixed for the trial of such action.

SECTION 23. All costs, fees and disbursements in actions in the circuit court branch shall be taxed and allowed the prevailing party in the same manner and in like amounts as they are taxed and allowed in circuit court.

SECTION 24. (1). The clerk of the circuit court of the county shall ex officio be the clerk of the circuit court branch of said county court, and shall have the care and custody of all books and papers belonging to the circuit court branch of said county court and those that appertain to the jurisdiction of the county court as such under the statutes, and shall perform the duties of clerk of the circuit court branch of the county court in the same manner required of him as clerk of the circuit court so far as it shall be requisite and necessary to discharge the necessary duties as clerk of the circuit court branch of the county court, and all other duties necessary to carry into effect the provisions of this chapter; and said clerk shall keep all necessary records of proceedings and judgments had in the circuit court branch of the county court in the manner provided in the circuit court or as otherwise in this chapter provided.

SECTION 25. On each civil action commenced in said court, there shall be paid to the clerk thereof the sum provided by statute for actions commenced in the circuit court. All such clerk's fees shall be paid into the county treasury at the end of each month.

SECTION 26. The deputy clerks authorized by law to be appointed by the clerk of the circuit court, shall also be the deputy clerks of the county court, and may aid such clerk in the discharge of his duties as clerk of the county court and in the absence of the clerk from his office or from the court may perform all his duties and in case of a vacancy by resignation, death, removal or other cause the deputy appointed shall perform all such duties as clerk of the county court until such vacancy shall be filled.

SECTION 27. The sheriff of the county in person or by his undersheriff or one of his deputies, shall attend said court when actually in session for the transaction of court

business other than the business of the county court as such under the statutes, and the court shall designate the number of officers that shall be present when such court is in actual session as aforesaid, and such officers shall be entitled to receive the same compensation and payable in like manner as is, or may be, provided by law for like services in the circuit court.

SECTION 28. The fees of the clerk, witnesses, jurors and officers in the circuit court branch shall be the same as are now allowed by law to the clerk, witnesses, jurors and officers in the circuit court for the county.

SECTION 29. (1). Court commissioners appointed by the circuit judge for the county shall have the same powers and be subject to the same duties in respect to actions and proceedings in the county court as in actions and proceedings in circuit court and shall be entitled to the same fees.

(2) The county judge may appoint such number of court commissioners, not exceeding 3, for the circuit court branch of said county court as the proper transaction of business requires; such commissioners shall have in respect to such county court and actions and proceedings therein the powers and duties set forth in section 252.15 (1) of the statutes, so far as is applicable, and shall be entitled to the same fees. In construing such powers and duties under section 252.15 (1) when applied to the county court of Eau Claire county the words "circuit court" as used therein shall be deemed to mean and include the circuit court branch of the county court of Eau Claire county. Section 252.155 and 252.17 of the statutes, shall apply to commissioners appointed by the county judge.

SECTION 30. The seal of the county court shall continue to be used as the seal of the court under this chapter.

SECTION 31. The county of Eau Claire shall provide all books, blanks and stationery for keeping the records and proceedings of the county court made necessary by this chapter; the county court shall be held in the county court room, or in the circuit court room when the circuit court is not in session, at the county seat of the county; all books and records pertaining to the county court shall be kept in the office of the clerk of the county court or the office of the clerk of the circuit court.

SECTION 32. All fines and all costs and fees collected by the clerk in every civil and criminal action or proceeding under the general statutes of this state, tried or determined by the county court, which if tried or determined by the circuit court or circuit judge would be paid over to the county treasurer, shall be accounted for and paid over quarterly by the clerk of said county court into the treasury of the county.

SECTION 33. The clerk of said court shall file monthly with the county clerk of said county full and complete statements of all fines, costs, penalties and fees collected by him which belong to the county.

SECTION 34. All fines and penalties, including costs in any criminal action or proceeding, under the general laws of the state, shall be paid to the treasurer of Eau Claire county as herein provided. All costs and fees taxed and allowed by the judge and collected by the clerk in civil cases shall be divided equally between the city of Eau Claire and Eau Claire county and shall be paid to the treasurer of said city and the treasurer of said county as herein provided.

SECTION 35. The circuit court branch shall be a court of record.

SECTION 36. The documents and records of said county court shall be public records and open to the inspection of all persons at any and at all reasonable hours.

SECTION 37. Until otherwise fixed by the county board of Eau Claire county, the county judge of Eau Claire county shall receive an annual salary of \$3,400 for performing the additional duties and services required of him by this act. Such salary shall be in addition to the salary of said county judge immediately before the effective date of this act and shall be paid in equal monthly or semi-monthly payments out of the Eau Claire county treasury. The city of Eau Claire shall annually reimburse the county in such sum as shall be agreed upon between the city of Eau Claire and the county of Eau Claire. When holding court in another county said judge shall also receive the per diem and actual expenses provided in section 253.07 (4) of the statutes.

SECTION 38. The general provisions of the statutes and all the general laws pertaining to circuit courts and actions and proceedings in civil and criminal cases therein, shall so far as applicable, apply to the Eau Claire county court circuit court branch, 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 court, shall, unless inapplicable, be in force in said county court circuit court branch; and the judge of said county court shall have power to punish for contempt in the same manner that the judges of circuit courts are or may be authorized by law to punish for contempts;

and such county court shall have power to make and enforce such other rules of practice for the circuit court branch, not inconsistent with law, as it may deem necessary.

SECTION 39. The divorce counsel appointed by the circuit court of Eau Claire county shall also be the divorce counsel for the county court circuit court branch.

SECTION 40. Writs of error may be taken directly to the supreme court in all criminal proceedings tried in the county court in the same manner as is now provided for reviewing convictions in criminal proceedings in the circuit court, and all provisions of law now applicable to criminal proceedings in circuit court and to obtain a review thereof, now applicable to circuit court, shall be applicable in criminal cases tried in the county court.

SECTION 41. Any civil or criminal action, or special proceeding commenced in the county court, may, by consent and stipulation of the parties or their attorneys, be transferred and transmitted to the circuit court for Eau Claire county; and the filing of such stipulation shall result in such transfer without any order of the circuit court therefor, and further proceedings therein shall be had in the circuit court in the same manner as though the action or proceeding has originally been commenced or instituted therein.

SECTION 42. The judge of the county court may transmit to the circuit court any civil or criminal action or proceeding before him, if, in his sole discretion, he deems it expedient; and the circuit court shall thereupon proceed to try and determine the same in the same manner as if the case or proceedings had originated in the circuit court.

SECTION 43. All actions, proceedings, orders, judgments, determinations, records, files, papers and documents of the county court of Eau Claire county relating to the additional jurisdiction of said court under chapter 209 of the laws of 1927, chapter 63 of the laws of 1935 and chapter 404 of the laws of 1937, shall continue as such in the county court of Eau Claire county under this chapter without loss of force or effect as though its jurisdiction had not been changed by this chapter, except that any pending actions or proceedings commenced under said chapter 209, 63 and 404 or any unfinished matters thereunder shall proceed, be heard, determined and disposed of by said county court under the provisions of this chapter, so far as its jurisdiction thereunder will permit, with the same force and effect as if the same had been commenced in said court after the effective date of this act.

PART III

JUSTICE COURT BRANCH

SECTION 44. All process and pleading in the justice court branch shall be entitled "County Court of Eau Claire County, Justice Court Branch".

SECTION 45. (1). The justice court branch shall have and exercise jurisdiction of all civil actions, special proceedings in law and equity, forcible entry and unlawful detainer actions, and all actions for the recovery of personal property, with damage for the unlawful taking or detention thereof where the value of the property in controversy, or the amount of money claimed or sought to be recovered, after deducting all payments and setoffs, shall not exceed \$500, and actions brought for any breach of recognizance given in said court.

(2). In the justice court branch the rules of practice and procedure shall be those of justice court under the statutes, except as provided by this chapter. The justice court branch shall have exclusive original jurisdiction of all offenses and actions arising under the charter, ordinances, rules, regulations and by-laws of the city of Eau Claire and concurrent jurisdiction with police justices and justices of the peace of all offenses and actions arising under the charter, ordinances, by-laws, rules and regulations of the other cities, villages and towns in said county, and of the county of Eau Claire.

SECTION 46. The county court shall have the jurisdiction of a justice of the peace of the county in all criminal matters, including offenses against ordinances of the county and of cities, towns and villages therein, and is hereby vested with all the jurisdiction and authority in criminal matters and actions as is now provided by statute for justices of the peace. No justice of the peace, police justice or court commissioner within Eau Claire county shall conduct any preliminary examination in criminal cases or cases arising under chapter 166 of the statutes, but justices of the peace, police justices and court commissioners within said county may issue warrants returnable before the county court of said county, and all such jurisdiction is vested in the county court of Eau Claire county. No justice of the peace in the county of Eau Claire shall have jurisdiction of offenses committed in the city of Eau Claire, and all such jurisdiction is vested in the county court of Eau Claire county. On a plea of guilty by one accused of crime the said court shall have jurisdiction and power to sentence the accused for any offense for which the highest penalty does not exceed 5 years' imprisonment in the state prison.

SECTION 47. The jury in the justice court branch shall consist of 6 persons, unless a lesser number be agreed upon by the parties.

SECTION 48. Appeals shall be to circuit court.

SECTION 49. No action, examination or other proceeding shall be removed from the justice court branch. In case of sickness, absence, temporary disability or disqualification, the county judge may by order filed in his office appoint any court commissioner or justice of the peace of the county, or another county judge in the manner prescribed by section 253.07, to discharge the duties of the judge of the justice court branch conferred by and under this part during such sickness, absence, or temporary disability, or in cases in which he is disqualified. The person so appointed shall have the powers of such judge of the justice court branch conferred by this part while discharging such duties and receive the compensation provided in section 63 hereof.

SECTION 50. The judge shall charge and reinstruct the jury in the manner provided for circuit court.

SECTION 51. (1) The register of deeds, the county treasurer and the county clerk of Eau Claire county shall be the jury commissioners for the justice court branch of the county court, and they shall receive no additional compensation for performing the duties of jury commissioner. Each jury commissioner shall take and subscribe the oath provided in section 255.03 for jury commissioners and file such oaths with the clerk of circuit court of Eau Claire county.

(2) Jurors for the justice court branch shall be chosen from the jury panel which shall be composed of persons on the jury list prepared by the jury commissioners for the justice court branch.

(3) Such jury commissioners shall prepare the jury list of names of 50 persons who have the qualifications to act as jurors in a circuit court for Eau Claire county and who are not exempt under section 255.02. The jury commissioners may from time to time revise the jury list by striking from it the names of persons found to be exempt or ineligible for jury service, and by adding to it the names of qualified persons who are eligible and not exempt. Such jury list shall at no time contain the names of less than 30 persons who are eligible and qualified and not exempt to act as jurors. Annually, before the 1st day of December, the jury commissioners shall prepare a jury list and file the same.

(4) The jury list and all deletions therefrom and all additions thereto shall be made in triplicate over the signature of the jury commissioners and shall be filed, one each, with the county judge, the clerk of circuit court and the clerk of the justice court branch.

(5) The jury panel shall consist of 16 names and shall be drawn by the clerk of the justice court branch under the order and in the presence of the county judge, and in the presence of the clerk of circuit court or a deputy clerk of said court. The jury panel shall be selected by drawing by lot from a tumbler containing the names of the jury list, in the manner provided for drawing a petit jury in circuit court. If any person is or becomes disqualified to be a juror or is no longer liable to jury duty in the county, the name of such person shall be stricken from the panel and the name of another juror drawn to take his place thereon. No panel of jurors shall serve for more than 6 months, and the county judge shall discharge from the panel each juror whose name shall have been on the panel for 6 months.

(6) A person shall be ineligible to serve on the panel for the justice court branch during the time in which he is a member of the panel of the circuit court branch. A person who has served on a jury in circuit court or in the circuit court branch of county court within the preceding year shall be deemed ineligible to be on the panel of the justice court branch until such year period shall have passed.

(7) In the justice court branch, after issue joined and before the commencement of the trial, either party, on paying to the clerk of the court the amount for 6 jurors' fees for one day to apply on jury fees, may demand a jury trial. Neglect to make such demand is a waiver of the right to trial by jury. If such demand is made for a jury trial the parties shall, upon 3 days' notice by the court setting the time and place for striking, strike from the aforementioned panel of jurors the names of 8 persons. The district attorney or plaintiff or plaintiffs shall be entitled to 4 peremptory challenges and the defendant or defendants to a like number of challenges, to be made alternately, the district attorney or plaintiff or plaintiffs first challenging. The clerk of the justice court branch of the said county court by direction of the judge shall issue a venire to the sheriff of the county to summon the 8 persons whose names remain on the panel after such striking, which 8 persons shall be subject to examination as provided in section 270.16 of the statutes and challenge for cause. If any one of such 8 persons fails to appear at the time and place ordered in the venire, or if during the examination of the panel there be or remain less than 6 persons on the panel as a result of challenge for cause, the court shall cause a sufficient number of persons qualified to serve as jurors to be returned from

the bystanders or from the county at large to fill said panel with the names of 8 persons qualified to serve as jurors. If, after such examination and challenge for cause, there remain more than 6 persons on the panel, the clerk shall by lot select 6, who shall be and constitute the jury.

SECTION 52. All costs, fees and disbursements in actions in the justice court branch shall be allowed the prevailing party in the same manner and in like amount as in actions in justice court; and in addition thereto attorney fees shall be taxed and allowed on all judgments of the sum of \$100, or less in a sum equal to 10 per cent of the judgment; and on all judgments over \$100, 10 per cent on the first \$100, 5 per cent on such sums as may be in excess thereof; provided that the total amount that may be so taxed and allowed as and for attorney fees shall not in any case exceed \$25. In proceedings for the recovery of possession of personal property the value of the property as found if judgment be for the plaintiff, and as claimed if judgment be for the defendant, shall be the basis for the taxation of attorneys' fees. This section shall not apply to actions for violations of charters, ordinances, by-laws, rules and regulations of the cities, villages and towns of Eau Claire county or ordinances of the county of Eau Claire.

SECTION 53. The fees of the witnesses, jurors and officers shall be the same as would be allowed in justice court for similar services except when otherwise provided.

SECTION 54. (1) The judge of the county court shall appoint a clerk for the justice court branch, which clerk shall be a phonographic reporter. The county board shall fix the compensation of such clerk. The clerk shall have the care and custody of all the books and papers belonging to the justice court branch and shall keep all necessary records of proceedings and judgments had therein. The assistant phonographic reporter of the county court shall be deputy clerk of the justice court branch.

(2). The judge of the county court may appoint such deputy clerks of the justice court branch as may be necessary with the approval of the county board or of the city council of the city of Eau Claire, or both, and at such compensation as may be approved by the county board or by said city council, or both.

(3). The judge of the county court shall have power to remove at pleasure such clerk and deputy clerks.

(4). Each of such officers shall take and subscribe the oath of office prescribed in the constitution and shall be furnished with all necessary stationery, and attend, when required by the judge, and report the proceedings of trials, and perform such duties as the judge may require.

(5). Such compensation of such clerk and deputy clerks shall be full compensation for services and for making transcripts from shorthand notes as may be required by the judge, which compensation shall be paid out of the treasury of the county at the end of each month.

(6). The clerk and deputy clerk shall furnish parties in an action, or their attorneys, requiring them, transcripts of the testimony and proceedings had at a price not to exceed 10 cents per folio, and 5 cents per folio for copies. The fee for said transcripts shall belong to the phonographic reporter making the same.

SECTION 55. All fines, costs, penalties and court fees in the justice court branch shall be taxed and allowed in the same manner and amount as would be allowed in justice court except as herein otherwise provided. All fines, costs, penalties and court fees taxed by said judge in actions for violations of the laws of this state, orders of commissions and departments having the effect of law, and ordinances, rules, by-laws and regulations of the county of Eau Claire in civil actions and all fines, costs and court fees taxed in actions or proceedings for the violations of the charter, ordinances, by-laws, rules and regulations of the cities, villages or towns of the county of Eau Claire, shall be paid to the clerk of said court.

SECTION 56. The clerk shall file monthly with the clerk of the city of Eau Claire, a full and complete statement of all fees collected by him which belong to said city.

SECTION 57. All fines and penalties and the costs, fees and disbursements collected by the clerk for violations of the ordinances, charter provisions, by-laws, rules or regulations of any city, village or town, or of the county of Eau Claire, shall be paid to the treasurer of such city, village or town or the treasurer of Eau Claire county, as the case may be, on the first secular day of the month following such collection.

SECTION 58. The justice court branch shall not be a court of record.

SECTION 59. Whenever any action, examination or other proceeding shall be removed from any justice of the peace of said county upon the oath of the defendant, his agent or attorney, according to the provisions of law for such removal, if the defendant, his agent or attorney, shall request in writing to the justice that the action, examination or other proceedings be removed to the justice court branch of the county court, then

the action, examination or other proceeding and all papers therein shall be transmitted to the presiding judge thereof who shall proceed with the action, examination or other proceeding in the justice court branch of the county court in the same manner as if originally instituted before him.

SECTION 60. No appeal shall be taken to the county court from any justice court.

SECTION 61. Appeals may be taken from all criminal proceedings tried in the justice court branch to the circuit court of Eau Claire county as is now provided for the taking of an appeal in a criminal action from justice court to the circuit court, and all provisions of law now applying to such appeals shall apply to appeals in criminal actions tried in the justice court branch.

SECTION 62. In any action or proceeding civil or criminal, brought in the justice court branch, a change of venue may be had because of prejudice of the county judge in the same manner and upon the same terms as is now provided in justice court. The county judge instead of transmitting the case to the nearest justice, as is provided by law, shall retain the cause of action in said county court and shall call in to hear and determine said action or proceeding any court commissioner or justice of the peace in the county.

SECTION 63. Each court commissioner and justice of the peace shall receive as compensation an amount to be determined by the judge, but not to exceed \$20 for each day for the actual number of days engaged in the trial or hearing of any matter, hearing or proceeding in which he shall act as county judge, to be paid by the treasurer of Eau Claire county upon a certificate signed by the county judge.

SECTION 64. All papers, depositions, certificates, acknowledgments, examinations and other documents, executed or signed by the judge or clerk of said county court, when sealed with the seal of the court, shall be of the same force and effect as if executed or signed by a court of record, and shall be receivable as evidence in like manner.

SECTION 65. The county court shall have power to appoint any attorney or counselor to defend a person charged with any offense in the same manner and upon the same conditions as the circuit court may now or hereafter appoint any attorney or counselor to defend persons charged with any offense.

SECTION 66. This act shall take effect January 2, 1952.

Approved June 6, 1951.
