

from the county treasurer the sum of three dollars for each day actually employed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 6, 1868.

## CHAPTER 176.

[Published March 14, 1868.]

AN ACT to amend section 2, chapter 134 of the general laws of 1858, entitled "of evidence."

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

SECTION 1. Section 2 of chapter 134 of the general laws of 1858, entitled "of evidence," is amended so as to read as follows: "A party to any civil action or special proceeding in any and all courts, and before any and all tribunals, and before any and all officers acting judicially may be examined as a witness on his own behalf or in behalf of any other party in the same manner and subject to the same rules of examination as any other witness: *provided*, that the assignor of a thing in action shall not be examined on behalf of said party, nor shall a party to an action be examined in his own behalf in respect to any transaction or communication had personally by said assignor or said party, respectively with a deceased person against parties who are the executors, administrators, devisees, heirs at law, next of kin or assignees of such deceased person, where they have acquired title to the cause of action immediately from said deceased person, or have been sued as such by the executors, administrators, devisees, heirs at law, next of kin or assignees. But where such executors, administrators, devisees, heirs at law, next of kin or assignees, (*but where such executors, administrators, devisees, heirs at law, next of kin, or assignees*) shall be examined on their own behalf in regard to conversation or transaction had between the deceased person or said assignor or said party respectively, and

Amended.

Party examined  
in his own be-  
half.

Proviso.

where the cause of action a [or] defence arose out of transactions with an agent of the deceased, and not with the deceased personally, and such agent be living and a witness, then the said assignor or the said party may be examined in regard to such conversation or transaction, but not in regard to any other matter; *and be it further provided*, that whenever in any action brought by or against any executor, administrator, devisee, next of kin, heirs at law, or assignee of any deceased person, a witness shall be called to establish any declaration, conversation, admission or transaction between such witness and the party prosecuting or defending in his own right, then and in all such cases, such party so sought to be charged may be examined in his own behalf touching such declaration, conversation, admission or transaction, the same as he might have done, had the opposite party brought or defended the action in his own right and ~~not~~ in a representative capacity, but not in regard to any new matter; but if the testimony of a party to the action or proceeding has been taken and he shall afterwards die, and after his death the testimony so taken shall be used upon any trial, or hearing in behalf of his executors, administrators, devisees, heirs at law, next of kin or assignees, the other party or the assignor of a thing in action shall be a competent witness as to any and all matters to which the testimony so taken relates, notwithstanding anything in this section to the contrary thereof.

SECTION 2. All acts and parts of acts contravening the provisions of this act (*is*) so far as the same are in contravention of the provisions hereof are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 6, 1868.