

No. 83, A.]

[Published March 19, 1897.

CHAPTER 71.

AN ACT conferring civil jurisdiction on the county court of Jefferson 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 Jefferson county, jurisdiction in all civil actions and proceedings in law and in equity, concurrent with, and equal to the jurisdiction in the circuit court in said county, for all claims, demands and sums; and to 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 civil actions and proceedings, and including the power of review of records on certiorari, discharging mortgages of record, and such other special powers as are now or may hereafter be conferred by statute upon the circuit court, coming within the above limitations, as belong to and are exercised by the circuit court in and for said county.

Jurisdiction of the county court of Jefferson county defined.

SECTION 2. All appeals in civil actions from justices of the peace of said Jefferson county, and from any judgment rendered by, or recovered before a justice of the peace in said county, which may be taken to the circuit court, may hereafter be taken either to the circuit court or county court of said county at the ou-

Appeals, how made.

tion of the appellant, and if taken to said county court such appeal shall be tried and determined therein in the same manner as is by law required in the 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 court thereof, shall hereafter be construed to apply equally to such appeals when taken to said 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 conferred by this act and the law 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.

Clerk of the circuit court shall be ex-officio clerk of the county court.

SECTION 4. The clerk of the circuit court of said county shall ex-officio 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 actions and 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 to be appointed by the clerk of circuit court,

SECTION 5. The deputy clerk authorized by law to be appointed by the clerk of the circuit court of said county shall also be the deputy

clerk of said county court, and shall perform the duties of said clerk in like cases and in like manner as he is now authorized to perform the duties of the clerk of the circuit court.

SECTION 6. Said county court shall have like power to issue all necessary and proper writs in all civil actions or proceedings 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 such writs shall be issued, executed and returned in the same manner and with like effect as in the circuit courts.

County court has power to issue writs.

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 of practice pertaining to circuit courts as prescribed by the supreme court shall apply to said county court, and said county court shall have power to make and enforce such other rules for the conduct and dispatch of the business of said court as may be deemed necessary.

All general provisions of law apply to this court.

SECTION 8. The seal of the county court of Jefferson county shall continue to be used as the seal of said court.

Seal of court.

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

Shall be entitled to blanks and stationery.

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

Rights of appeal same as other courts.

are allowed by law from circuit courts of this state or may hereafter be allowed by law.

Supreme court may review causes.

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.

Bill of exceptions shall be granted when asked for.

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.

Judgment may be had in vacation.

SECTION 13. Judgment may be had and entered in vacation in said county court, subject to the limitations of the jurisdiction of said court, if the defendant fail 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.

Terms of court, when held.

SECTION 14. There shall be held at the county seat of said county two general terms, viz.: Third Monday in April and third Monday in November of 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 Jefferson county aforesaid.

Sheriff shall adjourn court in absence of judge.

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 the 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 within that time, the court shall stand adjourned for the term, and all cases continued until the next term of such court.

SECTION 16. The judge of said county court shall be disqualified to try and determine any cause in which he shall have acted as counsel for either party, except by agreement of parties, and all such causes he shall transmit to the circuit court of said county; the judge of said county court may also transmit to said circuit court any other cause or proceeding pending before him, if, in his discretion, he deem it expedient; and the circuit court shall thereupon proceed to try and determine the same in the same manner and order as if said causes or proceedings had originated in the circuit court.

The judge disqualified to try a cause where he has acted as counsel.

SECTION 17. Causes may be removed from said county court to the circuit court on the ground of the prejudice of the judge as in actions in the circuit court; and in all cases where a change of venue is allowed or directed by the county judge, the cause shall be removed to the circuit court of the same county. On each civil suit commenced in or appealed to said county court, there shall be paid a state tax of one dollar and an advance clerk's fees of two dollars, at the same times and in the same manner as now provided for the payment of state tax and advance clerk's fees for actions commenced in, or appealed to the circuit court; and in like manner shall all cases which might originally have been brought in said county court, or appealed thereto, where a change of venue is allowed or directed by the circuit court on the ground of the prejudice of the judge thereof, be removed to said county court; provided, however, that nothing herein contained shall be construed as abrogating or abridging the power conferred upon the circuit court by section 2624a, of Sanborn and Berryman's annotated statutes of Wisconsin to call

Removal of causes on ground of prejudice.

upon some other circuit judge to preside in his stead in the trial of the cause; and the provisions of said section are hereby extended to the county court of Jefferson county, with the modification that the county judge may call upon the judge of any county court having civil jurisdiction instead of upon a circuit judge. In all cases in either of said circuit or county courts, if the affidavit of prejudice shall allege that the circuit judge and county judge are both prejudiced, the cause shall be removed to some adjoining circuit unless some other judge shall be called to preside as above provided.

Salary to be
\$500 per annum

SECTION 18. The county judge of said Jefferson county, for performing the duties required by this act, shall receive a salary of five hundred dollars per annum, to be paid out of the county treasury in equal monthly installments at the end of each month.

Causes that
may be tried
by this court.

SECTION 19. 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. In any action arising on contract for the recovery of money only, where service of the summons has been made as provided by section 2891, of the revised statutes, and 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 enter judgment thereon as in said section provided; and the clerk of said court shall have the same authority and power to assess damages or ascertain the amount due in like cases, and enter judgment thereon, in the same manner as he is authorized and empowered to do as clerk of the circuit court, and shall have generally the

same power and authority, duties and compensation in all cases in said county court, as he has now by law or otherwise in cases in the circuit court.

SECTION 20. The fees of jurors in said court shall be two dollars per day for each day's actual attendance, and one dollar for each half day, and six cents per mile for each mile actually traveled in going and returning by the most usual route; fees of jurors and talesmen shall be paid in the same manner and their qualifications shall be the same as now required by law of jurors in the circuit court. Fees of jurors.

SECTION 21. The jurors of said court shall be selected as follows: From residents of the county of Jefferson, 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, 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; but not more than six jurors shall be selected from out such list of fifty, from any one town, city or village; and 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. Jurors — how selected.

SECTION 22. 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 Manner of drawing jurors described.

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; provided, that not more than four such talesmen shall be selected from the residents of any one town, city or village, except by consent of parties. The officer summoning the same may insert the names of such talesmen in the venire. If a jury shall be required to make 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 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 assessment of damages may be 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 elect 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 at said time, 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 time fixed for the trial of such action. If for any cause, in selecting a

jury, the panel shall become exhausted, an additional list of fifty shall be made by the judge and clerk of said court.

SECTION 23. Jurors shall be summoned personally, as in the circuit court, but service may be made by the sheriff, under-sheriff or any deputy sheriff of the county, and the county judge may direct at what time jurors shall be summoned in any case which has been set for trial. The sheriff shall be entitled to the same fees for summoning jurors and talesmen as are allowed by law for like services in the circuit court, not exceeding, however, fifteen dollars in any one trial of a cause.

How jurors shall be summoned and by whom.

SECTION 24. 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.

Sheriff or deputy to attend when court is in session.

SECTION 25. 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, five 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 ap-

Fees of the clerk of court.

peal 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. In all other cases and proceedings not herein enumerated, the clerk shall be entitled to receive the same fees as in like cases and proceedings in the circuit court.

Actions began before a justice of the peace may be transferred to the county court.

SECTION 26. All actions commenced before a justice of the peace, in Jefferson county, where the title to lands will come in question, and which were heretofore required by law to be sent and certified to the circuit court, may hereafter at the election of the party making the plea or answer showing that the title to lands will come in question, be sent and certified either to the circuit court or to the county court.

Power to issue all legal process.

SECTION 27. 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.

Judgments, orders, etc., to have same force and effect as other courts.

SECTION 28. 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 into 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 collection 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.

SECTION 29. This act shall take effect and be in force from and after its passage and publication.

Approved March 17, 1897.

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1897 c 72
See 1899 c 117

CHAPTER 72.

AN ACT to establish a municipal court at the city of Racine, in and for the county of Racine.

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

MUNICIPAL COURT ESTABLISHED.

SECTION 1. There is hereby constituted and established in the county of Racine, state of Wisconsin, a court to be known as the municipal court of Racine county, which court shall be held in the city of Racine, in said county, by a judge elected for that purpose.

Municipal
court for Ra-
cine county.

COURT OF RECORD—SEAL—CLERK.

SECTION 2. The municipal court of Racine county shall be a court of record and have a clerk, and a seal with a suitable device to be procured under the direction of the judge thereof.

Court of rec-
ord, etc.

JURISDICTION IN CRIMINAL CASES, EXCEPT MURDER.

SECTION 3. The municipal court of Racine county shall have and exercise powers and jurisdiction concurrent with and equal to the circuit court of Racine county in all cases of crimes and misdemeanors arising in said county, except charges of murder.

Jurisdiction in
criminal cases,
except murder.

JURISDICTION IN CIVIL CASES NOT EXCEEDING FIVE THOUSAND DOLLARS.

SECTION 4. Said municipal court shall have and exercise powers and jurisdiction in all civil

Extent of jur-
isdiction in
civil cases.