

No. 177, S.]

[Published May 13, 1953.

CHAPTER 125.

AN ACT to amend and revise chapter 163, laws of 1951, relating to the character, powers, jurisdiction and judges of the municipal court of Manitowoc county, creating a circuit court branch of said court and constituting said circuit court branch as an inferior court.

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

Chapter 163, laws of 1951, is amended and revised to read:
(Chapter 163, laws of 1951)

PART I. GENERAL PROVISIONS

SECTION 1. There is hereby created in Manitowoc county a court to be known as the "Municipal Court of Manitowoc County," which shall have the powers and jurisdiction hereinafter specified and provided, and presided over by a judge to be known and designated as the "Municipal Judge."

SECTION 2. The municipal court of Manitowoc county shall have 2 branches. The first shall be designated "Municipal Court, Justice Court Branch, Manitowoc County." The second shall be designated "Municipal Court, Circuit Court Branch, Manitowoc County." Except as herein provided all provisions of law relating to procedure now applicable to justice courts shall be applicable to the justice court branch. Except as herein provided all provisions of law relating to procedure in the circuit court shall be applicable to the circuit court branch.

SECTION 3. The municipal court shall be held at the court house in the city of Manitowoc, in suitable quarters to be furnished and supplied at the expense of the county under the direction of the county board; it may be adjourned to such other places in the county as the municipal judge may order. The court shall be open for business on all secular days except legal holidays and except as the judge thereof may otherwise order.

SECTION 4. (1) On the first Tuesday of April, 1957, and every 6 years thereafter, there shall be elected in Manitowoc county in the same manner as county judges are elected, a municipal judge who shall hold his office for the term of 6 years, from the first Monday in January next following said election, and until his successor is elected and qualified. He may be removed from office in the manner provided by the constitution of this state for the removal of judges of the circuit courts.

(2) No person is eligible for the office of municipal judge unless he be a licensed attorney in this state and a resident of Manitowoc county. The judge of said court shall not, while holding said office, engage in the practice of law.

(3) The municipal judge shall execute to said county a surety bond in the sum of \$3,000, to be filed with his oath, conditioned for the faithful performance of the duties required of him by law and for the faithful and prompt application and payment of all moneys which may come into his hands in the execution of the duties of his office.

(4) The judge of the municipal court of Manitowoc county at the time this amendment takes effect shall continue to hold said office for the residue of the term for which he was elected or appointed and until his successor is elected or appointed and qualified.

SECTION 5. The sheriff of the county shall, on order of the judge, attend such court when either branch thereof is actually in session, and the court shall designate the number of officers that shall be present. Except when such officer is the sheriff or under-

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sheriff he shall be entitled to receive the same per diem payable as is provided by law for like services in the circuit court.

PART II.
JUSTICE COURT BRANCH

SECTION 6. All process and pleading in the justice court branch shall be entitled "Municipal Court, Justice Court Branch, Manitowoc County, State of Wisconsin."

SECTION 7. (1) The justice court branch shall have jurisdiction in all civil actions and special proceedings within the county of Manitowoc:

(a) Actions where the relief sought is recovery of money damages or for the recovery of personal property with damages 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 \$1,000, exclusive of interest and costs.

(b) Forcible entry and unlawful detainer actions, regardless of the value of the property involved.

(c) Actions brought for any breach of recognizance given in said court.

(2) The justice court branch shall not have jurisdiction of an action where title to real property comes in question.

SECTION 8. (1) The justice court branch shall have original jurisdiction of all offenses and actions arising under the ordinances of the city of Manitowoc, and of the county of Manitowoc, and concurrent jurisdiction with police justices and justices of the peace of all actions arising under the ordinances of the other cities, villages and towns in said county.

(2) Prosecutions for the recovery of forfeitures for violation of any ordinance of the county of Manitowoc or of the city of Manitowoc, or of any other cities, villages or towns in said county when brought in this court shall be commenced by the filing of a complaint, in writing, under oath, with the municipal court. No other affidavit of any nature whatsoever shall be necessary. The complaint shall be substantially in the following form:

COUNTY COMPLAINT (or CITY COMPLAINT . . . where applicable)

STATE OF WISCONSIN }
MANITOWOC COUNTY } ss
(or where applicable)

STATE OF WISCONSIN }
CITY OF MANITOWOC } ss
COUNTY OF MANITOWOC }

..... on behalf of Manitowoc County, (or where applicable, the City of Manitowoc) being first duly sworn complains on oath to said Municipal Court that did on the day of, 19.., at the in said County of Manitowoc, Wisconsin, violate an ordinance of said County of Manitowoc (or where applicable, said City of Manitowoc) to-wit: an ordinance entitled, (describing its title) which said ordinance was then and is now in force and effect, as this complainant verily believes, in that he did then and there, contrary to Section of said Ordinance (stating particulars showing in what respect the person complained against has violated an ordinance),

WHEREFORE the complainant prays that said may be arrested and held to answer to the said County of Manitowoc, (or where applicable, to said city of Manitowoc,) therefor.

.....
Subscribed and sworn to before me
this day of, 195...
.....
Judge, Clerk or Deputy Clerk of
Municipal Court

(3) It is sufficient to give the number of the section or sections and the title of the ordinance and to state the particulars showing in what respect the person complained of has violated the same in the foregoing form of complaint, and the said complaint shall be sworn to before the judge, clerk or deputy clerk of the justice court branch of said municipal court. Upon the filing of such complaint with the judge, if he finds probable cause to exist, which finding need not be stated in writing, a warrant shall thereupon be issued, which warrant shall be substantially in the following form:

COUNTY WARRANT (or CITY WARRANT where applicable)

STATE OF WISCONSIN }
MANITOWOC COUNTY } SS

STATE OF WISCONSIN }
CITY OF MANITOWOC }
COUNTY OF MANITOWOC } SS

THE STATE OF WISCONSIN to the Sheriff, Policeman or any Constable of said county of Manitowoc, or to the Chief of Police or any policeman of the City of Manitowoc, Wisconsin:

WHEREAS, has this day complained to the said Municipal Court in writing, on oath that on the day of, 195. at the in said County of Manitowoc, Wisconsin, did violate section of an ordinance of said county, (or where applicable said city of Manitowoc), to-wit: an ordinance entitled (describe its title) in that he did then and there, contrary to Section of said Ordinance (state particulars showing in what respect the person complained against has violated an ordinance).

THEREFORE, YOU ARE HEREBY COMMANDED to arrest the said and bring forthwith before the said Municipal Court of the County of Manitowoc to answer to the said county of Manitowoc (or where applicable, city of Manitowoc) on the complaint aforesaid.

By the court,
.
Municipal Judge

(4) Upon the return of the warrant, the court may proceed with the case unless it is continued by consent or for cause. If the case is adjourned and the court requires, the defendant shall recognize for his appearance with security to be approved by the court or clerk, in such sum as the court shall direct, or in default thereof may be committed to the Manitowoc county jail.

(5) In all ordinance prosecutions the finding of the court or jury shall be either "guilty" or "not guilty." If "guilty" the court shall render judgment thereon against the defendant or defendants for the forfeiture prescribed in the ordinance, and the costs in the action, and direct upon failure to pay such forfeiture and costs, that the defendant or defendants be committed to the Manitowoc county jail, until such forfeiture and costs be paid, but not to exceed the term specified in the ordinance, and in no event to exceed 6 months. The court may stay execution for the purpose of appeal or for other cause, not to exceed 5 days, and release the defendant with or without recognizance or security for such period. If any defendant on whom judgment has been passed, the execution of which has been stayed, excepting cases wherein an appeal has been perfected, fails, after the expiration or vacation of such stay, to either surrender himself to the sheriff of Manitowoc county, pursuant to the order of the court or in obedience to a commitment issued, or pay to the clerk of said municipal court the forfeiture and costs imposed, the court shall retain jurisdiction and may issue a bench warrant for the arrest of the defendant. In such case the sentence of the defendant shall not begin to run until he be committed after apprehension on such order or writ. In case of appeal to the circuit court of Manitowoc county, the court may require the defendant to recognize with sureties to be approved by the court for his appearance in said circuit court. Cash bail may be deposited in lieu of other collateral.

(6) In all prosecutions under ordinances, costs and fees shall be the same as those applicable and taxed in criminal actions in courts of justices of the peace, except as hereinafter provided.

(7) Upon the conviction and the nonpayment of a judgment in an ordinance case the court may forthwith issue a commitment on said judgment which commitment shall be substantially in the following form:

IN MUNICIPAL COURT FOR THE COUNTY OF MANITOWOC, STATE OF WISCONSIN

CITY (or VILLAGE or TOWN of) }
Plaintiff, } Commitment
VS. } on
A. B. } Sentence
Defendant. }

STATE OF WISCONSIN }
COUNTY OF MANITOWOC } SS.

The State of Wisconsin to the Chief of Police or any officer of said city of Manitowoc,

or to the Sheriff or any constable of the County of Manitowoc, and to the keeper of the common jail of said county:

WHEREAS, the County of Manitowoc (or where applicable City of Manitowoc) on the day of, 195... recovered a judgment in the court above named against for the sum of \$....., fine, forfeiture or penalty, and costs amounting to the sum of \$....., and cents for the violation of (give title and section of ordinance violated) in that he did, on the..... day of, 195., at the in said County and State (state the violation) and he, the said was sentenced to be committed to the common jail of Manitowoc County until said fine, forfeiture, or penalty be paid or discharged, not exceeding days, and the said fine, forfeiture or penalty not having been paid or discharged.

YOU ARE HEREBY COMMANDED to take the body of said and convey and deliver to the keeper of the common jail in said Manitowoc County, and the said keeper is hereby commanded to receive, keep in custody in said jail the said for the term of days unless the said judgment, together with all costs and fees, are sooner paid or is discharged by due course of law.

WITNESS the Honorable
Judge of said Municipal Court this
day of, 195...

.....
Judge, Clerk or Deputy Clerk of
Municipal Court.

SECTION 9. The judge of said municipal court shall have all the jurisdiction, authority, power, and rights given by law to justices of the peace in criminal actions; he shall have original jurisdiction to hear, try and determine all criminal actions arising within said county which are not punishable by commitment to the state prison, and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction. He shall have exclusive jurisdiction within said county to conduct preliminary examinations in criminal cases or illegitimacy cases arising under the statutes, and discharge the defendant or bind him over to the circuit court, as the case may be. 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 except homicide; and no justice of the peace, police justice or court commissioner within said county shall exercise any jurisdiction in criminal cases or proceedings, except that in felony cases justices of the peace may issue warrants returnable before the judge of said municipal court, and when so doing, they shall cause the complaint in such action to be forthwith filed in said municipal court.

SECTION 10. (1) There shall be 2 jury lists containing the names of jurors who shall be available for service in the justice court branch, under the provisions of this act. One of such lists shall be known and designated as the "county at large jury list," and the other as the "Manitowoc jury list."

(2) The county at large jury list shall be and consist of the list of names prepared and drawn for the circuit court branch of the municipal court from the body of Manitowoc county by the circuit court jury commissioners thereof.

(3) The Manitowoc jury list shall be constituted as follows: the senior alderman and supervisor for each ward of the city of Manitowoc, shall each, on or before December 15 in each year, make a list of 10 qualified electors in his ward, in said city to serve as jurors for the ensuing year in said municipal court and deliver such list to the judge of said court.

(4) Juries in the justice court branch shall consist of 6 persons unless a lesser number be agreed upon by the parties. A jury may be demanded by either party at any time after the commencement of an action or criminal proceeding and not later than 2 days before the day set for trial of the case; except that the judge may in his discretion grant a jury trial at any time; and when such demand is made on the court, either orally or in writing the court shall set a time for drawing a jury; and if no demand is made by either party within the time specified a jury shall be deemed to have been waived. If objection be made at the time fixed for drawing the jury that the issues are not triable by jury, the court shall forthwith determine whether a jury shall be drawn.

(5) Whenever a jury is to be drawn, the clerk or judge in the presence of the parties or their attorneys shall cause 18 names to be drawn from the box containing the names of the Manitowoc jury list and make a list thereof. From such list thereof each party, commencing with the plaintiff, may strike out, alternately, 5; and in case of the absence of either party or his refusal to strike out, the judge of said court shall strike out such names; the judge of said court shall issue a venire requiring the officer to whom it is directed to summon the 8 persons whose names remain upon said list to appear at the time and place specified therein; which 8 persons shall be subject to examination as pro-

vided in the case of circuit courts, and challenge for cause. If at any time less than 6 of such 8 persons appear at the time and place ordered in the venire, or if during the examination there be or remain less than 6 persons as a result of challenge for cause, or for other reason, the court shall cause the deficiency to be supplied by further drawing from the Manitowoc jury list. If, after such examination and challenge for cause, there remain more than 6 persons on the panel, the first 6 drawn and qualified shall be and constitute the jury.

(6) Whenever a party demanding a jury shall further demand a jury from the county at large jury list, the names of such jurors shall be drawn from the box containing same, and unless such demand for a jury from the county at large jury list shall be so made the right thereto shall be deemed expressly waived.

(7) The fees of the jurors in the justice court branch shall be in such amount as established by the county board of said county, to be paid by the county upon the certificate of the clerk of said court, except that such jurors as are summoned and in attendance but excused shall be entitled to one-half the daily fee and their mileage.

(8) No person shall be placed on the Manitowoc jury list if his name is also on the county at large jury list or on the circuit court jury list. The judge shall have the power to strike the names of ineligible jurors from the Manitowoc jury list and to order the list increased under his direction and within his discretion; but at no time shall the Manitowoc jury list consist of less than 100 names at the time a panel is drawn therefrom.

SECTION 11. Failure to make or deliver the lists of names of jurors to serve in said court as provided in this act within the time therein specified shall work no error, and the judge of said court may in his discretion order the delinquent lists to be made and delivered to said court forthwith. Until all jury lists are delivered as required the jury lists used during the next preceding year shall be used to provide a jury in said court.

SECTION 12. No action, examination or other proceedings shall be removed from the justice court branch. If the judge or acting judge of said court shall because of any inability, disability, disqualification, illness, or other cause be unable or be prevented from presiding, he shall, by request or by order in writing, to be filed in said court, call in the judge of the county court of said county, or any justice of the peace of Manitowoc county, as the case may be; and such acting judge shall have and possess all the powers and authority as if he were the duly elected and qualified judge of said court. All papers to be subscribed by any acting judge shall be subscribed in form as follows: A.D., county judge, justice of the peace (as the case may be) and acting municipal judge.

SECTION 13. In all cases and proceedings in the justice court branch, the clerk thereof shall keep one docket of criminal actions and proceedings, one docket for private civil actions, and a third and separate docket for prosecutions under city, county, or village ordinances. Such dockets shall be kept in form as is required of justices of the peace, with such modifications as the municipal court judge may direct. Such dockets and the other records of the municipal court shall be public records and open to inspection at all reasonable hours.

SECTION 14. The justice court branch shall be a court of record and said court shall have all the powers conferred by the statutes of this state authorizing the suspension of judgments, the stay of executions and placing defendants on probation; and in all prosecutions for ordinance violations shall have like powers to suspend judgments, stay execution and to remit fines, forfeitures and costs.

SECTION 15. Judgments of the justice court branch shall not be liens on real estate unless and until transcripts of such judgments be filed and docketed with the clerk of the circuit court for said county. Filing and docketing of such transcripts of judgments shall have the same effect as filing and docketing of transcripts of judgments rendered by justices of the peace of said county.

SECTION 16. Any person duly appointed as acting judge of this branch, except the county judge, 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 or proceeding in which he shall act as municipal judge, to be paid by the treasurer of Manitowoc county upon a certificate signed by the municipal judge.

SECTION 17. Appeals may be taken in the same manner and with like effect as from courts of justices of the peace. No appeal shall lie from the justice court branch of the municipal court to the circuit court branch thereof.

SECTION 18. The municipal judge may in his discretion instruct the jury in the same manner juries are instructed in the circuit courts of this state.

SECTION 19. The fees of witnesses shall be the same as would be allowed in justice court for similar services except when otherwise provided.

SECTION 20. Sheriffs and constables of Manitowoc county shall have power to serve and execute process of this branch, and shall be entitled to receive the same fees therefor.

as in justices courts; and policemen of the several cities and villages within Manitowoc county shall have like power to serve and execute process in all actions wherein the defendant resides within their respective cities and villages.

SECTION 21. (1) The municipal judge shall appoint a clerk of the justice court branch, who shall also act as reporter thereof and make and keep the records of said branch. He shall have power to administer oaths, shall have the care and custody of all the books and papers belonging to said branch of the municipal court and shall keep all necessary records of proceedings and judgments had therein and shall perform such other ministerial duties as the judge may require of him.

(2) The judge may appoint such deputy clerks as may be necessary with the approval of the county board. The county board shall set the compensation for the clerk and deputy clerks.

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

(4) The clerk and deputy clerk shall furnish parties in an action, or their attorneys, requiring them, transcripts of the testimony and proceedings had, the price thereof to be governed by the statute regulating the charges for like work done by circuit court reporters in this state. The fee for such transcripts shall belong to the reporter making the same.

(5) In the absence of the clerk the deputy clerk of said branch may perform and discharge all of the duties imposed upon said clerk by this chapter.

SECTION 22. Except as herein otherwise provided, the clerk shall tax and collect the same costs and fees in all actions as are allowed by law to be taxed and collected in courts of justices of the peace; provided, that no costs or fees shall be taxed for the services of said judge, or the services of the clerk of said court for taking testimony in any cause, except the fees for transcripts as provided in section 21. In cases of appeal, the judge shall have no duty to provide a transcript of the testimony, but the clerk shall transcribe the same at the request of either party under the fee arrangement prescribed in section 21.

SECTION 23. Except as herein otherwise provided, 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 of 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 or 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 ordinances of the cities, villages and towns of Manitowoc county or ordinances of the county of Manitowoc.

SECTION 24. All forfeitures and costs collected in prosecutions for the violation of the ordinances of any city, village or town shall be accounted for and paid monthly to the treasurer of such city, village or town. All fines, forfeitures, costs and court fees otherwise collected shall monthly be paid over to the county treasurer of Manitowoc county. Any city, village or town plaintiff shall be liable to pay costs in any action wherein the defendant is found not guilty.

SECTION 25. The municipal judge shall select a seal for said court, and all papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by said judge or certified by the clerk when sealed with the seal of said court shall provide evidence in all courts and places of this state.

SECTION 26. The municipal judge shall have the same powers to punish contempts, in the same manner and for like causes and to the same extent that judges of the circuit court are or may be authorized by law to punish for contempts, and the said judge may make such rules and institute such measures as may promote justice and expedite the business of the court and may direct the practice in such court and the form and direction of process, when not otherwise provided by law; and the criminal process of said court may under the direction of said judge be served in any part of the state.

SECTION 27. In any action or proceeding pending in said court there shall be no loss of jurisdiction by reason of any failure to adjourn such action to a definite time; or failure to enter such adjournment upon the docket of the court, or the failure of the judge of said court to decide such matter within 72 hours after the trial thereof; but the judge shall control the calendar of said court in such reasonable manner as may expedite the business thereof, setting such times for the hearing of all matters in his discretion and subject to the condition of the calendar.

SECTION 28. If in an action pending in the justice court branch its jurisdiction is exceeded, by counterclaim or otherwise, the judge shall by order transfer it to the circuit

court branch for trial, requiring such additional pleadings as may be necessary. The judge in his discretion, may order written pleadings in any action pending in the justice court branch.

SECTION 29. (1) In all civil actions and special proceedings excepting ordinance prosecutions, at the time of filing the summons or other process in a proceeding not commenced by a summons the plaintiff shall pay, to the clerk of said court, for court costs and fees the sum of \$2.

(2) Before the entry of any money judgment or dismissal of any action in which a money judgment was sought otherwise than by agreement, the prevailing party, shall pay, to the clerk an additional fee as follows:

Amount recovered in an action including interest up to:

	Fee
Amounts up to \$250.....	\$1
Over \$250 and up to \$500.....	\$2
Over \$500 and up to \$750.....	\$3
Over \$750	\$4

(3) Before the entry of any judgment other than a money judgment, or the dismissal of any action other than by agreement the prevailing party shall pay to clerk such fees as are comparable for fees of money judgments wherein the value of the subject of the action is considered, or \$1 if no other fee is determinable.

(4) Except as may be otherwise specifically provided in this chapter, no party shall be taxed or required to pay any other or further court fees in any civil action or proceeding in said court.

(5) Fees for issuing transcripts of judgments and executions shall be 25 cents.

SECTION 30. The municipal judge shall have power to appoint an attorney to defend a person charged with any crime in the same manner and upon the same conditions as the circuit court may now or hereafter appoint an attorney to defend persons charged with crime and with the same effect

SECTION 31. The municipal judge as judge of the justice court branch of this court shall continue to receive from Manitowoc county the same salary paid him heretofore and before the passage of this chapter. The county board of the said county shall have the power to increase the salary of said municipal judge at any meeting of the board.

SECTION 32. All pending actions and proceedings and any unfinished matters in the municipal court of Manitowoc county before the effective date of this chapter shall proceed, be heard, determined and disposed of under the provisions of this chapter, with the same force and effect as if the same had been commenced under this chapter after the effective date of this chapter.

PART III.

CIRCUIT COURT BRANCH

SECTION 33. All process and pleadings and documents in the circuit court branch shall be entitled "Municipal Court, Circuit Court Branch, Manitowoc County, State of Wisconsin."

SECTION 34. The circuit court branch shall be a court of record; the seal of the municipal court shall be used as the seal of the circuit court branch thereof. The circuit court branch of said court as created and established is hereby designated and constituted an inferior court, and its process shall run throughout the state.

SECTION 35. The circuit court branch shall have and exercise powers and jurisdiction in all civil actions and special proceedings concurrent with and equal to the jurisdiction of the circuit court of Manitowoc county in the following:

(a) Actions for the recovery of personal property with damages 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 \$5,000, exclusive of interest and costs.

(b) Actions where the relief sought is recovery of money damages, and where the amount of money claimed, or sought to be recovered, after deducting all payments and setoffs, shall not exceed \$5,000 exclusive of interest and costs.

(c) Suits for foreclosure of real estate mortgages, land contracts and other liens, regardless of the sum claimed or the value of the property involved.

(d) Actions to compel husband to support, and for divorce or affirmance or annulment of marriage contracts, regardless of the value of the property involved.

(e) Proceedings for discharge of mortgages of record and for correction or reformation of conveyances of record.

To the amount and within the limits aforesaid, said circuit court branch shall be a

court of general jurisdiction with the same power and jurisdiction in civil actions and proceedings as are now, or may hereafter be, conferred by law upon the circuit court.

SECTION 36. The circuit court branch shall have no criminal jurisdiction.

SECTION 37. All the provisions of law relating to the circuit court and the judge thereof and to the trial of civil actions and proceedings therein shall apply to the circuit court branch of said court and to the judge thereof in the exercise of the jurisdiction conferred by this chapter, so far as applicable and except as otherwise herein provided.

SECTION 38. 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 of actions, proceedings, orders and judgments in said circuit court branch as over actions, proceedings, orders and judgments in the circuit court of said county.

SECTION 39. The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to actions in said circuit court branch, except that when the venue of any action shall be so changed, it shall be changed to the circuit court of Manitowoc county, or other proper court, and such change of venue shall not prevent the granting by said court of a further change of venue as provided by law.

SECTION 40. Any circuit court judge, the county judge of Manitowoc county, or the judge of any municipal court having civil jurisdiction under circuit court practice and procedure in this state may hold court in the circuit court branch of the municipal court of Manitowoc county in the event of the absence, illness or other disability of the judge of said court upon the request of the judge thereof, and while so doing he shall have and may exercise all the powers of the said municipal court and the judge thereof in all matters, cases, actions and proceedings whatsoever, with the same force and effect as if he were the duly elected and qualified judge of said court. In any such contingency the municipal judge may also, by order transfer to the circuit court for Manitowoc county any and all circuit court branch 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.

SECTION 41. Circuit court commissioners in said county shall have the same powers and be subject to the same duties in respect to actions and proceedings in the circuit court branch of the municipal court as in the circuit court.

SECTION 42. The divorce counsel appointed by the circuit court of said county shall also be the divorce counsel for the municipal court.

SECTION 43. Whenever it appears from the pleadings that the jurisdiction of the circuit court branch is exceeded, the municipal judge shall certify and transfer such case to the circuit court of Manitowoc county for trial. The jurisdiction of the circuit court branch of this court shall be determined from the pleadings in an action or proceeding at the time the case is called for trial or placed on the calendar for a day certain and no subsequent amendments thereto or proofs thereafter offered shall operate to deprive the court of jurisdiction; and there is hereby conferred on the circuit court branch jurisdiction to hear, try and determine all such cases which, by reason of amendments or proofs offered after the case has been called for trial or set down for trial, would otherwise exceed the jurisdictional limitations set forth in section 35.

SECTION 44. For the additional duties to be performed by the municipal judge as a result of the increase in jurisdiction effected by the creation of the circuit court branch of this court, said judge shall receive such additional compensation as the county board may determine.

SECTION 45. There shall be held at the county seat of said county one general term of said court branch which shall begin at 10 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.

SECTION 46. The jury commissioners appointed by the circuit court judge shall also act as jury commissioners for the circuit court branch. All laws of this state governing juries and jurors shall apply in said circuit court branch, except as herein otherwise provided. No name which appears on the circuit court jury list or on the Manitowoc jury list shall appear on the jury list for the circuit court branch; and to prevent such duplication of names, the Manitowoc jury list shall be annually submitted to the said jury commissioners before they prepare the county at large list.

SECTION 47. (1) Jurors shall be summoned as in the circuit court, and the judge may direct at what time jurors shall be summoned to appear.

(2) At least 6 days before each term, unless otherwise ordered by the judge, the clerk of circuit court shall, in the presence of the judge, draw from a box containing the names

of persons provided therefor, the names of 30 jurors who shall constitute the jury panel for the first 6 months of the term, and the names of 30 jurors who shall constitute the jury panel for the second 6 months of the term. The lists so selected shall forthwith be filed in the office of the said clerk. The jurors on each panel shall act as alternate jurors for the other panel and their names shall be drawn by the clerk from a box containing the names of the alternate jurors so as to provide a full panel of jurors if the court deems it necessary.

(3) 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 municipal court until such year-period shall have passed.

SECTION 48. (1) Whenever directed by the judge the clerk of circuit 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 by statutes. After such examination the 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, plaintiff or plaintiffs beginning. When either party shall decline to challenge in his turn, such challenge shall be made by the judge. 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 49. The parties in any case wherein a jury trial may be had, may agree upon a trial thereof by any number of jurors less than 12.

SECTION 50. The court may set down any case on the calendar for trial on any particular day; and after issue joined in any civil action or proceeding any party may upon 5 days notice to the other party or parties and without any notice of 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 60 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 both parties elect to try such case without a jury, or if 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 a 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 51. The clerk of the justice court branch shall be the reporter of the circuit court branch, and shall report the proceedings had in such court, and perform such duties as the judge thereof shall require. For the performance of duties as such reporter he shall receive such compensation, in addition to his salary as clerk of the municipal court, as the county board of said county shall determine.

SECTION 52. The clerk of the circuit court of the county shall ex-officio be the clerk of the circuit court branch and shall have the care and custody of all books and papers belonging to said branch and shall perform the duties of clerk of said branch in the same manner required and necessary to discharge the necessary duties as clerk of said branch, and all other duties of clerk of said branch in the same manner required of him as clerk of the circuit court so far as it shall be requisite and necessary said clerk shall keep all necessary records of proceedings and judgments had in said branch in the manner provided in the circuit court or as otherwise provided in this chapter. He shall collect the same fees and suit tax as in actions in the circuit court, and such clerk's fees and suit tax shall be paid into the county treasury at the end of each month. The deputy clerk authorized by law to be appointed by the clerk of the circuit court shall also be the deputy clerk of the circuit court branch.

SECTION 53. This act shall take effect June 1, 1953.

Approved May 7, 1953.