

No. 228, A.]

[Published April 8, 1931.]

CHAPTER 38.

AN ACT to confer civil and criminal jurisdiction on the county court of Washington 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 Washington county, jurisdiction of the following actions, matters and proceedings, to wit:

(1) The said county court shall have and exercise jurisdiction concurrent with and equal to the jurisdiction of the circuit court in said county in all civil actions, suits and proceedings, either in law or in equity, of every kind and nature, and in all special proceedings of every kind and nature, except in actions where the debt or balance due, or damages or relief claimed in the complaint, exceed the sum of fifty thousand dollars.

(2) The said county court shall also have and exercise jurisdiction in all illegitimacy actions and in all criminal cases except murder, manslaughter and homicide; subject to the exceptions aforesaid, the said county court shall be a court of general jurisdiction, with the same power and jurisdiction to issue writs and processes of every kind and nature, and to hear, try and determine all civil and criminal suits, actions and proceedings of every kind and nature as have been heretofore, are now or may hereafter be conferred by the constitution or statutes of this state upon the circuit courts of the state.

SECTION 2. All actions commenced before a justice of the peace in Washington 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 of lands will come in question, be sent and certified either to the circuit court or to the county court.

SECTION 3. Appeals from the judgments of police justices, and justices of the peace in said county, in all civil actions 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 the county court such appeal shall be tried and determined therein in the same manner as is by law required in the circuit court, and in

accordance with the rules and practice of the county court of Washington county in force at the time of said trial, and all laws providing for taking appeals from justices of the peace or justices' courts in said county, or from police courts in said county, shall hereafter be construed to apply equally to such appeals when taken to said county court.

SECTION 4. The said county court, within the jurisdictional limitations aforesaid, shall be a court of record, with a clerk and seal, and shall have full power and authority to issue all writs and legal process, proper and necessary to carry into effect the jurisdiction conferred by this act and the laws of this state, and to carry out such jurisdiction shall have and exercise all powers now possessed, or which may hereafter be possessed by the circuit courts of this state, and the same proceedings shall be had by the parties to procure such writs and process as in circuit courts and such writs and process shall be issued, executed and returned in the same manner and with like effect as in the circuit courts.

SECTION 5. All examinations, recognizances and commitments from or by any examining magistrate of said county in illegitimacy cases and in all criminal actions, except charges of murder, manslaughter and homicide, shall be certified and returned to such county court, instead of to the circuit court for said county, within the time prescribed by law, and the attendance of witnesses upon the trial of any person so committed shall be secured in the same manner as provided by law in the circuit court, and said court shall have power to appoint any attorney or counselor to defend a person charged with any offense properly triable before said court in the same manner and upon the same conditions as the circuit court may now or hereafter appoint any attorney or counselor to defend persons charged with any offense.

SECTION 6. Said county court shall have jurisdiction in the matter of liens and the foreclosure of the same as set forth in chapter 289 of the statutes, and the provisions of law with reference to the filing and docketing of claims for liens and the foreclosure thereof now or hereafter applicable in circuit court proceedings shall be equally applicable in similar proceedings in said county court.

SECTION 7. 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 8. All orders and judgments of said county court may be reviewed by the supreme court in the same manner and with like effect that judgments and orders of the circuit court may be reviewed; and the supreme court shall have the same power and jurisdiction over such actions, proceedings, orders and judgments in the county court of said county, and the parties shall have the same rights to writs of error and appeal from said county court to the supreme court of this state as now, or may hereafter be, allowed by law from circuit courts of this state and may demand and shall be entitled to receive from 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 and settled within the same time as now required or may hereafter be required in the circuit court.

SECTION 9. There shall be held four general terms of said court, on the first Monday of each of the following months respectively, to wit: February, May, September and December. Two of the general terms, to wit, May and December, shall be held at the county seat of said county, and two of the general terms, to wit, February and September, shall be held in the city of Hartford, in said county, but no jury trials shall be had at the February and September terms. Each general term to be held at the county seat of said county shall continue until the opening day of the next general term to be held at the county seat, and each general term to be held at the city of Hartford in said county shall continue until the opening day of the next general term to be held at the city of Hartford, Washington county, Wisconsin. The general terms to be held at West Bend, the county seat, shall be special terms for Hartford, and the general terms at Hartford shall be special terms for West Bend. After an action or proceeding commenced or pending in said court has been noticed and placed on the calendar it shall not be necessary for either party to notice the same for trial at any subsequent term, but the clerk shall place the same on the calendar according to the nature and

date of the issue or issues then or thereafter formed therein until it shall be tried or otherwise finally disposed of. Any trial, hearing, argument or assessment which shall have been commenced during any term, but shall not have been concluded before the commencement of any subsequent term, shall be continued and proceeded with at any subsequent term in the manner and with like effect as though it had been commenced at such subsequent term.

SECTION 10. 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 fails to answer the complaint, in the same manner and in like cases wherein judgments may now be had and entered in the circuit court in vacation, and the clerk of said court shall have the same powers and authority relative thereto, by law or otherwise, as the clerk of the circuit court has in reference to similar matters in said circuit court.

SECTION 11. Any circuit judge or any county judge may hold court in event of the absence, sickness or other disability of the judge of said county court upon the request of the judge thereof and while so doing he shall have the same power as judge of said court in all matters and cases whatsoever including criminal actions and proceedings.

SECTION 12. The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to said county court, except that when the venue of any action shall be so changed, it shall be changed to the circuit court of Washington 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; provided, however, that nothing herein contained shall be construed as abrogating the right to a change of venue provided by section 261.03 of the statutes, and when such change of venue shall be made, it shall be made by said county court direct to the proper county for the trial of the action, and, provided further, that section 261.08 of the statutes, so far as applicable, shall apply to said county court, and that the judge thereof shall have the right to call upon any circuit judge or any county judge 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. But the judge of said county court shall have and retain jurisdiction over all other actions and proceedings, and may exercise such jurisdiction and hold court and try such actions

and proceedings at the same time the judge called in is trying the action so transferred to him. If any person charged upon indictment or information with a criminal offense shall have procured a change of venue to the circuit court of Washington county, said county court shall commit or hold the party to bail to appear at the next term of the circuit court, and the clerk of said county court shall transmit all papers and a copy of the records and proceedings in said case, properly certified to be such under the seal of said court, to the said circuit court, which shall then have full jurisdiction of the action; all recognizances previously given in such cases, and returned to said county court may be enforced in said circuit court as fully as if they had been originally returned thereto. 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 said circuit court or county court 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 13. The judge of said county court shall be disqualified to try and determine any matter in controversy in any action pending before him in which he is a party or has an interest, or is related to, or has been of counsel for, either party. In such cases, the court or presiding judge thereof shall, upon application of either party, or without such application, certify such matter to the circuit court of said county or may call in another judge. The said county court may in its sound discretion transmit to the circuit court any criminal case or proceeding pending before said court; and the circuit court shall thereupon proceed to try and determine the same in the same manner as if said case or proceeding had originated in the circuit court.

SECTION 14. No judge of said county court, while holding such office, shall be in any manner engaged or act as attorney or counsel in any action, cause or proceeding in or which he has good reason to believe may be brought in the county court of said county or give advice or opinion therein; and the judge of said court shall

not give advice to parties litigant in any action pending before such judge, or which he has reason to believe may be brought before him for decision; or draft or prepare any papers or other proceedings relating to any such matter or action, except when expressly authorized by law, upon penalty for any violation hereof of removal from office.

SECTION 15. (1) Jurors shall be chosen for the several jury terms of said court by the same jury commissioners in the same manner that jurors are chosen in circuit court, and from the same list of names. All provisions of law, rules and practice relating to the selection, qualifications, duties and compensation of jurors in the circuit court shall be applicable to said county court. The clerk of said court shall have the same powers and duties in reference to the choosing of jurors as the clerk of the circuit court has in choosing jurors for circuit court.

(2) No jurors shall be summoned to attend upon any term of said court unless it shall appear to the satisfaction of the judge that a jury panel is necessary.

(3) In case of any action or proceeding in which a jury trial may be had the clerk shall draw from the panel of jurors selected for such term, twenty-four names and make a list of the same. From such list of twenty-four, each party shall be entitled to six peremptory challenges, to be made alternately, the district attorney or the plaintiff having first challenge. When either party shall decline to challenge in his turn, such challenge shall be made by the clerk by lot, and the twelve remaining unchallenged shall be the jury for such action. When a jury shall have been selected as aforesaid, or otherwise agreed upon, a venire therefor returnable at such time as the judge may direct shall be issued by the clerk to the sheriff of said county.

(4) 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 may direct the sheriff or his undersheriff, 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 on the venire.

(5) If a jury shall be required to make an assessment of damages in any case, the same shall be drawn from the names in the jury box, or the court may direct the same to be had and taken by a 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.

(6) The court may set down any case on the calendar for trial on any particular day. If for any cause, in selecting a jury, the panel shall become exhausted the court may cause persons qualified to serve as jurors to be returned from the bystanders or from the county at large for the trial thereof and make the proper and necessary orders therefor.

(7) The jurors selected for any case shall be summoned in the same manner as in the circuit court, and the county judge may direct at what time jurors shall be summoned to appear.

SECTION 16. All costs, fees and disbursements shall be taxed and allowed the prevailing party in the same manner and to like amount as they are taxed and allowed in the circuit court.

SECTION 17. Until otherwise ordered by the county board, the county judge of Washington county, for performing the duties required by this act, shall receive a salary of two hundred fifty dollars per month to be paid out of the county treasury at the end of each month.

SECTION 18. (1) The register in probate shall be, ex officio, the clerk of said county court, and shall have the care and custody of all books and papers belonging or pertaining to said court. Said clerk shall perform all clerical duties necessary to carry into effect the provisions of this act and shall keep all necessary records of proceedings and judgments in the same manner provided for in circuit court, or as otherwise in this act provided.

(2) On each civil action, commenced in or appealed to said county court, there shall be paid to the clerk of said court a state tax of one dollar, and two dollars to apply on clerk's fees, at the same time and in the same manner as now provided for the payment of state tax and clerk's fees for actions commenced in or appealed to the circuit court.

SECTION 19. The clerk of said court shall appoint one or more

deputies which appointments shall be approved by the judge of said county court, but shall be revocable by the clerk at his pleasure; such appointments and revocations shall be in writing and filed in his office; such deputies, upon request of the clerk or the court, shall aid the clerk in the discharge of his duties, and in his absence from his office or from the county, they may perform all his duties, or in case of a vacancy by resignation, death, removal or other cause, the first deputy shall perform all such duties until such vacancy is filled.

SECTION 20. The compensation of the clerk, in addition to the salary and fees to which he is entitled as register in probate, shall be the fees provided for the clerk of circuit court under section 59.42 of the statutes. Such clerk, however, shall receive no fees in criminal proceedings.

SECTION 21. (1) The judge of said county court may, from time to time, employ a phonographic reporter for said court, and may appoint and remove at pleasure an assistant phonographic reporter, who shall, in the absence of, or during the disability of the phonographic reporter, have all the powers and perform all the duties of the phonographic reporter.

(2) All court officers shall take and subscribe the oath of office prescribed in the constitution, and shall attend court whenever required by said court, and in addition to the duties herein and otherwise by law specified, shall perform such duties as the judge may require. The clerk and the reporter shall be furnished with all books, stationery and other necessary equipment at the expense of the county.

(3) Said judge shall fix the compensation of such reporter not to exceed ten dollars for each day, and five dollars for each one-half day's attendance, which shall be in full compensation for services and for making transcripts from shorthand notes, as may be required by said judge; but, in lieu of the salary herein provided, the county board of said county of Washington may, in its discretion, from time to time, fix the salary of the phonographic reporter of said court, which salary shall be paid at the end of each month. During the time the assistant phonographic reporter shall perform the duties of the phonographic reporter, he shall receive the compensation provided by law for the phonographic reporter, the same to be deducted from the salary of the phonographic reporter.

(4) Said reporter and assistant reporter shall furnish parties to an action, or their attorneys, requiring them, transcripts of the testimony and proceedings had at the same price as provided in the circuit court. Until otherwise fixed by the county board the per diem compensation of said reporter and assistant reporter shall be paid out of the treasury of the county of Washington upon the order of the judge.

SECTION 22. The sheriff of said county in person or by his undersheriff or one of his deputies, shall attend such court when so required by the court, and the court shall designate the number of officers that shall be present when such court is in actual session as aforesaid, and such officers shall be entitled to receive the same compensation, payable in like manner as is, or may be provided by law for like service in the circuit court.

SECTION 23. The fees of the witnesses, jurors and officers shall be the same as are allowed by law to the witnesses, jurors and officers in the circuit court of Washington county.

SECTION 24. Court commissioners for the county of Washington shall have the same powers and be subject to the same duties in respect to actions and proceedings in said county court as in actions and proceedings in circuit court.

SECTION 25. The seal of the county court of Washington county shall continue to be used as the seal of said court.

SECTION 26. The county of Washington shall provide all books, blanks and stationery for keeping the records and proceedings of said county court made necessary by this act. The books, records and proceedings shall be kept at the court house at the county seat.

SECTION 27. All fines and all costs collected by the clerk in every civil action and in all criminal prosecutions and proceedings under the general statutes of this state tried or determined by the county court, which, if tried or determined by the circuit court or circuit judge would be paid over to the county treasurer, shall be accounted for, and paid over quarterly by the clerk of said county court to the county treasurer of Washington county.

SECTION 28. The general provisions of the statutes and all the general laws which may at any time be in force relative to the circuit courts and actions and proceedings therein, in civil and criminal 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 hereafter be prescribed by the

justices of the supreme court for circuit courts, shall, unless inapplicable, be in force in said county court, and 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 of practice as may be necessary.

SECTION 29. The divorce counsel appointed by the circuit court of said county shall also be the divorce counsel for the county court.

SECTION 30. Nothing contained in this act shall be construed as in any manner limiting the jurisdiction of the county court as heretofore existing.

SECTION 31. This act shall take effect upon passage and publication.

Approved April 6, 1931.

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CHAPTER 39.

AN ACT to amend subsection (2) of section 77.04 and section 77.05 of the statutes, relating to forest crop lands.

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

SECTION 1. Subsection (2) of section 77.04 and section 77.05 of the statutes are amended to read: (77.04) (2) As soon after the twentieth day of February of each year as feasible the treasurer of each town in which any forest crop lands lie, shall certify to the state treasurer and also to the tax commission a list of such lands, * * * *designating as to each tract whether it is owned by the county, and if not whether the owner has paid the taxes as hereinafter provided.* A specific sum per acre as hereinafter provided shall then be paid by the state treasurer to such town treasurer from the appropriation made by subsection (7) of section 20.05.

77.05 (1) Any owner, other than a county, shall be liable for and pay to the town treasurer on or before February twentieth of each year the sum of ten cents per acre on each such description hereinafter called the "acreage share", and on or before the twenty-fifth day of February of each year the state treasurer shall pay to each town treasurer the sum of ten cents on each acre so