

AN ACT prescribing the time of holding the annual session of the Legislative Assembly.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin :

§ 1. That hereafter the annual session of the Legislative Assembly shall commence on the first Monday of January of each year.

§ 2. The first section of "An act fixing the time of holding the annual session of the Legislative Assembly, and for other purposes," approved 23d March, 1843, is hereby repealed.

APPROVED, January 24, 1844.

AN ACT to amend an act entitled "An act concerning justices of the peace." and for other purposes.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin.

- § 1. Every justice of the peace hereafter elected shall file his official bond with the clerk of the district court, and it shall not be necessary to have the same recorded.
- § 2. When a plaintiff has given security for costs, if judgment be rendered for the defendant, the justice shall, on application, enter judgment against the surety for the costs; and issue execution thereon, after the execution on the original judgment shall be returned unpaid as to such costs or any part thereof.
- § 3. Upon the return of any process, each party shall put in his pleadings, and give a bill of particulars of his demands, if required by the justice or opposite party; the justice shall then, upon the application of either party, without requiring cause to be shown, adjourn the case for such time as may be required, not exceeding one week; but if sufficient cause be shown on oath, by either party the justice shall grant an adjournment for a longer time than one week, not exceeding, however, ninety days. No costs shall be taxed for the travel or attendance of any witness in a cause on the return day of the original process issued
- Bond when and how filed.
- Judgment for costs against surety.
- Shall plead and file bill of particulars.
- Continuances.
- No charge for service of process or witness

therein, nor for the service of any subpoena issued therein returnable on that day, nor for travel in serving the same, unless an actual trial shall be had in the cause on such return day. No charge for service of process or witness.

§ 4. Any person aggrieved by any judgment rendered by a justice of the peace under the act of which this is amendatory, when the judgment shall exceed fifteen dollars may appeal by himself or agent, to the district court of the county where the same was rendered. *Provided* however, that where the claims of either party, as proved in the cause at the trial, shall exceed fifty dollars, or the claims of both parties, as proved on the trial, shall exceed one hundred dollars, then either party may appeal from such judgment, although the recovery before the justice be less than fifteen dollars; in which case the fact of such sum or sums having been proven on the trial shall be set forth and certified by the justice in his return: *Provided*, also, that in all cases where an appeal is not allowed by the provisions of this section, it shall be lawful for either party to remove the cause to the district court, by a writ of certiorari, and so much of article twelfth, of the act entitled an act, concerning justices of the peace, as will be necessary to carry the provisions of this section into effect, is hereby retained, section 14 of this act to the contrary notwithstanding, and in such cases it shall be the duty of the Justice, to return all the testimony and proceedings had before him: *Provided*, this law shall not interfere with any actions in cases of forcible entry and detainer. When judgment exceeds \$15 may appeal. when claim exceeds \$50 or both \$100 may appeal. Proviso. May certiorari case. Section retained. Justice shall retain testimony.

§ 5. No appeal shall be allowed in any case, unless the following requisites are complied with within ten days after judgment rendered, viz: 1st. An affidavit shall be filed with the justice before whom the cause was tried, stating that the appeal is made in good faith, and not for the purpose of delay. 2d. A recognizance entered into by the party appealing, his agent or attorney, to the adverse party, in a sum sufficient to secure such judgment and costs of appeal, must be entered into, with one or more sureties, to be approved by the justice. Appeal bond in ten days.

§ 6. No acting justice of the peace shall hereafter hold his office in the same room with any practicing attorney, unless such attorney shall be his partner; and in that case, such partner shall not be permitted to appear or practice as attorney in any case tried before him. Justice not to hold office with lawyer.

§ 7. Section eight of an act entitled "an act to amend

an act concerning justices of the peace," approved January 5th, 1840, shall be so construed as to permit the removal of a cause or trial from a justice but once, and no more; and no cause or proceeding shall be removed from before any justice of the peace unless the application therefor be made on the return day of the process, and before any proceedings had on the part of the defendant.

Act construed to remove causes. § 8. No copy of summons need be left with the defendant where service of the same is made personally, unless it is demanded by him; and unless so demanded, the officer serving such summons shall not be entitled to fees for a copy thereof.

Copy of summons need not be left. § 9. In addition to the cases in which, as now provided by law, creditors may sue their debtors by attachment before a justice of the peace, they may hereafter do so whenever the debtor resides out of the county, and more than one hundred miles from the residence of the justice before whom suit is brought; which fact shall be set forth in the affidavit required to be filed with the justice.

Attachments when allowed. § 10. No final judgment shall be rendered against any garnishee except in cases of judgment by default, to pay or deliver to the creditor of his debtor any other article or thing, in any other manner, or at any other time, than such garnishee would be obligated to pay such debtor; and whenever final judgment except in cases of judgment by default is rendered against any garnishee, it shall conform to the provisions of this section.

Garnishees. § 11. No garnishee shall be required to give bond, as directed by the 21st section of article 11 of the act of which this is amendatory, unless the justice, after examination, shall be satisfied that due proof has been made of the facts required to be set forth in the affidavit specified in section 17 of said article.

To not give bond unless § 12. If the plaintiff, in any action of replevin hereafter brought in the district court shall recover any damages, he shall recover costs, unless it shall appear by the appraisal of the property replevined that such property was not worth seven and one half dollars; in which case he shall recover no costs.

In replevin unless property worth \$750. § 13. Justices of the peace hereafter elected, shall hold their offices for two years, and until their successors are duly elected and qualified—they shall be chosen at the elections in 1844 as now provided by law, and bien-

Term of office.

nially thereafter, but whenever a vacancy occasioned by death, removal, or resignation shall occur in the office of a justice of the peace, such vacancy may be filled at the next election, when by law justices may be elected, but any person elected to fill such vacancy, shall not hold his office longer than the residue of the term of his immediate predecessor.

§ 14. That sections 4, 5, 6, and 15, of article third; section 10, of article fourth; section 1 and 2 of article ninth; article 10th and article 12th of the act entitled "an act concerning justices of the peace;" and section 51 of the act entitled "an act concerning costs and fees;" and all other acts and parts of acts repugnant to the provisions of this act are hereby repealed.

§ 15. When the name of any defendant is not known to the plaintiff, a suit may be commenced against him by a fictitious name, and it shall not be abated for that cause, but may be amended on such terms as the justice shall think reasonable.

§ 16. If it appear on the trial of any cause before a justice from the showing of either party, that the title to lands is in question, which title shall be disputed by the other party, the justice shall immediately make an entry thereof in his docket, and cease all further proceedings in the cause, and shall certify and return to the district court of the county, a transcript of all the entries made in his docket relating to the case, together with all the process, and other papers relating to the suit in the same manner, and within the same time, as upon an appeal, and thereupon the district court shall proceed in the cause to final judgment and execution, the same as if said suit had been originally commenced therein, and the costs shall abide the event of this suit.

§ 17. This act shall take effect on the first day of April next.

APPROVED, January 30, 1844.

AN ACT to provide for the election of Clerks of the Board of Supervisors, and for other purposes.

§ 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:*

That the Clerk of the Board of Supervisors in each of the counties in this Territory which have adopted the