

No. 58, S.]

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## CHAPTER 300.

AN ACT, amendatory of section 3363 of the statutes of 1898, relating to the service of summons in case of tenants holding over.

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

**Service of summons; by publication.** SECTION 1. Section 3363 of the statutes of 1898 is hereby amended by adding at the end thereof the following: "In case there is no person residing on the demised premises, and the person against whom the summons is issued, cannot be found in the county, then the officer having the summons for service shall make return of such facts on said summons on or before the return day mentioned therein and if the defendant does not appear before said justice within the hour after the summons is made returnable, then the justice shall enter an order in his docket requiring the plaintiff to publish in a newspaper to be designated by said justice if there be one printed in the county, and if there be none, then to post up, at least ten days before the adjourned day, in three of the most public places therein, a notice to the defendant, that a complaint in writing has been filed with said justice for the removal of said defendant from the premises, describing them, and that a summons has been issued thereon as provided by section 3362 of the statutes of 1898, and that unless he appear before said justice at a time and place mentioned in said order and notice, not less than fourteen nor more than thirty days from the date of said order, judgment will be rendered against him as prayed for in the complaint in said action; and the justice shall thereupon continue the cause to the time and place mentioned in said order. Such notice shall be published at least once in each week for two successive weeks before the day to which the action has been adjourned, proof of such publication or posting to be filed with said justice at or before said adjourned day," so that said section when so amended shall read as follows: Section 3363. Such summons shall be served upon the person against whom the same is issued by delivering a copy thereof to such person at least three days before the return day thereof; but in case such person is either

absent from or cannot be found in the county, the summons may be served on such person by leaving a copy thereof at his last and usual place of abode, at least six days before the return day thereof, with some member of the family, or some person residing at such place, of suitable age and discretion, to whom the contents thereof shall be explained by the officer. The officer shall make a special return of the time and manner of serving such summons. In case there is no person residing on the demised premises and the person against whom the summons is issued cannot be found in the county, then the officer having the summons for service shall make return of such facts on said summons on or before the return day mentioned therein, and if the defendant does not appear before said justice within the hour after the summons is made returnable, then the justice shall enter an order in his docket requiring the plaintiff to publish in a newspaper to be designated by said justice, if there be one printed in the county, and if there be none, then to post up, at least ten days before the adjourned day, in three of the most public places therein, a notice to the defendant, that a complaint in writing has been filed with said justice for the removal of said defendant from the premises, describing them, and that a summons has been issued thereon as provided by section 3362 of the statutes of 1898, and that unless he appear before said justice at a time and place mentioned in said order and notice, not less than fourteen nor more than thirty days from the date of said order, judgment will be rendered against him as prayed for in the complaint in said action; and the justice shall thereupon continue the cause to the time and place mentioned in said order. Such notice shall be published at least once in each week for two successive weeks before the day to which the action has been adjourned, proof of such publication or posting to be filed with said justice at or before said adjourned day.

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

Approved May 15, 1903.