

No. 512, S.]

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CHAPTER 555.

AN ACT to amend, revise and consolidate chapter 71, laws of 1897, chapters 427 and 557, laws of 1911, and chapters 34 and 293, laws of 1913, 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:

Chapter 71, laws of 1897, chapters 427 and 557, laws of 1911, and chapters 34 and 293, laws of 1913, are hereby amended, revised and consolidated to read:

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 \$250,000; 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 \$250,000, 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.

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 option 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.

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.

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.

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.

Section 7. The seal of the county court of Jefferson county shall continue to be used as the seal of said court.

Section 8. The county of Jefferson shall provide all books, blanks, stationery and other equipment necessary for keeping the records and proceedings of said county court made necessary by this act.

Section 9. 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.

Section 10. Causes removed from the county court to the supreme court, and the decisions, judgments and all appealable orders 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.

Section 11. 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.

Section 12. 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.

Section 13. There shall be held at the county seat of said county 2 general terms, viz.: first Monday in April and third Monday in October 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 3 successive weeks in 2 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.

Section 14. If the judge authorized to hold such court shall not attend for that purpose during the business day of the day appointed for such court to meet, it shall be the duty of

the clerk to adjourn said court from day to day until the judge shall appear or until a judge shall be designated in accordance with section 252.031 of the statutes.

Section 15. The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to said county courts, except that when the venue of any action shall be changed, it shall be changed to the circuit court of Jefferson county; and such change of venue shall not prevent the granting by said circuit court of a further change of venue as provided in section 261.04 of the statutes, and provided further that section 261.08 of said statutes so far as applicable shall apply to said county court, and that the judge thereof shall have the right to call upon the circuit judge or any county judge of a county having civil jurisdiction to attend, hold court and try such action, and while so doing he shall have the same powers as if elected judge of said county court. In like manner shall all such 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 grounds of 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 261.08 of the statutes. In all such cases in either circuit or county courts if the affidavit shall allege that the circuit and county judges are both prejudiced the case shall be removed to some adjoining circuit unless some other judge shall be called to preside as above provided.

Section 16. The judge of the county court shall be disqualified to try and determine any case in which he shall have acted as counsel for either party, except by agreement of parties, and he shall transmit all such cases 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 cause or proceeding had originated in the circuit court; provided, however, that nothing herein contained shall be construed as forbidding the county judge the right to call upon any county judge of a county having civil jurisdiction to attend, hold court and try

such action, and while so doing such judge shall have the same powers as if elected judge of said county court.

Section 17. The county judge of said Jefferson county, for performing the duties required by this act, shall receive a salary of \$3,600 per annum, to be paid out of the county treasury in equal monthly installments at the end of each month.

Section 18. The judge of said county court may, in performance of the duties required by this act, appoint and employ a phonographic reporter for said court, who shall take and subscribe the oath of office provided in the constitution and file the same in the office of the clerk of said court. Such reporter shall attend whenever required by said judge and perform such duties as said judge may require. Every such reporter shall be allowed such compensation as shall be fixed by said judge, it being understood that the compensation so fixed shall contemplate a full-time employment by said reporter and shall include services rendered in the probate branch of said county court and services rendered to the juvenile court of Jefferson county. Such reporter shall furnish to any party interested a correct typewritten transcript, or copy thereof, of the testimony taken by him in any matter or proceeding in said court, upon being paid therefor at the rates established by statute for phonographic reporters in the circuit courts. For performing the duties required by this act the phonographic reporter's compensation shall be paid out of the county treasury in equal semimonthly installments.

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 12 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 and complaint has been made as provided by section 270.62 of the 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 the 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 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 2 weeks before each general term of court, select from such residents qualified to serve, 36 persons to serve as jurors in said court, at and during the next term thereof. If such jury is not selected as herein provided, it may be selected at any other time. Not more than 6 jurors shall be selected from any one town, city or village. The impaneling of the 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 jurors, when selected, shall be filed in the office of the clerk of the court.

Section 21. The general provisions of the statutes, and all the general laws which may at any time be in force relative to circuit courts, and actions and proceedings therein, in civil cases, shall apply also to said county court, unless inapplicable and except as otherwise provided in this act; and the rules of practice prescribed or which may be hereafter prescribed by the justices of the supreme court for circuit courts including the selection of jurors, shall, unless inapplicable, be in force in said county court with the exception that the parties to any cause which presents a question of fact for a jury may agree upon an alternative method of selection of such jury; the judge of said county court shall have power to punish for contempt in the same manner that the judges of circuit courts are or may be authorized by law to punish for contempts; and said county court shall have power to make and enforce such other rules as may be necessary.

Section 22. 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 the county court.

Section 23. 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.

Section 24. 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.

Approved August 18, 1947.