

No. 539, A.]

[Published August 5, 1929.]

CHAPTER 358.

AN ACT conferring additional jurisdiction on the county court of Door 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 Door county jurisdiction as follows: (1) The county court of Door county shall have cognizance of and jurisdiction to hear, try and determine all actions and proceedings at law wherein the amount of debt, damages, demand, penalty or forfeiture shall not exceed the sum of one thousand five hundred dollars; actions to recover possession of personal property with damages for the unlawful taking or detention thereof, wherein the value of the property claimed shall not exceed one thousand five hundred dollars, exclusive of damages; actions founded on account when the same shall be reduced to an amount not exceeding one thousand five hundred dollars or credits given or otherwise; to hear, try and determine all actions arising under chapter 291 of the statutes.

(2) The said county court shall also have exclusive jurisdiction of all crime and misdemeanors occurring in said county to the same extent and as fully as justices of the peace had prior to the passage of this section; and shall have exclusive jurisdiction of all charges for offenses arising within the said county and which are not punishable by commitment to the state prison, whether such offenses arise under the law of the state or county, city, village or town ordinances, and shall have power to sentence and commit all persons convicted of any offense of which it has jurisdiction.

(3) The judge of said court shall have the power and jurisdiction throughout the county to cause to come before him persons who are charged with committing any criminal offense and commit them to jail or bind them over to circuit court as the case may require.

(4) Said court shall further have all jurisdiction, and authority, power and rights given by law to justices of the peace.

SECTION 2. (1) No justice of the peace within said county shall have or exercise jurisdiction in any criminal case, except

that justices of the peace may, in the manner prescribed by law, issue warrants returnable to the county court of the said county.

(2) No justice of the peace shall have or exercise jurisdiction in any civil action, matter or proceedings, where the amount of money claimed, or value of the property involved is in excess of fifty dollars.

SECTION 3. The proceedings and practice of said county court in exercising the powers and jurisdiction herein conferred, both civil and criminal, shall in all cases be governed as far as is practicable by the laws relating to the courts of justices of the peace of this state, but the presiding judge of the said county court shall, in addition, have the power to rule upon admission of evidence, submit issues of fact by special verdict and to instruct juries in said court as is possessed by circuit judges. Transcripts of judgments of the county court may be filed with the clerk of the circuit court for said county, with the same force and effect as transcripts of judgments rendered by justices of the peace of said county, and appeals from said county court in all cases both civil and criminal, and other proceedings may be taken in the same manner and with the same effect as are provided by law for appeals from justice courts, in exercising the powers and jurisdiction herein conferred.

SECTION 4. The said county court shall have the power and jurisdiction to enter judgments by confession in the cases specified in section 270.69 of the statutes when the amount claimed is less than one thousand five hundred dollars and it shall be entered by the said judge in the same manner as is prescribed in section 270.70 of the statutes and the said judge shall further be governed as far as is practicable in the entry of such judgment by sections 270.71 and 270.72 of the statutes.

SECTION 5. In case of sickness, absence or any disability of said judge, he may, by an order in writing to be filed in said court, appoint a justice of the peace in said county to discharge the duties of said county judge hereby conferred, during the sickness, absence, or other disability of said judge. Such justice of the peace shall have the powers of said judge as herein conferred while administering such office; such justice of the peace is to be paid at the rate of ten dollars per day by the said county judge.

SECTION 6. No action, examination or proceedings shall be removed from said court, but whenever it shall appear by affi-

davit that the county judge is interested pecuniarily in the action, examination or other proceeding, or that the judge is a material witness, or in the forbidden degree of consanguinity, or from prejudice will not decide impartially in the matter, the county judge shall appoint a justice of the peace of the said county to hear and decide said examination or other proceeding as the case may be, whereupon it shall be the duty of the said justice of the peace to forthwith appear at the courtroom of the said court and discharge the duties of the said county judge on the hearing of said examination or other proceeding in the same manner and with like effect as if made by the county judge. For the purpose of this section, any party to any proceeding pending before said county court by reason of the powers and jurisdiction herein conferred, whether civil or criminal, including the state, county, city, village or town in civil proceedings only, shall have the right to make and file an affidavit of prejudice, and when made and filed on behalf of the state or county, city, village or town, such affidavit shall be made by the district attorney of said county or by such other person representing the state, county, city, village or town in such action or proceeding. The justice of the peace acting in said proceeding shall receive for his compensation five dollars for each half day he shall spend in such examination or proceeding, which shall be in full payment for his services therein, and such payment shall be paid out of the county treasury upon written order of the county judge.

SECTION 7. Trial by jury may be had in the same manner and process as in justice court, except that in criminal cases or cases for violation of county, city, village or town ordinances, it shall not be required that the defendant pay for said jury, but said jury shall be paid upon the order of the presiding judge in the same manner as the jury in circuit court is paid and at the rate of two dollars per day.

SECTION 8. Sheriffs and constables of said county and other persons shall have the same powers to execute process of said county court as of justices' courts, and shall be entitled to the same fees and shall be subject to the same liabilities and penalties as in justices' courts.

SECTION 9. The judge of the said county court shall cause to be kept one docket for criminal trials and proceedings, and a separate docket for civil actions; and all docket entries and process shall be made and kept in the same manner, as far as is

applicable to this court, as the same are required to be made or kept by justices of the peace under the laws of this state; provided that in civil actions the county judge may sign in blank summons and other process and deliver the same to attorneys of courts of record throughout the county to be issued by them as occasion may require, who upon issuing any such summons, writ or other process shall file within forty-eight hours thereafter the affidavit, if any, upon which such summons, writ or process is based, and a statement of the names of the parties to the action, the date of said summons, writ or other process, the time when the same is returnable, the nature of the demand or claim, upon which the judge of the said court shall forthwith cause to be docketed said case, which docket entries shall have the same force and effect as if made at the time of issuing the said summons, writ or process.

SECTION 10. (1) The salary of the said county judge of Door county for performing the duties imposed by this chapter shall be as follows: He shall be paid the sum of two thousand dollars per annum in addition to the salary now paid him by the said county, or such other sum as the board of supervisors of Door county shall fix as proper. Said judge shall turn over to the county treasurer, monthly, on the second Monday of each month all fees collected the preceding month.

(2) The said judge shall tax as costs the same fees in the same manner as they are taxed in justice courts.

(3) He shall file on the first day of November each year with the county clerk of said county, a statement of all the fees paid by him to the county treasurer, which statement shall be verified by his oath. He shall also file with the said clerk of Door county the statement required of magistrates and judicial officers by section 59.77 of the statutes.

(4) He shall pay monthly on the first day of each month all fines and forfeitures collected by him for violation of county, city, village or town ordinances, to the treasurer of the said town, village, city or county, and shall, if any case be tried by him in which such municipality is a party also file with their respective clerks on the first day of November each year a statement in substantially the same form as provided in section 59.77 of the statutes.

SECTION 11. Appeals from said county court shall be taken to the circuit court of Door county, and when not otherwise pro-

vided, the law relating to appeals from justice courts shall apply. The same affidavit and notice, in substance shall be made and given as upon appeals from justice court, and in addition thereto a copy of said affidavit and notice shall be served upon the opposing party or his attorney within five days after the notice is served upon the county court. In event that this additional notice is not served upon the opposing party or his attorney, the appeal shall be dismissed, unless the county judge, on motion after due notice to the opposing party shall in his discretion decide that justice would be better served if the appeal were allowed, then he may allow such appeal upon the payment to the respondent of five dollars and costs.

SECTION 12. The county judge may provide a seal for said court and all papers, depositions, certificates, acknowledgments, examinations and other documents executed or signed by the said judge, when sealed with the seal of the said court, shall be evidence in all courts and places in this state, and shall have the same effect as the seal of a court of record.

SECTION 13. The dockets and records of said court under this act shall be public records open to inspection of all persons at all reasonable times.

SECTION 14. In all actions in the county court under this section, an attorney fee shall be allowed the plaintiff if he recovers judgment, as follows: If judgment does not exceed the sum of fifty dollars, the sum of five dollars; if the judgment exceeds fifty dollars and shall not exceed the sum of two hundred fifty dollars, the sum equal to ten per cent of the amount of the judgment; if the amount of the judgment exceeds two hundred fifty dollars, the sum of twenty-five dollars shall be allowed.

SECTION 15. In case judgment shall be for the defendant, he shall receive the same attorney fee, and the amount claimed by the plaintiff shall be the basis of computing the same.

SECTION 16. In actions of replevin the value of the property as proved shall govern the amount of attorney's fees in case the judgment is for the plaintiff, and the value of the property claimed shall govern the amount of attorneys' fees in case judgment is for the defendant.

SECTION 17. In any case not herein provided for, a reasonable attorney's fee shall be allowed by the county court, providing that no attorney's fees shall exceed twenty-five dollars; and provided further that no attorney's fee shall be allowed unless

the prevailing party appear in the action by an attorney of a court of record.

SECTION 18. The county judge or the presiding judge shall have the power to appoint counsel for indigent defendants in all criminal actions upon the proof by affidavit that the defendant is without funds, and the same fee shall be allowed counsel so appointed as is allowed in circuit court and shall be paid by the county treasurer upon the written order of the presiding judge. This shall also apply to preliminary hearings.

SECTION 19. Whenever any civil action shall be removed from any justice of the peace in Door county, upon the oath of the defendant, his agent or attorney, according to the provisions of law for such removal, if the defendant or his agent or attorney requests in writing to such justice of the peace that the action be removed to the county court, then the action and all the papers therein shall be transmitted to the presiding judge thereof, who shall proceed in the action in the same manner as if originally instituted before him.

SECTION 20. The judge of the county court shall hold his office in a suitable room in the courthouse, to be provided by the board of supervisors for Door county at the expense of the said county, together with all necessary stationery and other blanks required by said court in civil and criminal actions, examinations, and judges' dockets as required by law. The office of the county judge shall be open every day from ten to twelve o'clock in the forenoon and from two to four o'clock in the afternoon, excepting Sundays and holidays. During the months of June, July, August and September the said judge may close his office on Saturday afternoons.

SECTION 21. The board of supervisors shall employ a stenographic reporter, skilled in the art of shorthand reporting, to take testimony in any action, examination or other proceeding in said county court, and the reporter's notes so taken may be filed in lieu of the minutes of testimony required by law to be taken by justices of the peace in like proceedings, provided that in cases of appeal in civil cases, said reporter, when requested by the appellant, shall file a transcript of his or her notes, verified by his or her oath, which shall be returned as the testimony in the case, and the fees for transcribing said testimony, not exceeding five cents per folio, shall be taxed as costs as part of the fees and shall be turned over to the county treasurer. In

all preliminary examinations held before said judge it shall be the duty of said reporter to file a transcript of his or her notes, verified by his or her oath, of the testimony taken in such examination, with the clerk of the circuit court for said county. Said reporter shall receive such compensation for his or her services and the performance of his or her duties herein imposed as shall be fixed by the board of supervisors of Door county; and for taking testimony in any action or proceeding there shall be taxed as costs in the case for each half day's attendance on said court in the taking of such testimony the sum of two dollars and fifty cents. In all criminal and civil cases said reporter shall furnish any party to the action verified copies of the transcript and shall charge therefor five cents per folio for the original and three cents per folio for copies, the same to be paid by the party requesting the transcripts. Said reporter shall also have the duty to make the proper entries in the judge's docket and to keep such docket under the direction of the judge.

SECTION 22. The provisions of this act shall apply only to the powers and jurisdiction and duties hereby conferred upon the said court.

SECTION 23. The said judge shall be entitled and may take one month's vacation with pay, and during said time he shall appoint a justice of the peace in his place who shall have the power and jurisdiction given to the county judge in this act; said justice of the peace shall be paid at the rate of fifteen dollars per day by the county treasurer upon the order of the county judge.

SECTION 24. This act shall take effect January 1, 1930.

Approved August 2, 1929.

No. 764, A.]

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CHAPTER 359.

AN ACT to create section 40.37 of the statutes, relating to state graded schools.

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

SECTION 1. A new section is added to the statutes to read: 40.37 The school board of any school district maintaining a graded school but no free high school, union free high schools