

of township nine north, of range six east, town of Prairie du Sac, or in the nighttime in any other inland waters.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 13, 1929.

No. 146, A.]

[Published July 16, 1929.

CHAPTER 291.

AN ACT to repeal chapter 63 of the laws of 1895, chapter 244 of the laws of 1905, chapter 422 of the laws of 1907, chapter 135 of the laws of 1913, chapter 524 of the laws of 1919, chapter 412 of the laws of 1921, and chapter 183 of the laws of 1925, and all acts amendatory thereof, relating to the first and second municipal courts of Oneida county and abolishing the same; and to confer on the county court of Oneida county civil and criminal jurisdiction.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 63 of the laws of 1895, chapter 244 of the laws of 1905, chapter 422 of the laws of 1907, chapter 135 of the laws of 1913, chapter 524 of the laws of 1919, chapter 412 of the laws of 1921, and chapter 183 of the laws of 1925, and all acts amendatory thereof, are repealed, and the first and second municipal courts of Oneida county are hereby abolished.

SECTION 2. All public records and files of said municipal courts shall, as soon as this act takes effect, be transferred to and become the official records of the county court of Oneida county; and all actions pending in said municipal courts when this act becomes effective shall be transferred to, and jurisdiction thereof be vested in, said county court, and the same shall be concluded in accordance with the practice now governing said municipal courts.

SECTION 3. There is hereby conferred on the county court of Oneida county jurisdiction of the following actions, matters and proceedings, to wit:

(1) The said county court shall have and exercise civil jurisdiction concurrent with and equal to the jurisdiction of the circuit court of Oneida county in all (a) actions, suits and proceedings at law, of every kind and nature, except actions where

the value of the property in controversy, or the debt or balance due, or the damages claimed in the complaint, shall exceed five thousand dollars, exclusive of interest, costs and disbursements; (b) actions and proceedings in equity for the foreclosure of mortgages, land contracts and liens (including liens for which claims have been filed in the office of the clerk of the circuit court of Oneida county), and actions for accounting, all when the sum demanded in the complaint does not exceed ten thousand dollars, exclusive of interest, costs and disbursements; (c) proceedings to discharge mortgages of record; (d) actions to quiet title to lands and for the partition thereof; and (e) all actions and proceedings relating to annulment of marriage and divorce.

(2) The said county court and the presiding judge thereof shall also have and exercise jurisdiction concurrent with and equal to the jurisdiction of the circuit court of Oneida county in all bastardy actions, and in all criminal cases except homicide and except offenses for which the highest penalty provided by law shall exceed five years imprisonment. Provided, however, that all pleas of guilty except in homicide cases, may, upon request of the accused, in the manner provided in sections 357.20 to 357.24 of the statutes, be entered in said court; and the said court, and the presiding judge thereof, shall have jurisdiction to receive such pleas, and to pass sentence and render judgment thereon in the same manner and with like effect as if such pleas had been made in the circuit court of Oneida county.

(3) The said county court and the presiding judge thereof shall also have and exercise all of the jurisdiction, powers and authority in civil and criminal actions and proceedings within said county which are possessed by justices of the peace and the courts thereof, including offenses against the ordinances of Oneida county, and of cities and villages therein. All jurisdiction, power and authority in criminal actions and proceedings now possessed by justices of the peace of Oneida county is hereby withdrawn and withheld, except the power and authority to receive complaints in felony cases and to issue warrants thereon, which warrants shall be made returnable to the said county court, and all complaints and other papers relating thereto shall be forthwith certified to said county court.

SECTION 4. Said county court shall be a court of record, and, subject to the exceptions aforesaid, shall be a court of general jurisdiction, and shall possess the same powers as the circuit

court of Oneida county, including power to issue all writs, orders and process throughout the state.

SECTION 5. The clerk of the circuit court of Oneida county shall be ex officio the clerk of said county court, with like powers and duties to those exercised in said court, and shall perform such other duties as may be required by the county court. Upon the order of the county court such clerk shall file an additional official bond in the amount required by such order to cover performance of the duties required by this act. The seal now in use in said county court shall be and remain the seal of such court for all the purposes of this act.

SECTION 6. The county judge shall appoint and may remove at pleasure a phonographic reporter for said county court, who shall not be related to said judge, and whose salary is fixed at the sum of one hundred fifty dollars per month, payable monthly out of the treasury of Oneida county, until the county board of said county shall fix said salary at some other amount. Said reporter shall take and file in said county court the constitutional oath, and shall take stenographic notes of all evidence and proceedings had in said court upon the trial of all issues of fact. Said reporter shall also act as register in probate of said court, and shall perform such other duties as the county judge may require. In case of temporary absence or disability of such reporter the county judge may appoint a temporary substitute who shall qualify in like manner.

SECTION 7. No person shall be eligible to the office of county judge of Oneida county unless he be licensed to practice law in the state of Wisconsin and is a qualified elector of said county. The salary of the county judge of Oneida county for performing all duties pertaining to said office shall be six thousand dollars per year, payable in equal monthly installments out of the treasury of Oneida county, until the county board of said county shall, by proper action, fix the same at some other sum, not less than the amount herein provided. Said judge shall receive no other compensation for services as such and shall not engage in the practice of law while holding said office.

SECTION 8. Said county court shall be held at the court house in the city of Rhinelander in some suitable room or rooms to be furnished and supplied at the expense of Oneida county under the direction of the county board thereof, and said county shall provide all books, blanks and stationery required by said

court. Said court shall be open for business on all secular days except legal holidays.

SECTION 9. The sheriff of Oneida county and his deputies shall be officers of said county court and shall attend its sessions whenever required by the presiding judge thereof.

SECTION 10. There shall be two jury lists containing the names of jurors who shall be available for service in said county court 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 "Rhinelanders jury list".

(1) The county-at-large jury list shall be and consist of the list of names prepared and drawn for the circuit court from the body of Oneida county by the circuit court commissioners thereof, pursuant to the provisions of subsection (1) of section 255.04 of the statutes.

(2) The Rhinelanders jury list shall be constituted as follows: The jury commissioners appointed by the circuit court of Oneida county shall, immediately when this act becomes effective, and thereafter from time to time as required by said county court, provide and furnish a list containing the names of two hundred jurors selected by them from citizens residing within the city of Rhinelanders. Except as aforesaid, all of the provisions of subsection (1) of section 255.04 relating to the preparations of jury lists for the circuit court, so far as applicable, shall apply to and govern the preparation of such list, but the slips containing the names of jurors so selected shall be deposited in a box designated the "Rhinelanders jury list."

SECTION 11. For the purposes of this act and in the exercise of the jurisdiction thereby conferred on the county court of Oneida county, said court shall be divided into two branches, the lower municipal branch and the upper municipal branch.

(1) The said county court, lower municipal branch, and the presiding judge thereof, shall have and exercise within the county of Oneida all of the jurisdiction, powers and authority which are conferred upon said county court by subsection (3) of section 3 of this act; and in addition thereto such jurisdiction, powers and authority of said lower municipal branch is extended to all crimes and offenses arising within said county not punishable by imprisonment in the state prison, and to all civil actions and proceedings at law within said county wherein the debt, demand

value of property, or damages claimed in the complaint shall not exceed five hundred dollars.

(2) All jurisdiction conferred by this act on the county court of Oneida county except that vested in the lower municipal branch thereof by subsection (1) of this section shall be vested in and exercised by the said upper municipal branch of said county and the presiding judge thereof; but said upper municipal branch shall have jurisdiction on appeal from said lower branch of all matters and proceedings specified in said subsection (1) hereof.

SECTION 12. (1) Except as herein otherwise provided, all statutes and rules of procedure relating to courts of justices of the peace shall apply to and govern the lower municipal branch of said county court in all actions and proceedings, both civil and criminal; but the presiding judge thereof shall in addition, have the same power to rule upon the admission of evidence, and, in his discretion, to instruct juries therein, as is possessed by circuit judges.

(2) In all preliminary examinations in which the defendant shall be held to trial for an offense of which trial jurisdiction is conferred by this act on the said county court, such defendant shall, unless he shall demand at the close of such examination that he be held for trial to the circuit court, be held to trial in the upper municipal branch of said county court.

(3) Any party to an action in said lower municipal branch of said county court desiring that the issues therein be tried by jury shall be entitled to a jury either of six or twelve upon demand in writing designating which, provided that in civil actions the party so demanding a jury shall first pay to the judge or clerk a jury fee of one dollar for each juror demanded. When a jury is demanded, the court shall cause eighteen names to be drawn if a jury of six is demanded and twenty-four if a jury of twelve is demanded, from the box containing the names of the "Rhinelander jury list", defined in section 10 hereof, and each party shall exercise six strikes, in the manner provided by law for obtaining juries in justices' courts. If any of such jurors so chosen shall not attend at the time so summoned to appear or in case there be legal objections raised to any of those who shall appear the judge may cause additional names to be drawn and jurors summoned to supply the deficiency. Whenever such party demanding a jury shall further demand in writing a jury

from the "county-at-large jury list", as defined in section 10 hereof, the names of such jurors shall be drawn from the box containing same, but in that event any additional jurors required shall be obtained as provided by section 302.10 of the statutes instead of drawing additional names from said box. If trial by jury, to consist of either six or twelve members, as aforesaid, shall not be so demanded, the right of such trial by jury shall thereby be deemed waived.

(4) In said lower municipal branch costs shall be taxed in accordance with the practice and laws relating to justices' courts, except that in lieu of fees for taking evidence in any contested case there shall be taxed as part of the costs two dollars and fifty cents for each half day or fraction thereof, and five dollars for each major portion of a day, in which evidence is taken in any cause or proceeding; and there shall also be taxed, collected and disposed of as provided in section 271.21 of the statutes, one dollar in every civil action or proceeding in said court.

(5) Judgments entered in the lower municipal branch of said court shall be of the same force and effect as judgments entered in courts of justices of the peace, as provided by law, and the same may be docketed in the circuit court upon transcript in like manner, form and effect as judgments entered in said courts of justices of the peace.

(6) In case of the disqualification of the county judge of Oneida county to hear, try, or determine any matter pending in said lower municipal branch of said court, or in case of his sickness, temporary absence or disability, he shall by an order in writing filed in said court, appoint some justice of the peace or some qualified judge of an adjoining county, not otherwise disqualified, to discharge the duties of said judge relative to such action or proceeding, or during such sickness, temporary absence or disability. The justice or judge so appointed shall have all of the powers of said county judge in such branch concerning actions and proceedings that may so come before him. He shall receive for his said services five dollars for each half day so devoted, payable out of the county treasury of said county.

(7) Appeals from judgments of said lower municipal branch of said court may be made, at appellant's election, either to the circuit court of Oneida county or to the upper municipal branch of the county court of said county, and in either case all of the laws relating to appeals from justices' courts shall apply thereto.

An appeal to either court shall be a waiver of the right to appeal to the other court, but not of the right to appeal from the decision on said appeal to the supreme court of Wisconsin.

SECTION 13. (1) The general statutes, laws and rules of court governing like proceedings and practice in the circuit courts shall, so far as applicable and not herein otherwise provided, apply to and govern all actions and proceedings in the upper municipal branch of said county court; and the said court shall have power to punish for contempt and to make such other rules of practice as may be necessary.

(2) (a) In the event of the absence, sickness or other disability of the county judge, and upon his request, any circuit judge, or the judge of any court having civil and criminal jurisdiction equal to or greater than that hereby conferred upon the upper municipal branch of said county court, may hold court in said upper municipal branch during such absence, sickness or disability, and while so acting shall possess the powers and duties therein of said county judge. The judge of the county court shall be disqualified to try and determine any case in which he shall have acted as counsel for either party.

(b) In case of a vacancy in the office of county judge, or in case of his absence or disability for more than ten days without having designated some other judge to act in the upper municipal branch thereof, the circuit judge of Oneida county may on his own motion or upon application made to him, act as judge of said branch or designate some other qualified judge to act therein during such vacancy, absence or disability.

(c) The provisions of law applicable to change of venue in the circuit court of this state shall be applicable to actions and proceedings in the upper municipal branch of said court, except that when the venue of any action shall be so changed because of the prejudice of the judge it shall be changed to the circuit court of Oneida county; and such change of venue shall not prevent the granting by the circuit court of a further change as provided in section 261.04 of the statutes.

(d) Whenever a counterclaim is interposed demanding relief beyond the jurisdiction of the upper municipal branch of said court, the county judge shall certify and transfer such case to the circuit court of Oneida county for trial.

(e) If in an action pending in the lower municipal branch its jurisdiction is exceeded, the county judge shall by order transfer

it to the upper municipal branch for trial, requiring such additional pleadings as may be necessary.

(f) The jurisdiction of the upper municipal branch of this court shall be determined from the pleadings in an action or proceeding at the time the case is called for trial and no subsequent amendments thereto or proofs thereafter offered shall operate to deprive the court of jurisdiction.

(3) (a) In all civil trials in said upper municipal branch the jury shall consist of six, unless the party demanding a jury shall demand that it consist of twelve. A jury may be demanded by either party by service of written notice and demand on the attorneys for the opposite party at least six days before the term at which the action is noticed for trial, which notice shall fix the time for drawing a jury not less than two nor more than four days before the term; and if no demand is served by either party within the time above specified, a jury shall be deemed to have been waived, but the court may on notice, allow a demand for a jury to be interposed at any time upon terms that may be just. If in his demand for a jury trial, the party demands that the jury consist of twelve, he shall be entitled thereto; but if no written demand for a jury of twelve is made, the right to such is deemed expressly waived. If objection be made at the time fixed for drawing a jury that the issues are not triable by a jury, the court shall forthwith determine whether a jury shall be drawn.

(b) Whenever such a jury is to be drawn, the clerk or judge in the presence of the parties or their attorneys, shall cause eighteen names to be drawn when a jury of six is required, and twenty-four if a jury of twelve is required, from the box containing the names of the "Rhineland jury list" defined in section 10 hereof, and each party shall exercise six strikes in the manner provided by law for exercising peremptory strikes in circuit court. If any of the jurors so chosen shall not attend at the time so summoned to appear, or in case there be legal objections made to those who shall appear and such jurors are disqualified, the judge may cause additional names to be drawn and jurors summoned to supply the deficiency, or the deficiency may be supplied in the manner provided by sections 255.06 or 360.15 of the statutes, as the court may direct.

(c) Whenever such party demanding a jury shall further demand in writing a jury from the "county-at-large jury list", as described by section 10 hereof, the names of such jurors shall be

drawn from the box containing same, but in that event any additional jurors required shall be drawn either from the "Rhinelander jury list" as herein described, or in the manner provided by sections 255.06 or 360.15 of the statutes, as the court shall direct, 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.

(d) In criminal cases triable in the upper municipal branch, the jury shall consist of twelve jurors drawn from the "county-at-large jury list", as herein described; provided, however, that the defendant, may in writing, waive a jury trial, or may consent that the jury consist of a lesser number than twelve, and may further consent that the jury be drawn from the "Rhinelander jury list". All juries in criminal cases shall be selected in the manner and form herein provided for the selection of juries in civil cases.

(4) Costs and fees shall be taxed and collected in all matters pending in the upper municipal branch the same as in circuit court.

(5) All orders, judgments and decrees made and entered in the upper municipal branch of this court shall be recorded and judgments and decrees docketed by the clerk in the same manner and in the same books that orders, judgments and decrees of the circuit court of said county are recorded and docketed, and with equal force, lien and effect, and shall be enforceable in said county court in the same manner. Notation shall be added in such dockets and records showing that such orders, judgments or decrees were made or entered in said county court. Executions shall issue upon judgments in the same manner and with the same effect as out of the circuit court of Oneida county.

(6) Appeals from the upper municipal branch of the county court of Oneida county shall be to the supreme court, as from circuit court; and all orders, decrees and judgments of said upper municipal branch may be reviewed by the supreme court in the same manner and with like effect as judgments, decrees and orders of the circuit court may be reviewed. Bills of exceptions shall be settled as in circuit court. The provisions of section 252.20 of the statutes shall apply to obtaining and furnishing of transcripts of court proceedings.

(7) Court commissioners for the circuit court of Oneida county shall have the same powers, and be subject to the same duties per-

taining to actions and proceedings in the said upper municipal branch as in actions and proceedings in said circuit court.

SECTION 14. (1) (a) The county court of Oneida county shall hold a regular term of the upper municipal branch thereof on the second Tuesday of the months of February, April, June, August, October and December of each year. Each regular term shall continue until the commencement of the succeeding term.

(b) At each term shall come on for hearing all cases pending in the upper municipal branch of the county court which have been noticed for trial at least ten days prior to such term.

(c) At such terms shall come on for hearings all cases pending in the lower municipal branch wherein a jury has been demanded. A proper demand for a jury in a cause pending in the lower municipal branch shall (unless specifically adjourned to an earlier date) operate as an adjournment of the cause to the next regular term of the upper municipal branch of said court.

(d) The county judge may, by order, adjourn any term of the court for a period not exceeding two weeks.

(e) The clerk of the court shall prepare such calendars of cases, and give such notices of causes pending, by posting, mail or otherwise, as the judge shall direct.

(2) All fines, fees and costs, except those payable to parties litigant, shall be paid to the clerk of said court, who shall account therefor and pay the same over on February 1, May 1, August 1 and November 1 of each year to the proper authorities thereto lawfully entitled.

(3) Jurors serving in the lower municipal branch shall be compensated as in justice courts. Jurors serving in the upper municipal branch shall be compensated as in circuit courts. Service as jurors in said county court shall constitute no exemption from further jury service. All jurors shall be compensated by the county upon certificate of the judge or clerk determining the amount of the same.

SECTION 15. This act shall take effect January 1, 1930.

Approved July 13, 1929.