

No. 454, A.]

[Published August 31, 1955.

CHAPTER 611

AN ACT to repeal chapter 125, laws of 1951, relating to the county court of Adams county; and to confer additional jurisdiction, powers and duties as herein provided on said county court.

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

SECTION 1. Chapter 125, laws of 1951, is repealed.

SECTION 2. For the purposes of this chapter and in the exercise of the jurisdiction herein conferred upon the county court of Adams county, the court as to such jurisdiction shall consist of 2 branches. The first branch shall be designated as the "County Court, Circuit Court Branch, Adams County"; the second branch shall be designated the "County Court, Justice Court Branch, Adams County". The trial of all actions in the circuit court branch shall be had in like manner as trials in the circuit court for the county and all provisions of law relating to process, pleadings and trials and judgments in that circuit court and all provisions concerning special proceedings in the circuit court shall be applicable to the circuit court branch. All provisions of law relating to process, pleadings, trials and judgments now applicable to justice courts shall be applicable to the justice court branch.

SECTION 3. All process and pleadings and documents in the circuit court branch shall be entitled "County Court of Adams County, Circuit Court Branch". All process and pleadings in the justice court branch shall be entitled "County Court of Adams County, Justice Court Branch".

SECTION 4. There is hereby conferred on the circuit court branch jurisdiction in the following enumerated civil actions and proceedings in law and equity concurrent with and equal to the jurisdiction of the circuit court of the county: actions in the county for the foreclosure of mortgages

and mechanic liens in which the amount claimed does not exceed \$25,000, although the value of the property to be affected by the judgment exceeds said sum; actions for divorce or for the affirmance or annulment of marriage contracts; actions for removing clouds and quieting titles to real estate; actions for the partition of real estate; actions to discharge mortgages of record; actions to release life support agreements and issues of fact for the court in cases where the amount involved does not exceed \$25,000.

SECTION 5. The county judge, for acting as judge of the county court of Adams county, circuit court branch, shall be paid the sum of \$2,000 per year by Adams county out of its county treasury in 12 equal instalments on the first day of each month.

SECTION 6. 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 \$2,500; and all charges for offenses within said county which are not felonies and actions brought for any breach of recognizance given in said court.

SECTION 7. There is hereby conferred on said county court jurisdiction, concurrent with and equal to the jurisdiction of the circuit court, in illegitimacy actions and in all criminal actions and proceedings where the maximum penalty does not exceed 5 years in a penal institution of this state. 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 Adams 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. Where the county judge is the examining magistrate he may make such certification to the county court or circuit court of Adams 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. 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.

SECTION 8. 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 as in circuit courts and such writs and process shall be issued, executed and returned in the same manner and with like effect as in the circuit courts.

SECTION 9. The county court, circuit court branch, shall have jurisdiction in the matter of liens and the foreclosure of the same as set forth in ch. 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 the county court.

SECTION 10. All judgments, orders and decrees, made and entered in and by the county court, 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 the remedies given, and proceedings provided for the collection and enforcement of the judgments, orders and decrees of the circuit court, shall apply to and be exercised by and pertain to the county court.

SECTION 11. All orders and judgments of the 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 may be reviewed; and the supreme court shall have the same power and jurisdiction over actions, proceedings, orders and judgments as over actions, proceedings, orders and judgments in the circuit court of the county, and the parties shall have the same rights to writs of error and appeal from the county court 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 the 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 the circuit court or of the county court relative thereto.

SECTION 12. There shall be held at the county seat 2 general terms to begin on the third Monday of February and the third Monday of August, respectively. Each term shall continue up to the first day of the succeeding term. 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 continued and proceeded with at any subsequent term in the manner and with like effect as though it had been commenced at such subsequent term.

SECTION 13. Judgment may be had and entered in vacation of the county court, 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 in vacation, and the clerk of said court shall have the same powers and authority relative thereto as he has by law or otherwise in circuit court.

SECTION 14. Any circuit judge or any county judge of any county court having civil jurisdiction may hold court 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 the same power as judge of said county court in all matters and cases whatsoever, including criminal actions and proceedings.

SECTION 15. 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 Adams county; and such change of venue shall not prevent the granting by said circuit court of a further change of venue

as provided in ss. 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 s. 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 ss. 261.08 and 356.03 of the statutes, as far as applicable, shall apply to said county court, and that the judge thereof shall have the right to call upon any circuit judge or any 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 Adams 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 16. (1) Jurors shall be chosen when directed by the county judge for each term of the circuit court branch. The jury commissioners of the county shall prepare a sufficient jury list to be known as Adams county court jury list from which list the jurors shall be drawn as is now provided by law for trials in the circuit court 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 judge draw from the list of persons provided therefor, 24 jurors for such term, and the list so selected shall forthwith be filed in the office of the clerk. If the name of any persons known to be disqualified or no longer liable to jury duty in the county be drawn, the name shall be cast out and the name of another juror drawn to take his place.

(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 for all succeeding terms of court until discharged by the court; but the judge in his discretion may order a new panel of jurors to be drawn for the subsequent or any succeeding term.

SECTION 17. (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) In case the whole panel is not summoned for the trial of any civil or criminal action or proceedings in the circuit court branch in which a jury trial is demanded or ordered, the parties shall strike from the panel of jurors selected for such term the jury for such action. The district attorney or plaintiff or plaintiffs shall be entitled to 6 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. When a jury shall have been selected as aforesaid, or otherwise agreed upon, a venire therefor returnable at such time as the judge may direct shall be issued by the clerk to the sheriff of the county.

(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 court may direct the sheriff or his undersheriff, or any of his deputies, to summon a sufficient number of talesmen to supply the deficiency, but not more than 4 such talesmen shall be selected from the residents of any one town, city or village, except by consent of the parties. The officer summoning the same may insert the names of such talesmen on the venire; or the court may cause persons qualified to serve as jurors to be called from the bystanders.

SECTION 18. The jury commissioners for the circuit court shall also act as the jury commissioners for the county court.

SECTION 19. 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 20. The court may set down any case, in the circuit court branch, 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 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 14 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. When 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 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. If for any cause, in selecting a jury, the panel shall become exhausted the court may cause persons qualified to serve as jurors to be returned from the bystanders or from the county at large for the trial thereof and make the proper and necessary orders therefor, provided that in all civil cases involving \$2,500 or less brought in the circuit court branch if a jury trial is demanded by either party or required by the court a jury of 6 persons shall be chosen in the same manner as jurors are selected in the circuit court branch, each side to have 9 strikes.

SECTION 21. 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; 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 attorney fees.

SECTION 22. The clerk of the circuit court of the county shall ex officio be the clerk of said county court, and shall have the care and custody of all books and papers belonging to the circuit court branch of the county court, except 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 county court, and all other duties necessary to carry into effect the provisions of this chapter; and the clerk of the county court shall keep all necessary records of proceedings and judgments had in the county court in the manner provided in the circuit court or as otherwise in this chapter provided.

SECTION 23. On each civil or criminal action commenced in the justice court branch of the county court the same rule for filing fees, officers' fees and appeal fees shall prevail as is applicable to the justice courts in this state; on each civil and criminal action commenced in circuit court branch of the county court there shall be paid to the clerk of the court the same fees as now provided for actions commenced in circuit court; all such clerk's fees shall be paid to the county treasury at the same time payment is made of circuit court fees.

SECTION 24. The deputy clerks authorized by law to be appointed by the clerk of the circuit court, shall also be the deputy clerks of said 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 25. 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 or justice court branch of 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 26. (1) The judge of the county court may employ and appoint a phonographic reporter for the court, and may also appoint an assistant phonographic reporter, who shall in the absence of, or during the disability of the phonographic reporter, have all the powers and perform all the duties of the phonographic reporter. The judge shall have power to remove at pleasure the phonographic reporter or assistant phonographic reporter so appointed.

(2) 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.

(3) The judge shall fix the compensation of the reporter at not to exceed \$10 for each day, and \$5 for each one-half days attendance, which

shall be in full compensation for services and for making transcripts from shorthand notes as may be required by the judge, which salary shall be paid out of the treasury of the county at the end of each month. During the time the assistant phonographic reporter shall perform the duties of the phonographic reporter, he shall receive the compensation provided by law for the phonographic reporter, the same to be deducted from the salary of the phonographic reporter.

(4) The reporter and assistant reporter shall furnish parties to an action, or their attorneys, requiring them, transcripts of the testimony and proceedings had at a price not to exceed 5 cents per folio, and 21½ cents per folio for copies. Until otherwise fixed by law the compensation of the reporter and assistant reporter, except for making transcripts for litigants, shall be paid out of the treasury of the county upon the order of the judge. The fee for said transcripts shall belong to the phonographic reporter.

SECTION 27. Court commissioners for the county shall have the same powers and be subject to the same duties in respect to actions and proceedings in the circuit court branch as in actions and proceedings in circuit court.

SECTION 28. The seal of the county court shall continue to be used as the seal of the court under this chapter.

SECTION 29. The county of Adams 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 county court room or the office of the clerk of the circuit court.

SECTION 30. 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 circuit court branch of 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 to the county treasurer of the county. All fees collected in any action or proceeding in the justice court branch shall be paid in accordance with law governing justice courts in this state.

SECTION 31. The general provisions of the statutes and all the general laws which may at the time be in force relative to the circuit courts, and actions and proceedings therein, and in civil and criminal cases, shall apply also to the circuit court branch, unless inapplicable, and except as otherwise provided in this chapter; 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; 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 as may be necessary.

SECTION 32. The fees of the witnesses, jurors and officers in the justice court branch shall be the same as would be allowed in justice court for similar services except when otherwise provided.

SECTION 33. 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 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 same manner as if originally instituted before him.

SECTION 34. The divorce counsel appointed by the circuit court of the county shall also be the divorce counsel for the county court.

SECTION 35. Nothing contained in this chapter shall be construed as in any manner limiting the jurisdiction of the county court as heretofore existing.

SECTION 36. Appeals may be taken from the justice court branch to the circuit court of Adams county in the same manner as appeals may now be taken from justice courts to circuit courts.

SECTION 37. Writs of error may be taken directly to the supreme court in all criminal proceedings tried in the circuit court branch 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 circuit court branch. Appeals may be taken from all criminal proceedings tried in the justice court branch to the circuit court of Adams 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 38. Any civil or criminal action, or special proceeding commenced in the circuit court branch, may, by consent and stipulation of the parties or their attorneys, be transferred and transmitted to the circuit court for Adams 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 had originally been commenced or instituted therein.

SECTION 39. The judge of the county court may transmit to the circuit court any case or proceedings before him, if, in his 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 40. 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. The court commissioner or justice shall be paid for services performed in the action by the county in all criminal actions at the same rate and in the same manner as now provided by law for like services in justice court, and they shall be paid in all civil actions in the same manner and in like amounts as is now provided by law and shall collect the same from the parties litigant and the county shall in no way or manner be liable for the fees.

SECTION 41. The county judge of the county may, by order filed in his office in case of absence or disability, designate any court commissioner or justice of the peace in the county to preside upon the hearing or trial of any action, either civil or criminal, pending in the justice court branch, and the court commissioner or justice so appointed shall have all the jurisdiction of the county judge in the proceedings in which he was appointed.

SECTION 42. All actions, proceedings, orders, judgments, determinations, records, files, papers and documents of the county court of Adams county relating to the additional jurisdiction under chapter 125, laws of 1951, shall continue as such in the county court of Adams county under this chapter as though its jurisdiction had not been changed by this chapter, except that any pending actions or proceedings commenced under chapter 125, laws of 1951, or any unfinished matters thereunder shall proceed or be completed under the provisions of this chapter if the provisions of this chapter are sufficient for the purpose.

SECTION 43. This act shall take effect January 2, 1956.

Approved August 25, 1955.
