

CHAPTER 196.

[Published March 27, 1860.]

AN ACT providing for the bringing of suits upon sheriff's bonds.

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

Sheriffs' official bond may be prosecuted.

How application to be made.

Duty of court or judge on application.

Pleadings and proceedings.

How suit may be barred.

SECTION 1. Whenever a sheriff shall have become liable for the escape of any prisoner committed to his custody, or whenever he shall have been guilty of any default or misdemeanor in his office, whether before or after the passage of this act, the party aggrieved thereby may apply to the circuit court of the county where such sheriff's bond may be filed, or to the judge thereof in vacation, for leave to prosecute the official bond of such sheriff; such application shall be made upon affidavit of the default or delinquency complained of, and that no satisfaction for the same has been received, and a certified copy of such official bond.

SEC. 2. Upon such application, and proof, the court, or the judge thereof, in vacation, shall order that such bond be prosecuted, and the applicant shall, thereupon, be authorized to prosecute the same in the circuit court of the proper county, and in his own name; in such actions, the same pleadings and proceedings shall be had, as far as may be, as in other actions upon bonds, except as herein provided.

SEC. 3. No such suit shall be barred, nor shall the amount for which execution may be issued, be effected [affected] by any answer of any surety in such bond, of a judgment recovered thereon, unless it contain an allegation that the sureties in such bond, [or] some one of them, have been obliged to pay the amount of such judgment, or some part thereof, for the want of sufficient property of such sheriff, whereon to levy the same, or that they will be obliged to pay the same, or some part thereof, for the same reason, nor unless such answer be verified by the oath of the defendant making the same. If it appear that the amount which such surety has been obliged to pay, on such former judgment, is equal to the amount for which such defendant shall be liable by virtue of the bond, he shall be acquitted and discharged of all further liability, and judgment shall be rendered in his favor. If it appear that the amount which such surety has been obliged to pay of such former judgment, or which he will

be obliged to pay, is not equal to the amount of such surety's liability, the amount thereof shall be allowed to such defendant, in estimating the extent of his liability in any such action.

SEC. 4. Whenever several judgments shall be obtained, at the same time, upon any official bond of a sheriff, and the amounts for which executions thereon may be issued, shall, in the aggregate, exceed the sum for which the sureties in such bond shall be liable, the circuit court shall order the moneys levied upon such judgments, from the property of the sureties, to be distributed ratably to the plaintiffs, in proportion to the amounts of their respective executions; and if executions be issued upon several judgments obtained at the same time, upon any such official bond, and sufficient moneys shall not be raised to satisfy all of said executions, the circuit court shall distribute the moneys collected on such executions from the property of the sureties, to the plaintiffs, respectively, in such judgments, in proportion to the amount for which execution was awarded on such judgments, respectively.

Proceedings when several judgments are obtained at the same time.

When several executions are issued.

SEC. 5. This act shall be published immediately, and shall take effect upon its passage and publication.

Approved March 24, 1860.

CHAPTER 197.

[Published March 27, 1860.]

AN ACT to repeal chapter 124, of the General Laws of 1858, entitled "An act conferring jurisdiction on the county court of Columbia county."

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

SECTION 1. Chapter one hundred and twenty-four, of the General Laws of eighteen hundred and fifty-eight, entitled "An act conferring jurisdiction on the county court of Columbia county," approved May 17th, 1858, is hereby repealed.

SEC. 2. All suits and proceedings, pending in the said county court, at the time when this act takes effect (except probate matters) are hereby transferred to the circuit court for the county of Columbia, and shall be heard,

Suits transferred.