

No. 272, A.]

[Published August 29, 1959.

### CHAPTER 333

AN ACT to amend sections 20, 25, 26 and 37; to repeal and recreate section 34 (d); and to create section 35 (e) of chapter 64, laws of 1955, relating to trials, the appointing or calling in a judge and the selection and compensation of jurors in the municipal court of Sheboygan county.

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

SECTION 1. Chapter 64, laws of 1955, section 20, is amended to read:

(Chapter 64, laws of 1955) Section 20. All provisions of law in force and effect relating to justices of the peace and to the trial of actions and proceedings therein shall apply to the lower branch of the municipal court, and the judge thereof, in the exercise of the jurisdiction conferred by this chapter, except as herein otherwise provided, and insofar as applicable; *provided, that in jury trials in the lower branch the jury shall decide matters of fact only, under proper instructions of the court and the court shall be the judge of all questions of law arising in the trial of causes in the same manner as in trials in circuit court.*

SECTION 2. Chapter 64, laws of 1955, sections 25 and 26, are amended to read:

(Chapter 64, laws of 1955) Section 25. No action, examination or other proceeding shall be removed from the municipal court, but whenever on or before the return day in the lower branch and on or before joining issue in the upper branch, and before the commencement of any examination, it \* \* \* *appears* by affidavit that from prejudice the

judge will not decide impartially in the matter, or that he is interested pecuniarily in the action, examination or other proceedings or is a material witness, or that he is within the forbidden degree of consanguinity, the judge shall appoint the circuit judge, county judge or any court commissioner in the county, who is not disqualified, to try and hear the cause, and the circuit judge, county judge or court commissioner shall discharge the duties of the judge in the trial or hearing in the cause in the same manner and with like effect as the municipal judge would if not disqualified. *The judge may appoint any judge of a court of record in this state instead of the circuit judge, county judge or court commissioner of the county as above provided.*

SECTION 26. The judge of the municipal court shall also have the power on his own motion, in any case in which he deems it advisable to call the circuit judge, county judge or court commissioner *of the county, or any judge of a court of record of this state* to try and hear any cause or matter pending in his court.

SECTION 3. Chapter 64, laws of 1955, section 34 (d), is repealed and recreated to read:

(Chapter 64, laws of 1955) Section 34 (d). Jurors in the upper branch shall receive the compensation for attendance and mileage as provided in section 255.25 of the statutes.

SECTION 4. Chapter 64, laws of 1955, section 35 (e), is created to read:

(Chapter 64, laws of 1955) Section 35 (e). In addition to the methods prescribed in this act for the selection of jurors the presiding judge of the court may order that a panel of petit jurors be selected for each term of the court in the manner provided in sections 255.04 to 255.09 of the statutes and juries shall be drawn for the trial of each case in the manner set forth in section 270.15 of the statutes and all applicable provisions of chapter 270 of the statutes shall govern jury trials in the upper branch of the court.

SECTION 5. Chapter 64, laws of 1955, section 37, is amended to read:

(Chapter 64, laws of 1955) Section 37. The judge is empowered to set certain dates, not less than \* \* \* 2 in each year, when regular terms of court in the upper branch thereof will be held, at which time he will take up the trial in the order of issue joined \* \* \* all jury cases undisposed of wherein a trial by jury \* \* \* *is to be held.*

Approved August 26, 1959.