

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved February 17, 1870.

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CHAPTER 8.

[Published February 24, 1870.]

AN ACT to amend chapter 361 of the general laws of 1860, entitled "an act conferring jurisdiction on the county court of Winnebago county."

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

SECTION 1. Section one of said chapter 361, is hereby amended so as to read as follows: there is hereby conferred upon the county court of Winnebago county, jurisdiction in all civil actions equal to and commensurate with the circuit court, for all sums not exceeding three thousand dollars, and of and concerning all property not exceeding that amount in value. And the said county court to the amount aforesaid, shall be a court of general jurisdiction, and shall have and may exercise the same powers and jurisdiction within the county of Winnebago as are now exercised and enjoyed by the circuit court in and for said county in civil actions within the above mentioned limits; and it is expressly understood that such jurisdiction, subject to the above limitations, shall include the following actions and proceedings: "mandamus," actions for the recovery of real property, commonly known as ejectment; "of proceedings against debtors by attachment;" "of the lien of mechanics and others;" "of claim and delivery of personal property," commonly known as the action of replevin, and also "proceedings for the collection of demands against ships, boats and vessels," and also actions of divorce: *provided*, such court shall not have jurisdiction in actions of *quo warranto*.

Amended.

Jurisdiction conferred upon county court.

SECTION 2. Section thirteen (13) of said chapter is hereby amended to be [and] read as follows: judgment may be had and rendered in vacation in said

Judgments may be rendered in vacation.

county court, subject to the above limitation as to jurisdiction, if the defendant fail to answer the complaint in the same manner, and in like cases wherein judgment may now be, or may be hereafter had and entered in the circuit court in vacation: *provided however*, that execution may be issued upon any such judgment at any time after the entry of the same.

Terms of county court.

SECTION 3. Section fourteen (14) of said chapter is hereby amended to be and read as follows: there shall be held at the county seat of said county, three terms of said court in each year, viz: on the second Mondays of May, November and February in each year. The county judge may call and hold special terms of court upon giving three weeks' notice thereof in some newspaper published in the city of Oshkosh in said county, and if the said court shall desire a jury at such term, a jury shall be selected for such term in the same manner as a jury is selected for a regular term. There shall also be held a special term of said court on the first Monday of each month in each year, except the months of May, July, August, November and February: *provided, however*, that at such special terms, no cases shall be tried in which there is any issue of fact, nor shall be tried or heard any appeals from justices' courts, and no officer shall receive or be enabled to receive any compensation for attendance upon such terms. Such special terms may be held in the office of the county judge in the court house in said county.

Costs.

SECTION 4. Section nineteen (19) of said chapter is hereby amended to be and read as follows: 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 hereinotherwise provided or limited.

Salary of judge.

SECTION 5. Section twenty (20) of said chapter is hereby amended to be and read as follows: the county judge of said Winnebago county for performing the duties required by this act and the act of which the same is amendatory, shall receive a salary of five hundred dollars per annum, to be paid quarterly out of the county treasury by the county treasurer.

Jury fee to be paid.

SECTION 6. Section twenty-two (22) of said chapter is hereby amended to be and read as follows: the demand for a jury shall be accompanied by the pay-

ment into the court of three dollars jury fees. If the jury agreed upon shall be six or less, then the fees shall be one dollar and fifty cents.

SECTION 7. 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 or a less fractional part of a day's attendance, to be paid in the same manner as jurors in the circuit court. Fees of jurors.

SECTION 8. 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. Qualification of jurors.

SECTION 9. The jurors for said court shall be selected as follows, from residents of the county of Winnebago, and qualified to act as jurors: the county judge and clerk of the circuit court shall, at least two weeks before each term of court, select from such residents, and qualified to serve as 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. Jurors—how selected.

SECTION 10. 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 How clerk to draw jury. May issue venire.

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 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 select [elect] to try such case without a jury, or if both parties neglect or refuse to so determine or select [elect], then 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 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.

Court may set down case for particular day.

Sheriff or deputy shall attend court.

SECTION 11. Section twenty-three (23) of said chapter three hundred and sixty-one (361) is hereby amended so as to be and read as follows: 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 for serving or executing any venire for any jury or summoning any talesman.

SECTION 12. Section twenty-four (24) of said chapter is hereby amended so as to read and be as follows: the fees of the clerk of said court in any one cause 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 calendar, three dollars, and after answer, and after having been put upon 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 court, seven dollars; in like cases when judgment is entered upon application to court and the same could be entered in vacation, five dollars; in case there is an answer and the same is tried by court, eight dollars, (if a final determination on a demurrer, six dollars); if tried by a jury, ten dollars; in appeal cases tried by the court upon return of justice, five dollars; in all appeal cases which are dismissed without trial, four dollars; in all other appeal cases, eight dollars. In case there is more than one trial, three dollars shall be added to such limitation for each additional trial.

SECTION 13. When in any suit, commenced before any justice of the peace of Winnebago county, a plea or answer shall be put in showing that the title of lands will come in question, as provided by sections fifty-one, fifty-two, fifty-three, fifty-four and fifty-five of chapter one hundred and twenty of the revised statutes, or of any act which may hereafter be passed amendatory thereof, such suit shall be sent and certified to said county court, instead of the circuit court of said county, and wherever in said sections the words circuit or circuit court are used, the same shall be and are hereby changed, so far as the same relate to Winnebago county, to county and county court, and the bond to be given shall be conditioned to prosecute his said action in the county court instead of the circuit court. This section shall take effect and be in force on the first of May, A. D. 1870.

SECTION 14. This act, (except said section 13,) shall take effect and be in force from and after its passage and publication.

Approved February 17, 1870.

Clerk's fees.

Suits involving title to lands to be certified by justice to county court.