

## CHAPTER 86.

[Published April 9, 1872.]

AN ACT conferring civil jurisdiction on the county court of Dodge county.

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

SECTION 1. There is hereby conferred upon the county court of Dodge county, jurisdiction in all civil actions and proceedings in law and equity, concurrent with and equal to the jurisdiction of the circuit court in said county, for all claims, demands and sums, and of and concerning all property not exceeding the sum or value of twenty-five thousand dollars: *provided*, that said county court shall have jurisdiction in all actions in said county for the foreclosure of mortgages in which the amount claimed, and in actions for divorce in which the alimony asked for does not exceed twenty-five thousand dollars, although the property to be affected by the judgment may exceed that amount in value, and to the amount and within the limits aforesaid. The said county court shall be a court of general jurisdiction, with the same power and jurisdiction in all such civil actions and proceedings as belong to and are exercised by the circuit court in and for said county.

SECTION 2. From and after the taking effect of this act, all appeals in civil actions from justices of the peace of said Dodge county, or from any judgment rendered by or recovered before any justice of the peace in said county, shall be taken to the county court of said Dodge county, instead of the circuit court of said county, as now provided by law, and the like proceedings therein shall be had in said county court, and such appeals shall be tried and determined therein in the same manner as is by law required in circuit court, and all laws providing for taking appeals in civil actions from justices of the peace or justices' courts of said county, to the circuit thereof shall from thenceforth be construed to mean and read to the county court of Dodge county: *provided*, that any party taking an appeal from justices of the peace may elect to appeal either to the circuit or the county court.

Jurisdiction conferred.

Appeals from justices judgments to be taken to county court.

Shall be a court  
of record.

SECTION 3. The said county court shall be a court of record, with a clerk and seal, and shall have full power and authority to issue all legal process, proper and necessary to carry into effect the jurisdiction given to it by this act and the laws of this state, and to carry out such jurisdiction, shall have and exercise all the powers usually possessed by courts of record under the common law and in equity, under the regulations imposed by statutes.

The clerk and  
his duties.

SECTION 4. The clerk of the circuit court of said county shall be the clerk of said county court, and shall have the care and custody of all books and papers belonging to said county court (except those that appertain to the probate jurisdiction thereof), and shall perform the duties of clerk of said county court in the same manner as is now by law required of him as clerk of the circuit court, so far as it shall be requisite and necessary to discharge the necessary duties as clerk of said county court, and to carry into effect the provisions of this act, and the said clerk of the county court shall keep all necessary records of the proceedings and judgments had in said county court, in like manner as is now provided in the circuit court in all civil proceedings, and his fees and compensation therefor shall be the same as are now or may hereafter be provided by law for the fees and compensation of the clerk of the circuit court, except [as] hereinafter limited or provided.

Deputy clerk  
and his duties.

SECTION 5. The deputy now authorized by law to be appointed by the clerk of the circuit court of said county, shall also be deputy clerk of said county court, and shall in like cases and in like manner as he is now authorized by law to perform the duties of the clerk of the circuit court, and he is hereby authorized and empowered to perform and discharge the duties of the clerk of said county court.

Power to issue  
writs.

SECTION 6. Said county court shall have like power to issue all necessary and proper writs in all civil actions or proceeding as is now possessed or hereafter may be possessed by the circuit courts of this state, and the same proceedings shall be had by parties to procure such writs as in the circuit courts of this state, and shall be issued, executed and returned in the same manner and with like effect as in the circuit courts.

SECTION 7. All the general provisions of the statutes of Wisconsin, and all the general laws that now exist or may hereafter exist, relating to the proceedings in civil actions in the circuit courts of this state, and to the powers and duties of courts of record shall apply in like manner and with like effect to said county court as to said circuit courts, and the judge of said county court shall have power to punish for contempts, in the same manner that the judges of circuit courts are or may be authorized by law to punish for contempts; the rules and practice of said county court shall be the same as in the circuit courts of this state as they may exist, or as shall hereafter be provided for said circuit courts in civil actions.

General provisions and laws to apply.

SECTION 8. The county court of Dodge county shall continue to use the present seal of said court.

Shall use present seal.

SECTION 9. The county of Dodge shall provide all books, blanks and stationery necessary for keeping the records and proceedings of said county court, made necessary by this act.

Shall provide books.

SECTION 10. Parties to all civil actions in said county court shall have the same rights to writs of error and appeal from said county court to the supreme court of this state, as now are allowed by law from circuit courts of this state or may hereafter be allowed by law.

Parties to have same rights as in circuit courts.

SECTION 11. Causes removed from the county court to the supreme court, and the decisions and judgments of said county court, may be reviewed by the supreme court in the same manner that causes removed from circuit courts are reviewed by the supreme court, and the supreme court shall have the same power and jurisdiction over such causes and judgments as it has over causes and judgments of the circuit courts.

Causes may be removed and reviewed.

SECTION 12. The party or attorney in a cause in said county court may demand and shall be entitled to receive of the judge of said county court, a bill of exceptions or case, and have the same settled in the same manner and under the same restrictions as in the circuit court, and the same shall be heard or settled within the same time as now required or may hereafter be required in the circuit court by law, or the rules and practice of said circuit court.

Party may demand bill of exceptions.

SECTION 13. Judgment may be had and entered in vacation in said county court, (subject to the limitations

May enter judgment in vaca-

tion, on failure of the jurisdiction of said court), if the defendant fail to answer. to answer the complaint in the same manner and in like cases, wherein judgment may now be had and entered in the circuit court in vacation.

**General and special terms.** SECTION 14. There shall be held at the county seat of said county, two general terms, viz: first Tuesday in January and the fourth Tuesday in August in each year. Special terms of said court may be called and held by order of the judge of said court, a copy of which order shall be published three successive weeks in two newspapers published in said county, before such special term. All such special terms of said court shall be held at the county seat of Dodge county, aforesaid.

**May adjourn court, if judge fails to attend.** SECTION 15. If the judge authorized to hold such court shall not attend for that purpose before four o'clock in the afternoon on the day appointed for such court to meet, it shall be duty of the sheriff or the clerk to adjourn said court from day to day for three days, unless the judge shall sooner appear, and if the judge does not appear at that time, the court shall stand adjourned for the term, and all cases continued until the next term of such court.

**If of council, judge not to try cause.** SECTION 16. The judge of said county court shall not have power to try and determine any cause which he shall have acted as council for either party, except by agreement of parties, and all such cases he shall transmit to the circuit court of said county, and the circuit court shall thereupon proceed to try and determine the same in the same manner and order as if it had originated in the circuit court.

**In case of change of venue, cause to be removed to circuit court.** SECTION 17. In all cases where a change of venue is allowed for the reason of interest or prejudice upon the part of the county judge, the cause shall not be remitted to another county, but shall be removed to the circuit court of the same county; and causes may be removed to the circuit court on the ground of prejudice of the judge, as in actions in the circuit court. On each civil suit commenced in or appealed to said county court, there shall be paid a county tax of one dollar, to be paid as follows: On each suit commenced in said court, to be paid to the clerk of said court at the time of commencement thereof; on all suits appealed to said court from a justice of the peace, to be paid to the justice from whom such appeal is taken, at the time now re-

**Payment of suit tax.**

quired by law for the payment of the state tax on such suits appealed to the circuit courts, and said tax so paid to the clerk or justice shall be in lieu of such state tax. The justice shall forward such county tax to the clerk of the court, at the time he makes his return to the appeal. The clerk of the county court shall, on the first Monday in January, May and September in each year, make a return, under oath, to the county treasurer of such county, the amount of money by him received for such county tax since the date of his last return, and also a list of the suits commenced in or appealed to said court since his last return, and shall at the time of making such return, pay over to said treasurer all money which shall be due from him to the county for such county tax on suits by him received. The aforesaid county tax collected on such suits shall form a separate fund, to be applied to the payment of the salary of the judge of said county court.

Clerk shall make quarterly returns of amount of tax, and of number of suits.

SECTION 18. Costs shall be recovered in said court (to be taxed by the judge or clerk thereof) to the same amount as in circuit court, including jury fees and county tax, except as herein otherwise provided or limited.

Costs to be taxed.

SECTION 19. The county judge of said Dodge county, for performing the duties required by this act shall receive a salary of five hundred dollars per annum, to be paid quarterly out of the county treasury by the county treasurer.

Salary of judge.

SECTION 20. If an issue of law be made in any cause in said court, or an issue of fact in any action heretofore cognizable only in a court of equity, the same shall be tried by the court, if an issue of fact, properly triable by a jury, and not heretofore cognizable in a court of equity, it shall, on demand of either party, as hereinafter provided, be tried by a jury of not less than twelve persons, unless a less number be agreed upon by the parties, and if no jury be demanded by either party, the issue shall be tried by the court. If an inquest or assessment is necessary to be had or taken in any cause in said court, the same shall be had or taken by the court, except that in such cases wherein an inquest or assessment of damages according to law, or the rules and practice of the circuit court, has heretofore been required to be had or taken by a jury, either party may demand an inquest or assessment of

Trial of issues of law and fact.

Inquest or assessment.

On failure to answer, clerk may assess damages.

damages by a jury, and upon such demand being made, the inquest or assessment of damages in such cases shall be had or taken by a jury, and in any action arising on contract for the recovery of money only, where the defendant has failed to answer the complaint, the clerk of the court may assess the damages therein, or ascertain the amount due the plaintiff therein; *and provided, further*, that the clerk of said court shall have the same authority and power to assess damages or ascertain the amount due in like cases and in the same manner as he is authorized and empowered to do in circuit courts of this state, and shall have generally the same power and authority and duties in all cases in said county court as he has now by law or otherwise in cases in the circuit court.

Jury fee. SECTION 21. The demand for a jury shall be accompanied by the payment into court of three dollars jury fees. If the jury agreed upon shall be six or less, the fees shall be one dollar and fifty cents.

Jurors fees, SECTION 22. The fees of jurors in said court shall be one dollar and twenty-five cents per day for each day's actual attendance, and seventy-five cents for each half day, to be paid in the same manner as jurors in the circuit court.

Qualifications of jurors. SECTION 23. The qualifications of jurors shall be the same as now required by law of jurors in the circuit court: *provided, however*, that no person shall be compelled to sit upon a jury who is over sixty years of age.

How jurors to be selected. SECTION 24. The jurors of said court shall be selected as follows: From residents of the county of Dodge, and qualified to act as jurors, the county judge and clerk of the circuit court shall, at least two weeks before each general term of court, select from such residents and qualified to serve as persons, [jurors,] fifty persons to serve as jurors in said court, at and during the next term thereof: *provided, however*, that if such jury is not selected as herein provided, it may be selected at any other time; *and provided further*, that such jury shall not be illegal if persons in good faith are selected who are not qualified, but the names of such persons, when discovered, shall be stricken therefrom. A list of such jurors, when selected, shall forthwith be filed in the office of the clerk of the court.

SECTION 25. At each term of said court, general or special, the clerk shall put the names of all such jurors so selected in a box, and when a jury shall be demanded, the same shall be drawn from the names in such box. The plaintiff or plaintiffs shall be entitled to six peremptory challenges, and the defendant or defendants to a like number of challenges, to be made alternately from a full list, the plaintiff challenging first. When a jury shall have been selected as aforesaid, or otherwise agreed upon, a venire therefor may be issued by the judge or clerk of said court, and delivered to the sheriff or his under sheriff, or any of his deputies, who shall duly execute the same. If any of the jurors named in such venire shall not be found, or shall fail to appear, or if there shall be any legal objection to any that shall appear, or if any of them be excused by the court or parties, the court shall direct the sheriff or his under sheriff, or any of his deputies, to summon a sufficient number of talesmen to supply the deficiency. The officer summoning the same may insert the names of such talesmen in the venire. If the jury shall be required to make an inquest or an assessment of damages in any case, the same shall be drawn from the names in such box, or the court may direct the same to be had and taken by any jury summoned as in any other case, or may direct the clerk to issue a venire to summon a special jury for that purpose, to be composed of persons qualified to serve as jurors in said court, and unless objections are made, such inquest may be had or held, or such assessment of damages made by the court, or the judge thereof without the intervention of a jury. The court may set down any case on the calendar for trial on any particular day, and when a case is set down for trial on any particular day, by order of the court or otherwise, the court may then, or at any time afterwards, require the parties in such action to determine and select whether he or they wish a jury, and if both parties elect to try such case without a jury, or if both parties neglect or refuse to so determine or elect them at the said term, neither party shall be entitled to a trial by jury, but the court may at its discretion, grant a trial by jury; and if a trial is demanded, the court may then or at any time afterwards direct that a jury be selected as aforesaid in such case, and issue a venire therefor, returnable at the

How jury to be drawn by clerk.

Challenges.

May issue venire.

May summon talesmen.

How drawn in case of inquest or assessment.

May assign causes for particular day.

Parties may elect whether to try by jury.

When panel is expended, how proceed.

time fixed for the trial of such action. If for any cause, in selecting a jury, the panel shall become exhausted, a jury may be obtained as provided in similar cases in the circuit court.

Sheriff or deputy to be in attendance.

SECTION 26. The sheriff of said county in person, or by his under-sheriff or one of his deputies shall attend such court when actually in session, for the transaction of court business other than probate business, and the court shall designate the number of officers that shall be present while such court is in actual session as aforesaid, and such officers shall be entitled to receive the same compensation, and payable in like manner as is or may be provided by law for like services in the circuit court: *provided*, that no officer shall receive any compensation or fees for serving or executing any venire for any jury, or summoning any talesmen.

Clerk's fees.

SECTION 27. The fees of the clerk of said court in any one case shall not exceed the following sums: In cases settled or discontinued before answer, two dollars; in cases discontinued after answer, and before the same shall be put upon the calendar, three dollars, and after answer, and after having been put upon the calendar, four dollars; in cases when judgment is entered without application to the court, four dollars; in cases of no answer, when judgment is upon application to the court, six dollars; in like cases, when judgment is entered upon application to the court, and the same could be entered in vacation, five dollars; in cases where there is an answer, and the same is tried by the court, seven dollars; if a final determination on a demurrer, five dollars; if tried by a jury, eight dollars; in appeal cases tried by the court upon return of justice, four dollars; in all appeal cases which are dismissed without trial, three dollars; in all other appeal cases, six dollars; in case there is more than one trial, three dollars shall be added to such limitation for each additional trial.

Actions involving title to land, to be sent to circuit or county court.

SECTION 28. When in any action commenced before any justice of the peace of Dodge county, a plea or answer shall be put in, showing that the title to lands will come in question as provided by sections 51, 52, 53, 54 and 55 of chapter one hundred and twenty of the revised statutes or of any act which may hereafter be passed amendatory thereof, such action shall be sent

and certified, either to the circuit or county court, as the party making such plea or answer may elect.

SECTION 29. The county court shall have full power and authority to issue all legal process, proper and necessary to carry into effect the jurisdiction given by law, and to carry out such jurisdiction, shall have and exercise all the power possessed by the circuit court under the common law, and under the power and regulation imposed by statute. May issue legal process.

SECTION 30. All judgments, orders and decrees, made and entered in and by said county court, shall have the same force, effect and lien, and be executed and carried in effect and enforced, as judgments, orders and decrees, made and entered in the circuit court, and all the remedies given, and proceedings provided for the collections and enforcement of the judgments, orders and decrees of the circuit court shall apply to and be exercised by and pertain to said county court. Shall have same force and effect as judgments in circuit court.

SECTION 31. Civil causes may be removed to the county court of Dodge county from the circuit court of the third judicial circuit of the state of Wisconsin, in the discretion of the court, on the grounds of prejudice of the judge of said third judicial circuit, the same as in actions removed to other circuits. Causes in circuit may be removed to county court.

SECTION 32. This act shall be in force from and after its passage and publication.

Approved March 21, 1872.

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## CHAPTER 87.

[Published March 26, 1872.]

AN ACT to appropriate a sum of money therein named for the payment of current expenses at the Soldiers' Orphans' Home for the year 1872.

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

SECTION 1. There is hereby appropriated, out of Appropriated. any money in the general fund not otherwise appropriated, the sum of thirty thousand dollars, in full for the