

postoffice address of such defendant or that the plaintiff is unable, after due diligence, to ascertain it. The order shall direct that service of the summons be made by its publication in a newspaper to be designated as most likely to give notice to the defendant to be served, for such length of time as shall be deemed reasonable, not less than once a week for six weeks, and that on or before the day of the first publication, the plaintiff deposit, in a specified postoffice, a copy of the summons, together with a copy of the complaint, or of a notice of the object of the action as the case may require, securely enclosed in an envelope, the postage duly paid, addressed to the defendant at his postoffice, to be therein named, or a direction that such deposit may be omitted because the defendant's postoffice address cannot be ascertained; or that, at the plaintiff's option, a copy of the summons and a copy of the complaint or of the notice aforesaid be delivered to the defendant personally without the state; which, when done, shall have the same effect as a completed publication and mailing. The first publication must be made within three months from the date of such order, and service shall be deemed complete at the expiration of the full period prescribed by the order after the date of the first publication copies having been duly deposited in the postoffice when required.

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

Approved March 11, 1901.

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No. 154, S.]

[Published March 12, 1901.

## CHAPTER 49.

AN ACT to amend sections 2515, 2516, 2517, 2518, 2521 and 2522 of the annotated statutes, relating to the municipal court for Dane county.

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

**Jurisdiction of court; in criminal cases; review by supreme court.** SECTION 1. Section 2515 of the annotated statutes is hereby amended by striking out of the same the words "except murder and except where the person accused

shall demand in writing, as hereinafter provided, to be tried in said circuit court," as they are found in the eighth and ninth lines of said section, and the words "except murder" as they appear in the seventeenth line of said section; and by inserting after the word "recognizance" in the twenty-second line of said section the following, "said municipal court shall also have jurisdiction over all actions brought for the breach of any recognizance returned to or given in said court. A transcript of any judgment rendered in such action in said county may be docketed in the office of the clerk of the circuit court for said county, and when so docketed shall then be a lien upon any real estate belonging to the judgment debtor named therein to the same force and effect as other judgments rendered and docketed in the said circuit court are such lien;" and by inserting after the word "appeal" where it appears in the twenty-fourth line of said section the words "and in actions on recognizances the amount of which exceeds two hundred dollars exclusive of costs" so that the said section as amended shall read as follows: The municipal court of the city of Madison and county of Dane, as heretofore established, is continued under the name of the municipal court for the county of Dane, shall be a court of record, and have a clerk and seal with suitable device, to be procured under the direction of the judge thereof, at the expense of the city of Madison. It has and may exercise powers and jurisdiction, equal and concurrent with the circuit court of Dane county, in all cases of crimes and misdemeanors arising in said county. Such jurisdiction includes the right to try and determine all appeals to such court in criminal cases, from justices of the peace in said county; but the party appealing may, at his option, appeal to said circuit court or said municipal court. No justice of the peace or court commissioner within said city shall exercise any jurisdiction in criminal or bastardy cases, but all such jurisdiction is vested in the judge of said court; and all examinations, recognizances and commitments from said judge, and the other justices of the peace of said county, in criminal cases, and in bastardy cases, shall be certified and returned to said municipal court instead of said circuit court at or before the time fixed for the appearance of the accused; and the accused and all witnesses required to attend shall be committed to be brought, or recognized to appear, before said municipal court on a day certain, not more than thirty days from the date of such commitment or recognizance. Said municipal court shall also have jurisdiction of all actions brought for the breach of any recognizance returned to or given in said court; a transcript of any judgment rendered

in such action in said county may be docketed in the office of the clerk of the circuit court for said county, and when so docketed shall then be a lien upon any real estate belonging to the judgment debtor named therein to the same force and effect as other judgments rendered and docketed in the said circuit court are such lien; the judgments of said municipal court, in criminal cases tried upon information or upon appeal and in actions on recognizance the amount of which exceeds two hundred dollars exclusive of costs, may be reviewed by the supreme court in the same manner as like judgments of the circuit court may be; and all judgments originally rendered by said court, or the judge thereof, in criminal cases of which justices of the peace have jurisdiction may be appealed to and tried by the circuit court in the same manner as like judgments rendered by justices of the peace.

**Laws and rules applicable; change of venue; process; informations.** SECTION 2. Section 2516 of the annotated statutes is hereby amended by striking out the words "in criminal cases" where they appear in the second and third lines thereof and "except murder" where they appear in the twenty-fifth line thereof and by incorporating therein, section 1 of chapter 366 of the laws of 1891, so that the said section when so amended shall read as follows: The general provisions of law which may at any time be in force relative to circuit courts, and actions and proceedings therein, shall relate also to said municipal court, unless inapplicable, and the rules of practice prescribed by the justices of the supreme court for circuit courts shall be in force in said municipal court, and its rules of practice and proceedings shall conform, as near as practicable, to the rules and practice of circuit courts; but the laws of the state relative to change of venue in criminal examinations and trials shall not apply to said court or the judge thereof. It has power and authority to issue all process necessary to carry into effect its jurisdiction, which process shall in substance be the same, when applicable, as used in circuit courts, or shall be as directed by the judge thereof. Process issued by said court, its judge or clerk, in criminal cases, may be executed in any part of the state by the officer to whom it is addressed. Any person charged upon information of a criminal offense, in the municipal court of Dane county may, at any time before a jury is drawn for the purpose of a trial in said court, obtain a change of venue to the circuit court of said Dane county, upon making affidavit, that he believes that he cannot obtain a fair and impartial trial, in said municipal court; and thereupon, the said municipal court shall commit or hold the party to bail, to appear at the next term of

said circuit court, as upon examination, and the judge, under the seal of said court, shall transmit all the papers, and a copy of the record of the proceedings in such cause properly certified to be such, to said circuit court, which shall then proceed to hear and determine the same, and all recognizances, previously given in such cases and returned to said municipal court, may be enforced by said circuit court as fully as if they had originally run, and been certified and returned thereto. All informations for criminal offenses, committed in said county of Dane, shall in the first instance, be filed in said municipal court by the district attorney of said county, at the next term at which the same may be triable, if terms are held, as hereinafter provided, and if not, then before the time fixed for the trial thereof. The sheriff of Dane county may execute all sentences and judgments of said court.

**Powers of judge; appeals in civil actions; violations of city ordinances.** SECTION 3. Section 2517 of the annotated statutes is hereby amended by inserting after the words "justices of the peace" where they appear in the ninth line thereof the words "and the clerk of said municipal court shall act as the clerk of said court when it is held as a justice court and when the judge thereof is sitting as an examining magistrate, and is hereby authorized and empowered to administer oaths and perform the other duties of his position the same as when the said municipal court is sitting as a court of record," so that said section when so amended shall read as follows: The municipal judge, in addition to the powers vested in the municipal court as aforesaid, is vested with all the powers and jurisdiction of a justice of the peace in said county, in criminal actions and proceedings, and jurisdiction of all prosecutions for breach of any ordinance or by-law of the city of Madison, and also with all the powers and jurisdiction of justices of the peace in said county, in civil actions and proceedings, and also power to hear and determine any such case, although the title to land may come in question therein; and, to exercise such jurisdiction shall hold the municipal court as courts are held by justices of the peace, and the clerk of said municipal court shall act as the clerk of said court when it is held as a justice court and when the judge thereof is sitting as an examining magistrate, and is hereby authorized and empowered to administer oaths and perform the other duties of his position the same as when the said municipal court is sitting as a court of record. The general provisions of law relative to civil and criminal actions before justices of the peace shall apply to said court so far as applicable. Appeals from judgments rendered in said court, in civil actions except as

hereinbefore provided, may be taken to the circuit court for Dane county, in the same manner as appeals from judgments of justices of the peace in similar actions. Said judge shall open court each morning (Sundays and legal holidays excepted), and hear and dispose of, in a summary way, all cases for violation of the ordinances and by-laws of said city which shall be brought before him, by police officers or otherwise, either with or without process. Proceedings therein shall be in the forms heretofore used, except as modified by said judge, and the city attorney shall be the prosecuting officer therein. All the provisions in the charter and ordinances of the city of Madison relating to the police justice or to criminal prosecutions not inconsistent or contradictory thereto shall be held applicable to said municipal court.

**Election and term of judge; vacancies; absence or disability of judge; reporter.** SECTION 4. Section 2518 of the annotated statutes is hereby amended by adding thereto at the end thereof the words "and actions for the forfeiture of recognizance over which a justice has no jurisdiction. And the clerk shall make a like record of his proceedings and such justice of the peace shall receive for his services five dollars per day to be paid by said county; provided, however, that any and all sums in excess of one hundred dollars to be paid to any such justice or justices as aforesaid in any one year shall be paid by the said municipal judge. The municipal judge shall not voluntarily absent himself from the duties of his office more than four weeks in any one year except from sickness. Any circuit judge may hold court on the trial of an indictment or information in case of the absence, sickness or other disability or upon request of the judge of said municipal court, and while so doing shall have the same power as if elected judge of said court. The said judge of said municipal court may from time to time employ a phonographic reporter for said court who shall take and subscribe the oath of office prescribed in the constitution and shall be furnished with all necessary stationery and shall attend when required by said judge and report the proceedings had in such court and perform such duties as said judge shall require. Said judge shall fix the compensation of such reporter not to exceed five dollars for each day and two dollars and a half for each half of attendance and ten cents per folio for such transcripts from shorthand notes as may be ordered by said judge" so that said section when so amended shall read as follows: The qualified electors of the county of Dane shall, on the first Tuesday of April, one thousand eight hundred and eighty, and on the same day of the same month each six years thereafter, elect a suitable person to the

office of judge of said municipal court, to be called "municipal judge," who shall hold his office for the term of six years from the first Monday in January next succeeding his election, and until his successor is elected and qualified, and who may be removed from office in the manner provided in the constitution for the removal of supreme and circuit judges. Whenever a vacancy shall happen in the office of such judge, the governor shall appoint to fill the same until a successor is elected. Elections to fill the vacancy, for the residue of the term only, shall be held as provided in section eighty-eight for other judges, and notice thereof shall be given by the sheriff of Dane county, in the same manner as for elections of county officers. All such elections shall be held and conducted, and the votes cast thereat shall be returned and canvassed, and a certificate shall be given in all respects as is provided by law in case of the election of county judges. Said judge, before entering upon the duties of his office, shall take and subscribe the oath of office prescribed in the constitution, which shall be filed in the office of the clerk of the city of Madison, and a duplicate oath in the office of the clerk of the circuit court of the county of Dane. In case of the absence, sickness or temporary disability of said judge, he may, by order in writing to be filed in said court, appoint a justice of the peace of said county, to discharge the duties of such judge during such absence, sickness or disability, who shall have all the powers of such judge while administering such office, except the trial of informations or appeals, and actions for the forfeiture of recognizances over which a justice court has no jurisdiction. And the clerk shall make a like record of his proceedings. Such justice of the peace shall receive for his services five dollars per day to be paid by said county; provided, however, that any and all sums in excess of one hundred dollars to be paid to any such justice or justices as aforesaid in any one year shall be paid by the said municipal judge. The municipal judge shall not voluntarily absent himself from the duties of his office more than four weeks in any one year except from sickness. Any circuit judge may hold court on the trial of an indictment or information in case of the absence, sickness or other disability or upon request of the judge of said municipal court, and while so doing shall have the same power as if elected judge of said court. The said judge of said municipal court may from time to time employ a phonographic reporter for said court who shall take and subscribe the oath of office prescribed in the constitution and shall be furnished with all necessary stationery and shall attend when required by said judge and report the proceedings had in such court and perform such duties as said judge shall require. Said

judge shall fix the compensation of such reporter not to exceed five dollars for each day and two dollars and a half for each half day of attendance and ten cents per folio for such transcripts from shorthand notes as may be ordered by said judge.

**Judge may order terms; jury how drawn; challenges.** SECTION 5. Section 2521 of the annotated statutes is hereby amended by striking out the words "senior aldermen and supervisors, twelve names: each party may alternately, beginning with the prosecution, object to a name drawn, not more than six in all on each side; and as soon as any name is objected to, the clerk shall draw another; the twelve remaining after such objections are made or waived shall be summoned as jurors in such cases," where they appear in the sixteenth to the twentieth line inclusive of said section and by inserting in lieu thereof the following "jury commissioners not less than twenty names, which names shall be the names of the jurors who shall then be summoned by the sheriff of said county upon the trial; the same procedure as to examination and challenge of jurymen shall be followed as in circuit court in similar cases and the first twelve jurymen upon such list remaining after such challenges are exercised or waived shall sit as jurors in such case," so that said section when so amended shall read as follows: Said judge may, if he deem it best, by order in writing filed in court, direct terms to be held for the trial of offenses on which information may be filed, and of appeals from justices of the peace in criminal cases and actions for the forfeiture of recognizances over which a justice court has no jurisdiction not exceeding four in any one year. When such terms are ordered, the clerk of said court in the presence of the judge at least three days before such term shall draw, from the list of persons selected as hereinafter provided, to serve as jurors therein, thirty-six jurors for such term, and shall issue a venire to summon them as such. If no such terms are ordered, the court shall fix a particular day for the trial of the cases mentioned in this section, not more than twenty days after the day fixed in the recognizance or commitment for the appearance of the accused, or after the filing of the return on appeals; and a jury shall be drawn in open court, in presence of the defendant and prosecuting officer, at least two days before the day fixed for trial, in the following manner: The clerk shall draw, in presence of the court, from a box containing the names of all the persons so furnished by the jury commissioners not less than twenty names, which names shall be the names of the jurors who shall then be summoned by the sheriff of said county upon the trial; the same procedure as to examination and challenges of jurymen shall be followed as in circuit court in similar cases

and the first twelve jurymen upon such list remaining after such challenges are exercised or waived shall sit as jurors in such case. In civil actions before such judge, the eighteen names from whom the jury shall be struck, shall be drawn from such list in like manner. The day for trial may be adjourned from time to time, in the discretion of the court. If any person thus drawn cannot be summoned, or be excused, or be set aside as incompetent, another name may be drawn from said list to supply his place, who shall be summoned in like manner, or the judge may direct the issue of a venire to said sheriff to summon the necessary jurors to complete the panel from said county at large.

**Duty of jury commissioners as to court; jury trial, how waived; fees.** SECTION 6. Section 2522 of the annotated statutes is hereby amended by striking out the first sentence of said section and inserting instead thereof the following: "the jury commissioners appointed by the circuit judge for Dane county shall at the meeting for drawing the jury for the April term of each year for the circuit court for Dane county furnish to the clerk of said municipal court a list containing such number of names as the municipal judge shall direct of persons of like qualifications as prescribed for jurors of the circuit court in the same manner that the names are furnished for the drawing of the jurors for the said circuit court" and by striking out the words "the fees of jurors shall be one dollar per day in criminal cases and in civil cases the same as are allowed by law in courts of justice of the peace" in the eighth and ninth and tenth lines of said section and inserting in place thereof as follows: "the fees of jurors in cases otherwise triable by justice of the peace shall be one dollar per day and in all other cases the same as are allowed in the circuit court" so that said section when so amended shall read as follows: The jury commissioners appointed by the circuit judge for Dane county shall at the meeting for drawing the jury for the April term of each year for the circuit court for Dane county furnish to the clerk of said municipal court a list containing such number of names as the municipal judge shall direct of persons of like qualifications as prescribed for jurors of the circuit court in the same manner that the names are furnished for the drawing of the jurors for the said circuit court. A jury trial in said court may be waived by the accused in writing or by consent in open court entered in the minutes. Upon trial of information or appeals from justices of the peace in criminal cases, the jury shall consist of twelve jurors. The fees of jurors in cases otherwise triable by



justices of the peace shall be one dollar per day and in all other cases the same as are allowed in the circuit court. The fees of said judge, witnesses, sheriff and other officers, shall be the same in criminal cases not cognizable before a justice as in circuit courts and in cases so cognizable the same as in courts held by a justice of the peace, except as hereinafter provided, and shall be paid in like manner as in circuit and justices' courts respectively.

**Conflicting laws repealed.** SECTION 7. All acts and parts of acts inconsistent with this act are hereby repealed.

SECTION 8. This act shall take effect and be in force from and after its passage and publication.

Approved March 12, 1901.

No. 158, S.]

[Published March 14, 1901.

## CHAPTER 50.

AN ACT to amend section 1379—11 of the statutes of 1898, relating to drainage districts.

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

**Drainage districts in one or more towns; petition and amendments to.** SECTION 1. Section 1379—11 of the statutes of 1898 is hereby amended by inserting the word "general" after the word "a" and before the word "description" in the fifteenth line of said section, and by adding at the end of said section, the following: "No petition having the requisite number of signers required by this section shall be declared void; but the court may permit the petition to be amended at any time to substantially conform to the requirements of these provisions." So that said section, when so amended, shall read as follows: Section 1379—11. Drainage districts comprising lands located in one or more towns may be organized and established in the manner hereinafter provided. Whenever a majority of the owners of lands within a district proposed to be organized, who shall have arrived at lawful age and shall represent one-third in area of the lands to be reclaimed or benefited, or whenever the adult owners of more than one-half of such lands desire to construct a drain,