

## CHAPTER 9.

[Published February 15, 1875.]

AN ACT to establish a court in Brown county with limited civil and criminal jurisdiction in certain cases.

*The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows.*

Court established.

SECTION 1. There is hereby established a court in and for the county of Brown, having the jurisdiction and subject to the limitations hereinafter prescribed, to be styled "The second county court for Brown county."

Jurisdiction conferred.

SECTION 2. There is hereby conferred upon the court hereby established, jurisdiction in all civil actions when the amount in controversy shall not exceed five thousand dollars, both as to matters of law and equity equal to and commensurate with the circuit courts of this state, and also exclusive appellate jurisdiction in all cases of appeal from justices of the peace; *provided, however,* that nothing herein contained shall be construed to confer criminal jurisdiction on said court, except as hereinafter provided.

For determining amount in controversy.

SECTION 3. For the purpose of determining whether the amount in controversy does or does not exceed said sum of five thousand dollars, the complaint in any action in said court must allege that said amount does not exceed said sum, and unless the answer denies such allegation, and alleges that the said amount exceeds said sum, the objection to the jurisdiction on account of the said amount exceeding said sum, shall be deemed waived, and the court shall retain jurisdiction of the action; but if the answer denies such allegation and alleges that said amount exceeds said sum, the court shall determine the question of jurisdiction from the evidence and pleadings in the cause, and if the court finds the amount in controversy to exceed said sum of five thousand dollars, the action shall be dismissed; *provided, however,* that the amount in controversy as hereinbefore limited shall be determined from the issues formed by the complaint and the allegations contained in the answer not constituting a counter-claim and the evidence pertaining to said issues, and shall not depend upon the matters

Counter-claim.

set up in the answer by way of counter-claim or the

evidence thereunder; *provided, further*, that no counter-claim shall be interposed in any action in said court in which the relief demanded shall exceed the sum of thirty thousand dollars.

SECTION 4. A panel of jurors for each term of said court shall be drawn in the same manner as now is, or hereafter shall be, provided by law for circuit courts, and the persons serving on such panels of jurors shall be paid at the same rate and in the same manner as is now, or hereafter shall be, provided by law for the payment of jurors in the said circuit courts, and jurors for the trial of issues shall be drawn, impaneled and sworn in the same manner as in the circuit courts of this state; and said court shall have, exercise and use the same process for summoning such jurors as is now or may hereafter by law be used by the circuit courts of this state.

Jurors.

SECTION 5. The regular jury terms of the said court hereby established shall be held in the court house in the city of Green Bay, in said county, on the third Monday of January, the first Monday of May, and the second Monday of November, in each year, and the jurors for each of said terms shall be summoned for the second Monday of each term.

Term, when and where to be held.

SECTION 6. The judge of said court shall have the same power to hold special adjourned terms of his court, as is now or hereafter may be conferred upon the circuit courts of this state, and the said court hereby established shall have the same power to issue special venires, and to summon talesmen to serve upon juries therein as is now or hereafter may be conferred upon the said circuit courts of this state.

Powers of Judge.

SECTION 7. The clerk of the circuit court shall be the clerk of the court hereby established, and shall have the custody and care of all the books and papers belonging to the court; shall be present at all trials if required by the judge; may swear all the witnesses and jurors on the trial of a cause; shall keep minutes of all the proceedings, and enter the judgments of the court under the direction of the judge; shall issue all process under his hand, and the seal of the court (signing himself "clerk of the county court") except where otherwise provided for by law: and shall tax all costs, and shall receive the same fees and compensation as clerks of the circuit courts. *Provided*, That in case of his inability to discharge his duties by reason of sickness or absence, his deputies

Clerk of court.

may perform the same, or the court may employ some person in his place.

Election  
judge. of

SECTION 8. There shall be elected on the first Tuesday of April next, and every six years thereafter, by the qualified electors of the county of Brown, a judge of said court hereby established for said county who shall possess the qualification of having been admitted to practice in the supreme court of this state, and whose term of office shall be six years from and after the first day of January next after his election. *Provided*, That the term of service of the judge first to be elected shall commence on the first Monday of May next. Said election shall be conducted and canvassed, and the said judge shall qualify and receive his certificate in the same manner as in the case of the election of county judge. The judge thus to be elected shall be judge of the court established by this act, and whenever a vacancy shall occur in the office of the county judge, now in office as judge of probate in said county, the business then pending in the county court of said county shall be transferred to the court established by this act which shall become and be known as the county court of Brown county, and thereafter the said county court shall have the same jurisdiction to hear, try, and determine all matters of probate as is or shall be possessed and exercised by county judges, or county courts under the laws of this State, and the seal thereof shall be changed by omission of the word "second" therefrom.

Salary  
judge. of

SECTION 9. The county judge to be elected in pursuance of the provisions of this act, shall receive a salary of not less than three thousand dollars per annum, and whenever the duties of probate judge shall be transferred to the court established by this act, as provided in the eighth section thereof, the county judge shall thereafter receive a salary of thirty-five hundred dollars per annum. The board of supervisors of said county shall annually levy upon the taxable property of said county a special tax to be paid in cash sufficient, with the state tax on actions, to pay the salary of said judge. Out of the first or any moneys coming into the county treasury after the payment of the state tax levied in said county in each year, the county treasurer shall retain the amount of the salary of said judge, and shall pay the same to said judge in equal monthly installments on the 1st Monday of each month, upon the presentation to said treasurer of

a receipt therefor; *provided, however*, that said state tax on actions when collected and paid to the county treasurer, as now required by law, shall be retained by him and applied toward the payment of the salary of said judge.

SECTION 10. The said court shall be a court of record, and all the general provisions of the statutes of Wisconsin, now existing or hereafter enacted, relating to the powers and duties of courts of record, and to the process, pleadings, practice, trials, judgements and proceedings of every nature in actions in the circuit courts of this state, including the issuing and enforcement of executions and proceedings supplementary to execution, and all such provisions relating to costs and fees, and all the rules of practice of said circuit courts, shall apply to the court hereby established, so far as the same are not inconsistent with any provision respecting said court and the proceedings and practice therein in this chapter contained; *provided, however*, the court hereby created shall have power to make and enforce such rules for the conduct and despatch of the business of said court as may be deemed necessary.

SECTION 11. On filing a judgment roll upon a judgment hereafter rendered in the court hereby established directing in whole or in part the payment of money, the same may be docketed with the clerk of the said court, and may be docketed in any other county upon filing with the clerk of the circuit court of such other county a copy of the original "docket," and the same shall be a lien upon real property in the county where it is docketed with the same force and effect as if rendered in any circuit court of this state and docketed according to the provisions of the laws of this state now existing or hereinafter enacted relating to the entering or docketing of judgments in the circuit courts or transcripts thereof; and all provisions of law now existing or hereinafter enacted in regard to the duties of the clerks of the circuit court in docketing judgments rendered in the circuit courts, and the manner of docketing the same and enforcing the same by execution or otherwise, shall apply to the clerks of the circuit courts and the clerk of this court in docketing judgments of the court hereby established and the issuing of executions thereupon.

SECTION 12. Said county shall provide all books, stationery, and blanks necessary for keeping the records of the court hereby established, and all necessary

Powers and duties of court.

Of judgments rendered.

Docketing same.

Books, stationery, &c.

blanks which the clerks of the circuit court are authorized to keep.

**Seal.** SECTION 13. The judge of said court shall, at the expense of the said county, cause to be made for the use of said court, a seal with a suitable device, with the words "Second County Court for Brown County," engraved thereon.

**Appeals.** SECTION 14. No appeal to the circuit court shall be made or allowed of any cause tried or determined by the court hereby established, except in probate cases, but in all cases of judgments rendered, or orders made in said court, either party thinking himself aggrieved or injured by such judgment, or order, may remove the same by appeal or writ of error to the supreme court in the manner now or hereinafter provided for removing judgments rendered or orders made, in circuit courts, to the supreme court.

**Causes removed to Supreme court.** SECTION 15. Causes removed from the court hereby established to the supreme court, and the orders, decisions and judgments of the court hereby established may be reviewed by the supreme court in the like instance and in the same manner that causes, orders, decisions or judgments removed from circuit courts are reviewed by the supreme court. And the supreme court shall have the same power over such causes, orders, decisions or judgments as it has over causes, orders, decisions or judgments of the circuit court, and all provisions of law now existing, or hereinafter enacted relating to writs of error and appeals from the circuit courts to the supreme court and the costs and disbursements therein, shall apply to writs of error and appeals from the court hereby established, to the supreme court.

**Absence of judges.** SECTION 16. If the judge authorized to hold such court shall not attend for that purpose before four o'clock on the day appointed for such court to meet, it shall be the duty of the sheriff or of the clerk to adjourn said court from day to day for three days unless the judge shall sooner appear; and if the judge do not appear at that time, the court shall stand adjourned and all cases continued until the next regular day for such court to meet.

**Removals.** SECTION 17. Any judge of the court hereby established, may be removed from office in the manner provided for the removal of judges of the supreme court or circuit courts in the constitution of this state.

**Change of place of trial.** SECTION 18. Whenever the place of trial of any action in said court shall be changed, on account of

the prejudice of the judge thereof, or because he shall be interested or have been counsel therein, the place of trial shall be changed to the circuit court of said Brown county, unless it shall appear that one of the aforesaid objections exists to trying such action before the judge of the said circuit court; and whenever, for any such reasons, a change of the place of trial shall be granted in the circuit court in any civil action wherein the amount in controversy does not exceed five thousand dollars, as hereinbefore provided, pending in said court or any criminal action or information, except for murder, the place of trial shall be changed to the said court hereby established, unless it appear that one of the aforesaid objections exists to trying such action before the judge of the court hereby established; and any civil or criminal action now or hereafter pending in the circuit court for Brown county may be removed to the court hereby established upon the written consent of all the parties thereto filed with the said clerk: and upon such removal the said action shall proceed and be brought to trial, tried and determined in the same manner and with like effect, as if the same had been removed for cause; *provided*, the action thus removed by consent be one of which the court hereby established would have jurisdiction, according to the provisions of this act.

SECTION 19. No judge of the court hereby established shall have power to try and determine any cause or matter which shall come before said court or the judge thereof, in which he shall have been interested, or in which he shall have acted as counsel for either party, except by agreement of the parties. *Provided*, that the fact that said judge is or may be a citizen or tax payer, shall not be deemed sufficient interest to disqualify him under the section or otherwise.

When judge is interested in cause.

SECTION 20. In all cases of a change of venue in this act, the action shall be removed to a county court of an adjoining county, if any there be having jurisdiction thereof, or to the circuit court for an adjoining county in the discretion of the judge. And the expense of the trial of any such action shall be borne by the respective counties from which and to which it shall be removed, in the same proportion and be paid or recovered in the manner now or hereafter provided in cases of removal for like causes from the circuit court of one county to that of another.

Change of venue.

Clerk to transmit papers.

SECTION 21. Whenever the venue of any action shall be changed in pursuance of this act, the clerk of the court removing said action shall forthwith transmit the papers relating thereto to the clerk of the court to which said action shall be removed, and said last mentioned court shall proceed to trial, give judgment and issue execution in the same manner as if said action had been originally brought therein.

SECTION 22. This act shall take effect and be in force from and after its passage and publication.

Approved February 12, 1875.

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## CHAPTER 10.

[Published February 15 1874.]

AN ACT to amend an act entitled, "an act to amend Chapter 500, of the private and local laws of 1868, entitled an act to consolidate and amend an act to incorporate the city of Madison, and the several acts amendatory thereof, approved March 6th, 1868, and to declare the true intent and meaning of certain provisions therein contained."

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

Per diem of police officers.

SECTION 1. Section 5, of an act entitled "an act to amend chapter 500 of the private and local laws of 1868, entitled, an act to consolidate and amend an act to incorporate the city of Madison, and the several acts amendatory thereof, approved March 6, 1868, and to declare the true intent and meaning of certain provisions therein contained," is hereby amended so that it shall read as follows: No per diem shall be paid to any regular or special police officer of the city, except when a special order or direction of the mayor shall be given for that purpose, and not exceeding one dollar per diem for each officer so ordered or directed to be so compensated. When any such order or direction shall be given by the mayor he shall report the fact at the next meeting of the Council, with the name or names of the persons so to be compensated for such services, which order or direction, if not countermanded by the mayor, shall continue in force until disapproved by a vote of a majority of all the members elect of the council, and all acts and parts of acts contravening the provisions of this act are hereby repealed.