

No. 587, S.]

[Published June 22, 1949.

CHAPTER 309.

AN ACT to amend and revise chapter 396, laws of 1903, as amended by chapter 153, laws of 1905, chapter 184, laws of 1913, chapter 224, laws of 1915, chapter 16, laws of 1935 and chapter 299, laws of 1947, relating to the character, powers, jurisdiction and judges of the municipal court of Brown county, making clear the character of said court as an inferior court and constituting it as an inferior court.

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

Chapter 396, laws of 1903, as amended by chapter 153, laws of 1905, chapter 184, laws of 1913, chapter 224, laws of 1915, chapter 16, laws of 1935 and chapter 299, laws of 1947, are amended, revised and consolidated to read:

SECTION 1. MUNICIPAL COURT CREATED. There is hereby created and established in and for the county of Brown a municipal court which shall have power and jurisdiction as hereinafter specified and provided. This court as created and established is hereby designated and constituted an inferior court.

SECTION 2. COURT, HOW DESIGNATED AND WHERE HELD. The court hereby established shall be known as the municipal court for Brown county, and the judges thereof as the municipal court judges. Said municipal court shall be held at the city of Green Bay in suitable places to be provided and suitably furnished and maintained by said county of Brown. All fines and penalties collected in criminal cases in which the state is a party shall be monthly paid by the judge receiving the same to the treasurer of said county of Brown. All fines collected in city prosecutions shall be monthly paid by the judge receiving the same to the treasurer of said county.

SECTION 3. ELIGIBILITY OF JUDGES; NUMBER OF JUDGES AND DUTIES; MAY CALL IN COUNTY JUDGE OR OTHER MUNICIPAL JUDGE; RECORDS AND JUDGMENTS IN ALL CIVIL ACTIONS TO BE KEPT BY THE CLERK OF CIRCUIT COURT. No person shall be eligible as a judge of the municipal court unless he be a practicing attorney, duly admitted to the bar of Brown county, and said judges shall hold no other county office during the term for which they are elected or appointed. There shall be 2 judges of the municipal court. One of said judges shall preside in all criminal matters and in all juvenile matters in case he is appointed juvenile judge. The other shall preside in all civil actions brought in the circuit court branch and in the small claims or justice court branch. Either of said judges shall upon the request of the other judge preside in the matters of the other. In the absence, sickness or temporary disability of a municipal court judge the other judge shall preside over the absent judge's matters in said municipal court, or either of said judges may, by an order in writing to be filed in said court, appoint the county judge thereof to discharge the duties of such judge during his absence, sickness, or other temporary disability. The appointee shall have all the powers of such judge while administering such office. The order appointing any such county judge may be revoked by said municipal judge making the same at any time. Either of the said municipal judges shall have the right to call upon the county judge for Brown county to attend, hold court, and try any action in said municipal court and while so doing said county judge shall have the same powers as if elected judge of said municipal court, and at such times shall sign all papers, processes and records as "(name), Acting Municipal Judge". In case the county judge of Brown county by reason of sickness or absence is unable to act, or in case said judge for any cause is unable to act, or hear, try and determine any cause or proceeding brought or pending in said court or before him as judge of said court or as county judge, on request of said judge or the register in probate of said court, either of the municipal judges of the municipal court for Brown county is hereby authorized and empowered to hold said county court, hear, try and determine causes or proceedings therein and to perform any act as county judge as fully as said county judge is authorized and empowered to do, and the municipal judge, when so acting, shall be designated in such cause or proceeding as "(name), Acting County Judge". The clerk of the circuit court for Brown county shall have the custody and care of all books and papers belonging to said municipal court insofar as they pertain to civil actions and proceedings therein (excepting violations of ordinances) of which the circuit court or a justice court has jurisdiction and shall in such actions and proceedings perform the duties of the clerk of said municipal court in the same manner as is now by law required of him as clerk of the circuit court. Said clerk of the circuit court shall have and keep in his office all necessary justice courts, small claims or circuit court branch dockets, indexes, minute books and other records of proceedings and judgments made or taken in the municipal court in like manner as is now provided in the circuit court and in the justice courts in civil actions and proceedings; and his fees and compensation therefor shall be the same as are now or may hereafter be provided by law for the fees and compensation of the clerk of the circuit court except in justice court actions as hereinafter provided for, except as may otherwise be provided in this chapter. The clerk of the municipal court shall keep a regular docket entry of the proceedings had in the municipal court and shall in all matters pertaining to the municipal court aid the clerk of circuit court in the discharge of his duties in respect to such matters. All judgments, orders and decrees in such actions and proceedings including judgments in justice court matters shall be filed, recorded, docketed and indexed in the office of the clerk of circuit court of Brown county as shall like judgments, orders and decrees made and entered in and by the circuit court for Brown county, and when so filed, recorded, docketed and indexed shall have the same force, effect and lien and shall be executed and carried into effect and enforced as judgments, orders and decrees made and entered in said 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 municipal court. The above provisions shall supersede any provisions of any other sections herein which are inconsistent herewith.

SECTION 4. OATH AND BOND OF JUDGE. A municipal judge, before entering upon the duties of said office, shall take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court for Brown county; and shall execute to the county of Brown a bond in the penal sum of \$5,000, with 2 sureties to be approved by the treasurer of said county and recorded and filed as provided in section 19.01 of the statutes, conditioned for the faithful performance of the duties required of him by law and the faithful application and payment of all moneys and effects which may come into his hands in the execution of the duties of his office.

SECTION 5. CRIMINAL JURISDICTION; APPEALS FROM JUSTICE COURTS; JURY. The municipal court shall be a court of record, with a clerk and seal, and shall have concurrent jurisdiction with the circuit court of Brown county, with full power and authority to hear, try and determine all cases of crimes and misdemeanors of whatever kind, except murder, that are or may be cognizable before the circuit court, which may be committed in the county of Brown, provided that in all cases in which the person charged with crime shall plead guilty to the charge, the said municipal court shall have full power and authority to sentence such person, so pleading guilty, to hard labor in the state prison, in case the offense is liable to such punishment, or to inflict any other punishment or penalty under the laws of the state in as full a manner as the circuit court could do in such cases, and the said municipal court shall have power to commit or to bail over to such time as may be convenient, such persons as may be found on examination before it to be indictable or subject to a criminal information in which such persons are charged with an offense punishable by imprisonment in the state prison. On or before the time fixed for the trial of such person so committed or bailed over the district attorney shall file in said municipal court, the proper information against such person and the court shall then proceed to hear, try and determine the same, unless the said cause is continued by the court for cause. And in any criminal cause, not cognizable before a justice of the peace, and in which an information may be filed as aforesaid, after the same is at issue, the judge may fix a day for the trial of the same, and the same may then be tried by the court, in case a trial thereof by jury is waived by the accused, in writing, or in open court, to be entered upon the minutes, and in case the trial by jury is so waived the cause shall be tried by the court. No justice of the peace, police justice, or court commissioner within said city of Green Bay, shall exercise any jurisdiction in criminal or bastardy cases, but all such jurisdiction is vested in the judges of said court; and all examinations, recognizances and commitments from said judges, justices of the peace and police justices of said county, in criminal cases (except murder), and in bastardy cases shall be certified and returned to said municipal court instead of said circuit court, at least 5 days before the time fixed for the appearance of the accused; and the accused shall, and all witnesses required to attend may, be committed to be brought or recognized to appear before said municipal court, on a day certain, not more than 20 days from the date of said commitment or recognizance. Said court shall have jurisdiction to try and determine all appeals in civil and criminal cases from justices of the peace and police justices in said county, and in all cases removed from said justices' or police courts on account of the title to lands coming in question, and all such cases shall be certified and returned to said municipal court instead of the circuit court of said county, within 10 days after the perfection of the appeal, in appealed cases, or the joining of issue, in other cases; provided that in civil cases appealable from justices' judgments the party appealing may, at his option, appeal to the circuit court for Brown county instead of to said municipal court. All judgments in civil actions shall immediately after the entry thereof be filed and docketed by the clerk of the circuit court of Brown county as hereinbefore provided. A jury in said municipal court in criminal cases of which a justice court would not have jurisdiction and in which an information may be filed, shall consist of 12 jurors, qualified to sit as jurors under the laws of this state, provided that same may be tried by a jury of less than 12 jurors whenever the accused, in writing, or by consent in open court, entered in the minutes, waives a trial by a jury of 12 jurors.

SECTION 6. CIVIL JURISDICTION. The municipal court shall have civil jurisdiction, concurrent with the circuit court, to hear, try and determine all actions and proceedings at law, wherein the amount of debt, damages, demand, penalty or forfeiture shall not exceed the sum of \$50,000; actions founded on an account when the same shall be reduced to an amount not exceeding \$50,000 by credits given or by the set-off or demand of the opposite party; actions to recover the possession of personal property, damages for the unlawful taking or detention thereof, wherein the value of the property claimed shall

not exceed the sum of \$50,000. The municipal court shall also have jurisdiction of all actions in equity concurrent with that of the circuit court; and shall also have jurisdiction (without limitation because of enumeration) of actions for divorce, separate maintenance, annulment and confirmation of marriage, all other actions growing out of domestic relations, and the foreclosure of mortgages and mechanics' liens, whether such actions are equitable, legal or otherwise. All such actions of which a justice of the peace would not have jurisdiction shall be commenced in the "Circuit Court Branch" of the municipal court of Brown county, which is hereby established, and all process, pleadings and papers in such actions shall be entitled in the circuit court branch of the municipal court for Brown county. Wherever in this chapter the words "municipal court" or "municipal court of Brown county" are used they shall be deemed to include the circuit court branch of the municipal court of Brown county unless the context otherwise requires. In all cases wherein the jurisdiction of the municipal court of Brown county or the judges thereof comes in question this chapter shall be liberally construed in favor of the jurisdiction of said court and the judges thereof.

SECTION 7. JUDGMENT BY CONFESSION, WHEN AND HOW ENTERED. A judgment by confession may be entered by the judge of said municipal court in any sum not exceeding \$50,000 without action, either for money due or to become due or to secure any person against contingent liability on behalf of the defendant or both, if a statement be made in writing signed by the defendant, and verified by his oath to the following effect: 1. It must state the amount for which judgment may be entered and authorize the entry of judgment therefor by the judge of said municipal court. 2. If it be for money due, or to become due, it must state concisely the facts out of which the indebtedness arose, and it must show that the amount confessed therefor is justly due or to become due. 3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the contingent liability, and must show that the sum confessed does not exceed the same.

SECTION 8. TERRITORIAL JURISDICTION. The territorial jurisdiction of the said municipal court shall extend to all parts of the county of Brown, but its jurisdiction over persons in civil actions shall extend throughout the state of Wisconsin, and the judges of said court shall have exclusive jurisdiction of all criminal offenses within the city of Green Bay arising under the provisions of the charter, ordinances, and by-laws of the city of Green Bay and all other laws of the state relating to the police court shall be so construed as to apply to the said municipal court.

SECTION 9. SEAL OF COURT; RULES; SERVICE OF PROCESS; DUTY OF DISTRICT ATTORNEY; OFFICERS OF. The judges of said municipal court shall provide a seal for said court and all papers, depositions, certificates, acknowledgements, examinations or other documents, executed or signed by said judges, when sealed with the seal of said court, shall be evidence in all courts and places in the state. The general provisions of law which shall at any time be in force relative to circuit courts, and actions and proceedings therein including the enforcement of judgments, shall relate also to said municipal court unless inapplicable, except that in actions at law for money damages where the relief demanded is more than \$200 and less than \$2,500, the same may be tried by a jury of 6 persons as hereinafter provided, and the rules of practice prescribed by the justices of the supreme court for circuit courts shall be in force in said municipal court, and its rules of practice and proceedings shall conform as nearly as practicable to the rules and practice of circuit courts, except that in actions at law where the relief demanded exceeds \$200 and is less than \$2,500 the same may be tried by a jury of 6 persons as hereinafter provided, but in case of the change in the place of trial of any cause of which a justice court would not have jurisdiction, or of any criminal case begun by information or of any bastardy case certified to said court, said case shall be removed to the circuit court for Brown county, unless such change is taken on the ground of prejudice of the people of said county, in which case the place of trial shall be changed to the circuit court of an adjoining county within this state. All civil actions originally commenced in said municipal court of which a justice court would not have jurisdiction, shall be commenced in a manner provided by the Wisconsin statutes for the commencement of civil actions in circuit courts, and the provisions of the Wisconsin statutes relating to pleadings, practice and procedure shall, so far as applicable, govern said actions. All civil actions originally commenced in said court of which a justice court would have jurisdiction, shall be commenced in the manner provided by the Wisconsin statutes for the commencement of actions in justice courts, and the provisions of the statutes of Wisconsin relating to pleadings, practice and procedure in justice courts shall, so far as applicable, govern such actions. Said court, in actions of which a justice court would not have jurisdiction shall have power and authority to issue all process necessary to carry into

effect its jurisdiction; which process shall in substance be the same, when applicable, as used in circuit courts, or shall be as directed by the judge thereof. Any warrant, summons, subpoena, writ or other process issued out of the municipal court in a civil or criminal action may be served or executed in any part of the state in the same manner and with the same force and effect as a like warrant, summons, subpoena, writ or process issued out of the circuit court. All informations for criminal offenses, except murder, committed in said county of Brown, shall be filed in said municipal court by the district attorney of said county before the day fixed for the trial thereof. It shall be the duty of said district attorney to prosecute all criminal actions in said court in which the state is a party. The sheriff of Brown county and his deputies shall be officers of said court, and may execute all process, sentences and judgments thereof.

SECTION 10. CONTEMPT OF COURT, POWERS TO PUNISH CONFERRED. The judges of the municipal court shall have the same powers to punish contempt, in the same manner and for like causes and to the same extent, that the judges of the circuit court are or may be authorized by law to punish for contempts, and the said judges of said municipal court may by rules agreed upon by them 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 judges, be served in any part of the state.

SECTION 11. GENERAL POWERS AND DUTIES OF JUDGES. The municipal judge having charge of the criminal jurisdiction of the court shall be the chief magistrate of the city of Green Bay, and possessed of all the powers of a justice of the peace in civil and criminal cases and in city prosecutions he shall see that the criminal laws of the state and the ordinances, laws, rules, regulations, resolutions, and by-laws of the city of Green Bay be observed and executed, and for that purpose, shall open court every morning (Sundays and legal holidays excepted), and proceed to hear and dispose of, in a summary manner, all cases which shall be brought before him by the police officers of the city, or otherwise, either with or without process for violation of the criminal laws of the state, committed in the county of Brown, or the ordinances and by-laws of the city of Green Bay. In all actions or prosecutions for violations of the city ordinances or by-laws the city attorney shall prosecute. The general provisions of law relative to civil and criminal actions before justices of the peace shall apply to said municipal court so far as applicable; provided that said municipal court shall have full power and authority to try and determine the question of title to realty in all cases when the question of title is raised; except that no change of venue shall be taken from said court in any civil case originally commenced in said court of which a justice court would have jurisdiction or in any criminal or bastardy examination, or criminal trial, except cases tried upon information as hereinbefore provided. In any action of which a justice court would not have jurisdiction, wherein it shall be made to appear by affidavit made and filed in the manner and form provided by law for a change of venue in such case in the circuit court that the municipal judge is pecuniarily interested in the action, a material witness or is within the forbidden degrees of consanguinity or where, from prejudice or other cause, such affidavit states that said judge will not impartially decide in the matter, a municipal judge shall call in either the other municipal judge of the court or the county judge to try said action. That upon receiving notice of such demand from the municipal judge, the other municipal judge or the county judge called in shall proceed forthwith, or as soon thereafter as a hearing can be had, to hear, try and determine said action. That if at the time of receiving said notice the other municipal judge and the county judge are occupied in the trial of actions or proceedings, then such action in municipal court shall be held open or adjourned until such time as it can be heard by either of said judges. That when the county judge is so called in, he shall have all the powers of a municipal judge, and shall receive as compensation while acting as such municipal judge the sum of \$10 per day in addition to his salary as county judge, which payment shall be made in the same manner as the salary of the municipal judge. In all actions brought in said municipal court, where an attachment shall be issued upon an affidavit made by or on behalf of the plaintiff, and the debt or demand mentioned in such affidavit exceeds the sum of \$200, such attachment shall be issued in the manner provided relative to attachment in circuit court, and all the provisions of such statutes shall be applicable to any such attachment in said court. In all actions of replevin in said court, wherein the value of the property shall exceed \$200, all the provisions relating to action for replevin in circuit court shall be applicable. Whenever in any case commenced in any of the justice or police courts of said county, a plea of title of land shall be interposed in such manner as to entitle the defendant to a removal of such case, the same shall be certified to said municipal court instead of the circuit court, in the same manner as such cases are now required to be certified to the circuit court; and said municipal court shall have full power and authority to hear, try and determine the same in the same manner as cases

brought to said court on appeal. The city police officers of the city of Green Bay, constables of said county and other officers having the same power and authority as constables of said county, shall be officers of said court, with the same powers and duties as are or shall be conferred upon them by the laws of this state in reference to justice or police courts, in cases wherein said court or the judge thereof exercises original jurisdiction in civil actions, and all criminal cases and examinations, including examinations in bastardy cases, except appeal cases and cases in which informations have been filed; and such officers shall receive the same fees for such service as if performed in justices' court. All provisions in the charter and ordinances of said city relating to the police court or justice courts, or to criminal prosecutions, shall be held applicable to said municipal court. The judges of said court shall have the same power to solemnize marriages, take acknowledgments and depositions, and administer oaths, as a justice of the peace, or circuit court commissioner, and shall receive like fees therefor. Either of the judges of said municipal court may, in his discretion, summon witnesses before him and examine them on oath for the purpose of determining whether a warrant should be issued, and witnesses so summoned shall be compelled to attend before him and answer all pertinent questions relative to the subject of inquiry, and shall be subject to punishment for contempt for refusal to attend and answer.

SECTION 12. CLERK, QUALIFICATIONS AND DUTIES OF; DEPUTY CLERK. The judge presiding over the criminal matters of said municipal court shall appoint under his hand and the seal of said court, some suitable person as clerk of said court, who shall be an expert stenographer and typewriter. The said clerk, when so appointed, shall, before entering upon his duties, take and subscribe an oath to support the constitution of the United States and the state of Wisconsin, and faithfully to discharge the duties of his office, which appointment and oath shall be filed in the office of the clerk of the circuit court of Brown county. The duties of such clerk shall be to do and perform all such ministerial acts as shall be required of him by the judges of said court. He shall have power to administer oaths, take acknowledgments of bail, and other instruments, and under the direction of either of the judges of said court to take testimony and record the criminal judgments, orders and sentences of the said municipal court. In the event of the sickness, absence or other disability of the clerk of said court, or when the judges of said court find that the work requires additional help, the judges of said court in such cases, shall have power to appoint deputy clerks and reporters, who may either be male or female and subject to the civil service ordinance of Brown county, whose powers and duties shall be the same as those of the said clerk and the said deputy clerks or reporters shall receive compensation in the same manner as the said clerk is paid. The clerk of the circuit court for Brown county and his deputy shall be deputy clerks of the municipal court and shall have all the powers and perform all the duties in the same manner and to the same extent as the municipal clerk, excepting the taking of testimony in shorthand. The clerk of the circuit court for Brown county or his deputy shall, upon an order of either of the municipal judges, attend court as deputy clerk in any proceedings in the municipal court.

SECTION 13. CHANGE OF VENUE, HOW HAD. Any person charged upon information of a criminal offense, in the municipal court of Brown county, may, at any time before a jury is drawn for the purpose of a trial in said court, obtain a change of venue to the circuit court of said Brown county, upon making affidavit that he believes that he cannot obtain a fair and impartial trial in said municipal court; and thereupon, the said municipal court shall commit, or hold the party to bail, to appear at the next term of said circuit court, shall transmit all the papers, and a copy of the records of the proceedings in such cause, properly certified to be such, to the said circuit court, which shall then proceed to hear and determine the same, and all recognizances, previously given in such cases, and returned to said municipal court, may be enforced by said circuit court as fully as if they had originally run, and been certified and returned thereto.

SECTION 14. ELECTION AND TERM OF JUDGE. On the first Tuesday of April 1948, and every 6 years thereafter, there shall be elected in the county of Brown, in the same manner as county judges are elected, one municipal judge who shall have charge of the criminal matters of said court, who shall hold his office for the term of 6 years, from the first Monday in the May next following said election, and until his successor is elected and qualified. On the first Tuesday of April 1950, and every 6 years thereafter, there shall be elected in the county of Brown, in the same manner as county judges are elected, one municipal judge who shall have charge of the civil matters of said court, who shall hold his office for the term of 6 years, from the first Monday in the May next following said election, and until his successor is elected and qualified. In case of a vacancy occurring in either office of municipal judge, the vacancy shall be filled by appointment by the

governor of the state, and the person appointed to fill such vacancy shall hold said office for the residue of the term for which his predecessor was elected or appointed, and until his successor is elected and qualified. The judge of the municipal court of Brown county at the time this amendment takes effect (1949) 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 and qualified.

SECTION 15. JURY, HOW DRAWN; ACCOUNT OF FEES AND COSTS TO BE KEPT; SUIT TAX. The municipal court jury commission hereinafter provided for shall, on or before the first Tuesday in June in each year, and from time to time thereafter as it may be deemed necessary and ordered by either of the judges of said court, make 2 lists, the first list to contain the names of 300 qualified electors of the city of Green Bay; the second list to contain the names of 300 qualified electors of Brown county, who are citizens of the United States, to serve in said court as jurors for one year from the said first Tuesday in June, or for one year from the time they may be placed upon said lists, and deliver the said lists to the judges of said court. In civil cases the jury shall be deemed waived unless demanded by one of the parties before entering upon the trial. In all criminal prosecutions for crimes punishable by imprisonment in the state prison or Wisconsin state reformatory or Wisconsin home for women and in all civil cases of which a justice of the peace would not have jurisdiction, and where the relief demanded does exceed the sum of \$2,500, a jury shall consist of 12 jurors, unless a trial by 12 jurors is waived. In all cases where the relief demanded does not exceed the sum of \$2,500, a jury shall consist of 6 jurors, unless a trial by 6 jurors is waived or a trial by 12 jurors is demanded. The fees of jurors shall be the same as they received in circuit court in all cases. In all cases the court may fix a particular day for the trial of the case which shall not be more than 20 days after the day fixed in the recognizance or commitment for the appearance of the accused, in all criminal cases, and not more than 20 days after the filing of the return on appeals to said court, and not more than 20 days after the joining of issue in civil actions originally commenced in said court and may adjourn the trial of any case for cause. A jury shall be drawn in open court in the presence of the accused and prosecuting officer in all criminal and bastardy cases, and of the parties or their attorneys in civil cases, on the day of the trial; but such jury may be drawn in a like manner at any previous time by consent of the parties. All such juries shall be drawn in the manner following: The clerk of said court shall draw, in the presence of the court, from a box containing the names of all persons not disqualified by previous service, from the city of Green Bay, furnished by the jury commission hereinafter provided, 36 names, in all matters in which a jury of 12 persons is authorized to be drawn, and 18 names where a jury of 6 persons is herein provided, and shall make a list thereof, and each party alternately, beginning with the prosecution or plaintiff, shall strike a name from said list until only 24 names, or 12 names, as the case may be, remain. In case either party shall neglect or refuse to strike out such names, the judge shall appoint some person to strike for him. The 24 persons, or the 12 persons, as the case may be, whose names remain shall be summoned and each party on the trial shall alternately strike a name until 12 names or 6 names, as the case may be, remain, who shall be the jury in such case. In civil and criminal actions before said judge, originally commenced in said court, of which a justice of the peace has jurisdiction, and in all actions arising under the charter, ordinances and by-laws of the city of Green Bay, and in all civil actions where the relief demanded does not exceed \$2,500 and in which a jury of 12 persons is not demanded, 18 names from whom a jury shall be struck, shall be drawn from such box in like manner, each party striking 6 names, instead of 12, in the manner aforesaid. The 6 persons whose names remain shall be summoned as jurors in such case. The day for trial may be adjourned from time to time in the discretion of the court. If any person thus drawn cannot be summoned, or be excused or set aside as incompetent, another name may be drawn from said list to supply his place and the person whose name is so drawn shall be summoned in like manner, or the judge may direct the issue of a venire to the sheriff of said county to summon the necessary jurors to complete the panel from said county at large. In any case where a jury of 12 is required, and in all civil actions where a jury of 6 is herein provided for, where a justice of the peace would not have jurisdiction, said judge may at his option, and shall, at the request of the defendant or prosecuting officer, in a criminal case, and of either party, in a civil action, direct the clerk to draw 36 names, or 18 names, as the case may be, from the box containing the names of jurors from the body of the county, from which list a jury shall be struck and summoned in the same manner as provided above. And in case any of said jurors cannot be summoned or be excused for any cause, a sufficient number of talesmen to complete the panel and make a jury may be summoned in the manner hereinbefore provided. In any case where a jury of 12 or a jury of 6 is provided for, in civil actions where a justice

of the peace would not have jurisdiction, said judge may, at his option, direct the sheriff or one of his deputies to make a list of 36, or 18, as the case may be, qualified electors from the body of the county, from which list a jury shall be struck and summoned in the same manner as above provided, and talesmen necessary for any cause, to complete the panel and make a jury, may be summoned from the body of the county. Every person having served as a juror of said court shall be disqualified from serving as a juror for 3 months next succeeding such service. The clerk shall not replace in the box from which the names of jurors are drawn the name of any person while such person is disqualified from acting as a juror by reason of previous service. The judge of said court shall keep or cause to be kept by the clerk of said court, a full and complete record and account in a book to be furnished as the other records and books of said court are furnished, of all fees and costs so received by said judges or clerk, in such a manner that such record shall show the exact amount paid, by whom, at what time, and on what account, and if paid in any case, what case. Said judges shall also make duplicate certificates showing the same facts and file same with the county clerk. In all civil cases coming before said court there shall be paid to the judges the sum of \$3 at the time of issuing the summons, in actions originally commenced in said court and at the time of filing the papers, in actions brought into said court by appeal on change of venue, and no appeal to said court or change of venue to said court in civil cases shall be of any effect unless said sum is paid. Said sum of \$3 shall be applied by said judge to the payment of the costs of said court, and if there be any surplus, such surplus shall be refunded to the party paying. Payments to the clerk of the circuit court shall be deemed payment to the judges as hereinbefore provided. If the party paying such sum shall obtain judgment for his costs in such action, the amount so paid by him shall be included in his judgment, but if the adverse party have judgment for cost, such sum shall not be included therein.

SECTION 16. SALARIES OF JUDGES AND CLERK. Each municipal court judge shall receive a salary of \$6,000 per year, and the municipal court clerk shall receive a salary of \$3,400 per year. The said salaries shall be paid monthly out of the county treasury of Brown county. The county board of the said county of Brown shall have the power to increase the salaries of said municipal judges and municipal clerk at any meeting of the county board of Brown county.

SECTION 17. FEES AND COSTS, HOW TAXED AND TO WHOM PAID. The judges of said municipal court shall tax such fees and costs as are taxed by a justice of the peace in proceedings had before him, wherein a justice of the peace has jurisdiction, except as herein otherwise provided, and said fees when so collected shall be paid into the county treasury at the end of each month. In all other actions the costs and fees shall be the same as now provided in the circuit courts of Wisconsin. The fees of jurors in said court shall be paid by the county of Brown upon voucher of the clerk of said municipal court in the same manner as fees of jurors in circuit court are paid; provided, however, that the party calling for a jury in a civil case properly triable by a jury of 6 jurors, in actions in which a justice court has jurisdiction, shall pay to the clerk of said municipal court the fees payable in justice court upon demand of trial by jury, which sum shall be paid into the county treasury as aforesaid, and which sum shall be taxed against the losing party as a part of the costs in such case, and provided further, that the judge of said court shall in all cases of which justices of the peace now have original jurisdiction, tax as fees the sum of 2 cents per folio only for each folio of testimony taken on the trial.

SECTION 18. APPEALS. Appeals from the justice court of Brown county shall be made to the municipal court for Brown county in the manner and form of taking such appeals to the circuit court, and appeals from the municipal court in all prosecutions for crimes and misdemeanors, or the violation of city ordinances or by-laws, shall be made to the supreme court in the same manner as appeals from circuit courts are now taken. In all civil cases originally brought in the municipal court of which a justice court would have jurisdiction, appeals shall lie to the circuit court of Brown county in the same manner as appeals from justice courts are now taken. In all other cases the appeal shall lie to the supreme court in the same manner as appeals are now taken from circuit courts. The clerk of said municipal court shall be allowed the statutory sum per folio as allowed circuit court reporters for each folio of testimony written out in longhand on the request of a party, to be paid by the party demanding the same.

SECTION 19. JUSTICE COURT APPEALS, HOW HEARD AND DETERMINED. Where an appeal is had from a justice court to the municipal court, it shall be the duty of the judge of said court, on receipt of the records in said cause, to cause the case to be duly entered in the court docket. And on the time fixed by the judge for the hearing thereof, the said municipal court shall proceed to hear, try and determine the same, unless it be continued by

the said judge or by the parties for cause. Nothing in this act shall be construed as in any manner affecting the right or jurisdiction of any court, judge, justice of the peace or police justice to hear, try and determine any cause now pending in any such court or before such judge, justice of the peace or police justice, or which shall be commenced before said municipal court judge shall enter upon the duties of his office.

SECTION 20. MUNICIPAL COURT JURY COMMISSION; TERMS OF MEMBERS; COMPENSATION. The judge of said municipal court shall, on or before May 10, 1904, appoint a commission to be known as the municipal court jury commission, and consisting of 3 members. The persons so appointed shall be freeholders residing in the county of Brown, citizens of the United States and qualified electors of the state of Wisconsin; one of said commissioners to hold office for one year, one for 2 years and one for 3 years, and the said judges shall designate the terms of each commissioner so appointed. Thereafter each of said judges shall in alternate years appoint one such commissioner each year to serve for 3 years from May 10. The first appointment by the judge to have charge of the civil branch for the municipal court for Brown county shall be made on or before May 10, 1951. Vacancies shall be filled for the unexpired term by the judge appointing the commissioner whose term is vacated, and any commissioner may be removed by the judge at will. Each commissioner shall, before entering upon his duties, take and subscribe before the clerk of said court an oath to support the constitution of the United States and of the state of Wisconsin and faithfully to discharge the duties of the office of jury commissioner to the best of his ability. Such oath shall be certified by said clerk and filed in his office. Two of said commissioners shall constitute a quorum. Said commissioners shall receive the sum of \$5 for each day actually spent in official service, to be paid by the county of Brown on the order of the clerk of said court, countersigned by either of said judges.

SECTION 21. COURT CALENDAR. Civil and criminal actions and proceedings shall be heard at regular terms of the municipal court to begin at 2 o'clock in the afternoon on the first Monday in each month. For such matters the court shall be open for business on all secular days, except as the judge thereof may otherwise order, from the commencement of any regular term until the next regular term and no adjournment from day to day shall be necessary to the validity of any proceeding in said court under this chapter. The clerk of circuit court shall certify a list of all cases in the municipal court on file in his office and at issue on the Monday preceding the first Monday of the month, which list shall be delivered to the clerk of the municipal court, who shall thereupon prepare a calendar of cases and submit it to the court prior to the opening of the term of court. The calendar shall then be called by the presiding judge upon opening of court of each term and the cases shall then be assigned or set for trial. All trials, proceedings, hearings, motions, orders, arguments and unfinished business of every nature of each term shall without any order of the court be and stand continued to the next succeeding term and shall be heard and disposed of at such time as the judge may decide.

SECTION 22. COURT COMMISSIONERS; DEPOSITIONS. Court commissioners for the county of Brown shall have the same powers and be subject to the same duties in respect to actions and proceedings in the circuit court branch of said municipal court as in actions and proceedings in circuit courts of this state. Depositions for use in the circuit court branch of said municipal court may be taken before any person authorized to take depositions for use in circuit courts of this state, and all the rules of practice and procedure relating to depositions for use in circuit courts of this state shall apply to depositions taken for use in the circuit court branch of said municipal court.

SECTION 23. TRIAL BY JURY IN CIRCUIT COURT BRANCH RELATIVE TO CLAIMS OF \$2,500 OR LESS. In the case of all claims asserted in the circuit court branch of the municipal court of Brown county, and where a justice of the peace would not have jurisdiction, in the amount of \$2,500 or less, trial by jury may be had before a jury of 6 members, rather than 12 members, provided that all parties to the litigation submit to such trial without objection.

SECTION 24. SEVERABILITY. All of the provisions of this act are severable and divisible, and any provision which is found to be invalid, illegal or unconstitutional shall not affect any of the other provisions herein.

Approved June 17, 1949.