

No. 434, S.]

[Published July 6, 1929.]

CHAPTER 269.

AN ACT to amend, revise and consolidate chapter 423 of the laws of 1905, chapter 448 of the laws of 1907, chapter 50 of the laws of 1909, chapter 115 of the laws of 1911, chapter 57 of the laws of 1919, chapter 237 of the laws of 1921 and chapter 260 of the laws of 1923, relating to the municipal court of the city of Beloit.

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

Chapter 423 of the laws of 1905, chapter 448 of the laws of 1907, chapter 50 of the laws of 1909, chapter 115 of the laws of 1911, chapter 57 of the laws of 1919, chapter 237 of the laws of 1921 and chapter 260 of the laws of 1923 are hereby amended, revised and consolidated to read:

SECTION 1. The municipal court of the city of Beloit, in Rock county is, and shall be known and understood as, the court created and established by chapter 423 of the laws of 1905 with powers and jurisdiction hereinafter specified and provided. Such court shall be open for business at the beginning of the term of office of the judge to be elected as herein provided. It shall be a court of record and have a clerk and a seal, the former to be appointed and the latter to be procured by the judge. In this act, it is referred to as the court, its judge as the judge, and its clerk as the clerk, to distinguish it and them from other courts, judges and clerks mentioned.

SECTION 2. The election of the judge shall be by the duly qualified electors of said county. His term of office shall be six years, and begin on the first Monday in May next succeeding his election.

The first election of the judge shall be held on the first Tuesday of April, 1906, and shall be conducted the same as other judicial elections.

No person shall be eligible to election or appointment to the office of the judge unless he be a duly qualified elector of said county and an attorney-at-law duly admitted to practice in the supreme court of this state.

In case of a vacancy the governor shall appoint the judge, and such appointee shall serve until an election be held in the manner provided in subsection (2) of section 17.21 of the statutes.

The judge of said court may be removed from office in the manner provided for the removal of circuit judges.

The judge shall have the powers and be authorized to perform the duties of a court commissioner.

SECTION 3. The salary of the judge shall be that fixed by the county board at its meeting in November, 1905.

SECTION 4. Before entering upon the duties of his office, the judge shall give a bond to Rock county in the sum of twenty-five hundred dollars, conditioned substantially as is the bond of the clerk of the circuit court and to the city of Beloit in a like sum conditioned substantially as is the bond of the clerk of said city, both of said bonds to be further conditioned so as to make the judge responsible for any and all official default and misconduct of the clerk of the court, the sureties on said bonds to be approved by the chairman of the county board and the common council of the city of Beloit, respectively.

SECTION 5. Before entering upon the duties of his office, the judge and the clerk shall each take and subscribe in duplicate the constitutional oath of office, one copy of which oath shall be filed in the office of the clerk of the circuit court for Rock county, and one copy in the office of the clerk of the city of Beloit.

SECTION 6. The clerk shall make and keep the records of the court, authenticate its acts under its seal, as are the acts of the circuit court, and perform such ministerial duties as the nature of his office and the order of the judge may require.

In the absence of the judge, the clerk shall have power to direct bail, administer oaths, and examine persons applying for warrants, reduce their examinations to writing and file the same and issue warrants or other process from the court.

The clerk shall procure such supplies and perform such duties with reference to the care of the books, blanks and other property, and the room occupied by the court, as the judge in writing may direct.

The clerk shall also keep under the direction of the judge separate dockets, for criminal and civil proceedings and actions.

Before entering upon the duties of his office, the clerk shall give a bond to said county in the form and condition substantially the same as the bond given by the clerk of the circuit court in the amount and with such sureties as the judge shall approve, which bond shall be filed with the clerk of the circuit court.

The clerk shall be subject to removal by the judge.

The salary of the clerk shall be fixed by the county board.

SECTION 7. The judge may appoint in writing a stenographic reporter to serve at his pleasure, who shall attend trials and examinations and take the testimony when required by the judge, and his compensation shall be fixed by the county board.

In any actions tried in the court by which the testimony shall be taken by such reporter, the stenographic notes of the reporter may be filed by the judge as the testimony in the case, but no costs therefor shall be taxed in the judgment. In case of an appeal from the judgment rendered in a civil action, the judge shall not be required to return to the appellate court any testimony other than the transcribed notes of the stenographer.

Before entering upon the duties of his office, the stenographer shall take and subscribe the constitutional oath and file the same with the judge.

Section 252.20 of the statutes shall govern the court and said stenographer.

SECTION 8. The court shall be held in the city of Beloit, in a suitable place, to be provided by the common council of said city.

SECTION 9. All prosecutions and proceedings relating to the violation of any ordinance or by-law of the city of Beloit shall be triable only in the court or in the circuit court of Rock county.

The provisions of the charter and ordinances of the city of Beloit relating to the police court or to criminal prosecutions shall apply to the court, except when the same are in conflict with this act.

The court shall be opened each morning by the judge, Sundays and legal holidays excepted, and thereupon, in a summary way, he shall hear and dispose of all actions or proceedings which shall be brought before him by the police officers of the city of Beloit, or otherwise, either with or without process, for the violation of the ordinances and by-laws of said city. In such actions or proceedings the forms heretofore used and followed in the police court of said city, except as modified by the judge, shall be used, and in every such case, the city attorney shall be the prosecuting officer.

SECTION 10. In criminal actions wherein the state is a party, the district attorney of Rock county shall file the informations and conduct all the proceedings.

SECTION 11. The judge in his discretion may summon and compel the attendance of witnesses before him, and examine them

on oath, in order to determine whether or not he ought to issue a warrant, and in case any witness so summoned refuses to attend or answer pertinent questions relative to the subject of injury, he shall be subject to punishment for contempt. The fees and mileage of such witnesses shall be paid as in criminal actions in the court.

SECTION 12. The judge shall have the jurisdiction and powers of a justice of the peace in civil and criminal actions and proceedings and in actions for bastardy, and the power to hear, try and determine the same, although the title to land may come into question therein.

SECTION 13. The court shall have jurisdiction to try according to justice court methods and procedure all actions and proceedings within the jurisdiction of a justice of the peace, and also in the same classes of actions and proceedings where the amount involved is above a justice jurisdiction but does not exceed five hundred dollars; but it shall not try according to justice court methods any class of action of which a justice has no jurisdiction regardless of the amount involved.

This section shall not be construed to limit the power of the court to try according to circuit court methods and process actions within the jurisdiction of a justice of the peace.

SECTION 14. Except as to any matter arising within the city of Janesville, with reference to which the municipal court for Rock county has exclusive jurisdiction, the court shall have concurrent jurisdiction with said municipal and circuit courts, to hear, try, and determine any action for bastardy and any criminal action except murder and treason.

SECTION 15. The court shall have and exercise powers and jurisdiction in all civil actions and proceedings of every kind and nature, both in law and in equity, whether general or special, concurrent with and equal to the powers and jurisdiction of the circuit court of Rock county, except where value of the property in controversy or the amount of money claimed or sought to be recovered after deducting all payments and set-offs, shall exceed twenty thousand dollars, and also of all actions for the foreclosure of mortgages, liens, and land contracts and attachment proceedings, in which the amount claimed does not exceed the sum aforesaid, although the value of the property to be affected by the judgment exceeds that sum. In actions for divorce the said court shall have and exercise jurisdiction irrespective of the value of

the property rights therein involved. The said court shall also have and exercise the same powers and jurisdiction as have heretofore been, now are, or may hereafter be conferred by the constitution and statutes of this state upon the circuit courts of this state to issue writs and process of every kind and nature, and to have service of the same made throughout the state of Wisconsin. In all actions involving the title to real estate a *lis pendens* shall be filed in the office of the register of deeds of Rock county, in like manner, and with the same force and effect, as in similar actions and proceedings in the circuit court and in such actions a transcript of the judgment shall be filed and docketed forthwith after entry, in the circuit court of Rock county, the fee for such filing and docketing to be paid by the plaintiff and taxed as costs in the action. Said court shall have jurisdiction concurrent with the county court over applications for the commitment of dependent children to the state public school at Sparta. In the exercise of jurisdiction over such applications and the commitment of such children the processes and procedure of the court shall be governed by the statutes relating to county courts.

SECTION 16. In matters both civil and criminal which exceed the jurisdiction of a justice of the peace, excepting as otherwise provided by section 13 of this act, the processes and procedure of the court shall be governed by the statutes relating to the circuit courts and the rules and practices thereof.

In criminal cases process may be executed in any part of the state.

SECTION 17. The court shall have jurisdiction concurrent with said municipal and circuit courts to hear, try and determine civil and criminal actions, removed and appealed from justices of the peace. Any action so removed may on the request of the party interposing the plea of title to land be certified to the court in the manner in which the same is now certified to said municipal or circuit court; and in the case, either of the removal of an action involving the title to land, or of an appeal, the party interposing the plea of title or appealing may designate in his plea, or notice of appeal, whether his action shall be removed or appealed to the court, to said municipal court, or to said circuit court.

SECTION 18. Civil actions removed or certified on appeal to the court shall stand for trial at the next regular term thereof after the filing of the removal or appeal papers, when terms are held as herein provided, and otherwise upon ten days' notice

given by either party to the action; and, if neither party shall bring to trial an action so removed or appealed to the court within six months after the filing therein of the return of the justice, such action or appeal shall be dismissed unless a continuance for cause shown be granted by a special order.

SECTION 19. Terms for trials of actions, civil and criminal, not less than four terms in any one year, may be appointed by the judge by order in writing filed therein. Notices of trial may be served to such terms as in the circuit court.

SECTION 20. Changes of venue may be taken from the court to the municipal court for Rock county in the manner in which and for the reasons that changes of venue are taken in justice courts.

In all matters above the jurisdiction of a justice of the peace, the provisions of law relating to changes of venue in the circuit court shall apply and such changes shall be to the circuit court for said county.

When a change of venue is taken in a justice court of the city of Beloit, the change shall be taken to the court.

If a change of venue be taken on account of the prejudice of the judge, he may in his discretion retain the action in the court and call upon the judge of the municipal court of Rock county to attend and try said action with the same effect as if the change of venue had been taken, even though the amount involved in such action exceeds or the nature of the action is different than actions within the jurisdiction of the municipal court of Rock county, and in such cases the judge so called in shall receive his disbursements necessarily incurred in attending upon the court, and such compensation as the county board may allow, the same to be audited and paid by the county as other expenses of the court.

In a criminal case, the court shall hold the defendant to bail to appear at the next term of the court to which the venue is changed, and thereupon the judge shall transmit to said court the papers and a duly certified copy of the record of the court.

When a change of venue is taken in a justice court of Rock county, the change may be taken to the court when it is the nearest court having justice jurisdiction.

SECTION 21. The provisions of section 7 and 8 of chapter 197, laws of 1881 and acts amendatory thereof, shall apply to the juries of the court, except that annually one jury list shall be

prepared from the city of Beloit by a board of three jury commissioners to be appointed by the court, and one shall be annually prepared from Rock county by the jury commissioners for the circuit court of Rock county. The name of each juror so certified shall be written on a slip of paper and deposited in boxes to be provided for that purpose by the clerk, one of said boxes to contain the list of city jurors and the other box to contain the list of jurors selected from Rock county. Unless a jury from outside the city of Beloit is requested by one of the parties to any action or proceeding a jury shall be selected from the city of Beloit list.

A person having served as a juror in either the court or in said municipal court shall not be again liable to jury duty therein for the space of one year thereafter, except he be summoned on a special venire or as a talesman.

SECTION 22. Ten days after judgment in civil actions and for twenty-four hours after judgment in criminal cases, the judge shall have and is hereby vested with the same power over verdicts, judgments, rulings, orders and proceedings in the court, as are possessed by circuit judges in like cases during the trial term. He may direct or set aside verdicts, grant new trials upon conditions and modify or reverse judgments and orders according to the general law and practice of the circuit courts.

SECTION 23. Transcripts of judgments rendered in the court may be docketed in the circuit court in like manner and with like effect as to liens as in the case of a transcript from a justice court.

SECTION 24. Appeals from judgments rendered in the court in civil and criminal actions which have been tried in the court according to justice court methods, may be taken to the circuit court in the same manner as appeals from justices of the peace in similar actions. All other appeals, including bastardy actions and appeals from justice courts to the court, shall be taken to the supreme court.

SECTION 25. If, in the judgment of the common council of the city of Beloit, it be necessary in order to promote the efficiency of the court to increase the sums allowed by the county board for the salaries of the judge and the clerk, said council may appropriate annually as additional compensation for the judge, not to exceed twelve hundred dollars, and for the clerk not to exceed six hundred dollars. The above appropriations are independent of the payments to be made by the city under section 32.

SECTION 26. The chief of police of the city of Beloit, the sheriff and constables of Rock county, and other officers having the same power and authority as the sheriff or constables of said county, shall be officers of the court, with the same powers and duties as are now conferred upon them in regard to justice or police courts, and such officers shall receive the same fees for their services as they receive in justice courts.

SECTION 27. The judge may also appoint a janitor for the court at a compensation to be allowed by the common council of and paid by the city of Beloit.

SECTION 28. In actions and proceedings cognizable by justices of the peace, or which hereunder are governed by the provisions relative to justices of the peace, costs and fees shall be taxed and allowed as in justices' courts, but, in other actions, including appeals from justices' courts, the statutes, rules and practice prevailing in the circuit court shall apply as to fees to be allowed and costs taxed.

SECTION 29. A complete record of all fees, fines and penalties collected shall be kept in said court, and monthly statements thereof rendered to the treasurer of the city of Beloit.

SECTION 30. All fines, penalties and fees collected by the court in both civil and criminal actions shall be paid immediately by the judge to the treasurer of the city of Beloit, and at the time of the semi-annual settlements between the city and the county treasurers, provided for in section 32, all fines and penalties collected in criminal actions wherein the state was a party shall be paid to the county treasurer.

SECTION 31. On the last secular days of June and December of each year, after the judge shall have entered upon the duties of his office, the treasurer of Rock county shall certify to the treasurer of the city of Beloit, the total amount paid by him since the last settlement for salaries, record books, blanks, stationery and other expenses of the court, as certified to him by the judge, whereupon the treasurer of said city shall forthwith pay to the treasurer of said county one-half of said amount and charge the same to the general fund of said city.

SECTION 32. The salaries and expenses connected with the court, for which the county and city are proportionally liable, shall be paid by the county treasurer quarterly at the end of each quarter; all other expenses of the court chargeable to the city of Beloit alone shall be paid by the city treasurer as are other city expenses.

Before the judge of said court shall receive or be allowed to draw any salary for any quarter, he shall take and subscribe an affidavit before an officer entitled to administer oaths similar to that required of judges of the circuit courts by chapter 107, laws of 1899, which affidavits shall be presented to and filed with the officer whose duty it shall be to pay such salary.

SECTION 33. The judge by order in writing filed in the court may appoint a justice of the peace of said county, or a circuit court commissioner of Rock county, or the judge of the municipal court of Rock county, or the judge of the circuit court of Rock county, to discharge the duties of his office during his absence, sickness or other temporary disability. Such appointee, if a justice of the peace or circuit court commissioner, shall have the powers of the judge, except as to trials of information and appeals, and except as to actions and proceedings beyond the jurisdiction of a justice of the peace; but if such appointee is a judge of the municipal court of Rock county or the judge of the circuit court of Rock county, he shall have power to exercise all the jurisdiction of the judge except in matters beyond the jurisdiction of his own court. And any such substitute judge, in any matter in which he has no jurisdiction, may adjourn or postpone any such matter until the return of the judge; or in case he deems that the matter is urgent may call in any judge above named who has jurisdiction to try or conduct the same. Any qualified person attending and holding court in the place of the judge of the municipal court of the city of Beloit shall receive therefor the sum of five dollars for each day he is actually so engaged, to be paid by the county treasurer of Rock county upon the certificate of said municipal court, not more than thirty days, however, in any one year to be paid for by said county. Said county shall have the right to charge back to the city of Beloit one-half of any money so paid.

SECTION 34. Nothing in this act shall be construed as in any way affecting the right of jurisdiction of any court, judge, justice of the peace or police justice, to hear, try and determine any case now pending in such court, or before said judge, justice of the peace or police justice, or which may be commenced before the judge shall enter upon the duties of his office.

SECTION 35. When the court is open for business the police court of the city of Beloit shall be abolished.

SECTION 36. The docket and records of the police court of the

city of Beloit, which court was abolished by chapter 423 of the laws of 1905, are hereby made part of the records of the municipal court of the city of Beloit and the judge of said municipal court is hereby authorized to issue executions on and transcripts of any judgment now shown on the records of said police court in the same manner as if said judgments had been rendered by said municipal court.

SECTION 37. All acts or parts of acts in conflict herewith are hereby repealed.

SECTION 38. This act shall take effect upon passage and publication.

Approved July 2, 1929.

No. 188, S.]

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CHAPTER 270.

AN ACT to revise Chapter 296 of the statutes entitled "Proceedings for the disposition of estates of infants and other wards; to enforce specific performance of contracts in certain cases, and to change names and establish heirships"; and to repeal Chapter 320 of the statutes entitled "Sale of lands of wards" and sections 316.30 to 316.44, relating to specific performance of land contracts of deceased vendors.

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

SECTION 1. The title to chapter 296 of the statutes shall be as follows: DISPOSITION OF LANDS OF WARDS; SPECIFIC PERFORMANCE; CHANGE OF NAMES; ESTABLISH HEIRSHIPS.

SECTION 2. Section 296.01 of the statutes is amended to read: 296.01 CONVEYANCE OF LANDS HELD IN TRUST BY PERSONS UNDER DISABILITY. Whenever any * * * minor or person incompetent to manage his affairs . * * shall be seized or possessed of any lands or interest therein by way of mortgage or in trust only for others, the circuit or county court of the proper county may, upon the petition of the guardian of such * * * minor or incompetent person or of any person in any way interested in such real estate, make an order authorizing or compelling such * * * minor or incompetent person