

be found upon due proof that such contractor is not paying or has failed to pay the wage scale thus established, or is directly or indirectly, by a system of rebates or otherwise, violating the provisions of such ordinance, rule, resolution or by-law of such city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi public corporation or any governmental unit, such contractor shall be deemed guilty of a misdemeanor and shall be punished therefor by imprisonment in the county jail for a period of not more than one year nor less than thirty days or by a fine of not to exceed five hundred dollars for each offense or both.

(3) The failure to pay the required wage to an employe for any one week or part thereof shall be deemed a separate offense.

SECTION 2. This act shall take effect upon passage and publication.

Approved May 2, 1933.

No. 141, S.]

[Published May 3, 1933.

### CHAPTER 96.

AN ACT to amend subdivisions 1, 2 and 4 of section 9, sections 17, 19 and 23, and paragraph (d) of section 20 of chapter 244 of the laws of 1921, as amended by chapter 509 of the laws of 1921; and to amend subsection 1 of section 22 of chapter 244 of the laws of 1921 as amended by chapter 319 of the laws of 1927, relating to the municipal court in Fond du Lac county, except the city and town of Ripon, and providing a penalty.

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

SECTION 1. Subdivisions 1, 2 and 4 of section 9, sections 17, 19 and 23, and paragraph (d) of section 20 of chapter 244 of the laws of 1921, as amended by chapter 509 of the laws of 1921, and subsection 1 of section 22 of chapter 244 of the laws of 1921, as amended by chapter 319 of the laws of 1927, are amended to read: (Chapter 244, laws of 1921 as amended by Chapter 509, laws of 1921) (Section 9). 1. In all civil actions in said court when no demand is made for a jury trial, the procedure shall be as provided for by the statutes for trials of civil actions in justice court, *except when the defendant shall be in default. If the de-*

*fendant shall be in default and shall have been personally served with the summons, judgment may be entered by the municipal judge as provided for by statute in cases of default in circuit courts. Default judgments may be so entered in all of the actions in which default judgment may be entered in the circuit court providing this court shall have full jurisdiction as herein provided.*

In all actions in which a jury is demanded, \* \* \* the manner for the selection of the jury shall be as follows: The clerk of said municipal court shall, in the presence of the jury commissioners for the county of Fond du Lac at such times as said jury commissioners shall meet as prescribed by law for the selection of the circuit court petit jury, draw from the box containing the names deposited therein by said jury commissioners and after the petit jury for the circuit court has been drawn, one hundred names of those known to be residents of the county of Fond du Lac outside of the city and town of Ripon; and in addition he shall draw one hundred names of those known to be residents of the city of Fond du Lac, and as such names are drawn they shall be entered in a suitable record book to be kept by said clerk, making two lists—one list of the names of those who are residents of the county of Fond du Lac outside of the city and town of Ripon, to be known as the "County at Large List," and a second list of the names of those known to be residents of the city of Fond du Lac, to be known as the "City List," said lists shall be kept by the clerk of said municipal court and shall be available at all times and shall be used until the selection of the new lists prepared as above. From said lists the clerk shall write the names thereon on separate slips of paper, each in the same manner as near as may be, and fold each slip so that the name shall not be visible and deposit said slips respectively in two boxes, one for the county at large list, and one for the city list. Unless the "County at Large List" is demanded by one of the parties, the clerk shall draw from the "City List" the names of twelve jurors and the parties to the action will then proceed to strike alternately, first by the plaintiff and then by the defendant until there remain but six names which six names will be reported to the judge by the clerk of said court, who will order their appearance before said court as prescribed for justice court procedure, and said men shall be summoned and sworn and duly examined by the attorneys to the action, and should it appear that any of them are partial or prejudiced within the meaning of the law, talesmen shall be substituted at the discretion of the

judge, which talesmen shall be summoned as prescribed by the statutes or circuit court procedure, until a jury of six shall be selected and qualified to act in accordance with law. If, however, either party to said action demand a jury of twelve instead of six, the procedure shall be the same as above, except that there shall be drawn eighteen names instead of twelve and the parties will alternately strike until there remain but twelve names which shall be reported to the judge and the same procedure for obtaining a jury of twelve qualified to act shall be used as above prescribed for obtaining a jury of six qualified jurors \* \* \* . *The jury fee shall be two dollars per day for each juror, and shall be paid by the county of Fond du Lac.*

2. The judge of the municipal court shall instruct the jury in accordance with the practice prescribed for circuit courts in the state of Wisconsin; and section 270.27 of the Wisconsin statutes relating to special verdicts shall apply to the municipal court of Fond du Lac county.

4. \* \* \* *In any action pending in said court, \* \* \* there shall be no loss of jurisdiction by reason of any failure to adjourn such action to a definite time; to enter such adjournment upon the docket of the court or the failure of the judge of said court to decide such matter within seventy-two hours after the trial of said action. When any such action shall be pending in said court and not adjourned to a definite time, it may be brought on for hearing by either party serving upon the opposite party or parties, a notice of trial at least five days prior to the time of said trial.*

(Chapter 244, laws of 1921, as amended by chapter 509, laws of 1921) (Section 17) 1. The municipal court shall have exclusive original jurisdiction to hear, try and determine all criminal actions and misdemeanors arising in the city of Fond du Lac, the punishment of which does not exceed six months' imprisonment in the county jail or a fine of one hundred dollars, or both said fine and imprisonment, and shall have concurrent jurisdiction with the justices of the peace and other magistrates throughout the county, except in the city of Fond du Lac. Said court shall also have jurisdiction in bastardy examinations and in proceedings for contempt. Costs in all criminal actions, preliminary examinations and bastardy proceedings shall, in addition to all disbursements as herein defined for civil actions, include the sum of four dollars as court costs.

2. *The municipal court shall have and exercise powers and jurisdiction equal to and concurrent with the circuit court of Fond du Lac county in all cases of crime or misdemeanor arising within said county wherein the penalty provided by the statutes does not exceed a fine of one thousand dollars or imprisonment in the state penitentiary for a period of time not exceeding two years or both, and said court shall have final jurisdiction concurrent with the circuit court of Fond du Lac county in illegitimacy actions.*

(Section 19). Said court shall have exclusive original jurisdiction of prosecutions for the violation of the ordinances and charter provisions of the city of Fond du Lac *irrespective of the penalty imposed*. The court costs for each of said prosecutions shall be four dollars, which court costs shall be recorded and reported to the city of Fond du Lac on the first secular day of each month, and said city shall pay to the county treasurer of the county of Fond du Lac, the total of said court costs as soon thereafter as practicable, in accordance with law. Disbursements, including such court costs, incurred in any such prosecution shall be taxed against the losing party, and any fines or judgments in favor of said city resulting from said prosecutions, which shall be paid, shall be also reported and turned over to said city at the same time as herein provided for the reporting of court costs.

Section 23. All appeals from said municipal court shall be direct to the circuit court of Fond du Lac county, and shall be taken in the same manner as provided by law for the appeals from courts of justices of the peace. Such appeals shall be heard on the original papers and the return of the municipal judge, containing a full transcript of the evidence and all rulings of the court in said actions; and said circuit court shall have full power in all cases where it is deemed necessary for the furtherance of justice, to order a new trial in said circuit court \* \* \* *or to remand the same to the municipal court for a new trial or further proceedings according to law. All appeals in cases in which the trial in municipal court was before the court without a jury the circuit court shall give judgment according to the weight of the evidence and the justice of the case, without regard to technical errors which do not affect the merits and without regard to the finding of the municipal court, and may, if necessary, amend the pleadings therein, render an affirmative judgment or affirm or reverse the judgment in whole or in part, either as to damages or costs, or both, as to any or all the parties, and for error of law or fact. The*

judgment shall be docketed in and be executed by the process of the circuit court. Appeals may be taken from final judgments and from the following orders made by the municipal court:

1. An order affecting a substantial right made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right made in special proceedings or upon a summary application in an action after judgment.

3. When an order grants, refuses, continues or modifies a provisional remedy or sets aside or dismisses a writ of attachment for irregularity, grants a new trial or sustains or overrules a demurrer, or grants or refuses an application for interpleader.

(Section 20) (d) This court shall not have jurisdiction to try \* \* \* actions \* \* \* where title to real property shall come in question.

(Chapter 244, laws of 1921, as amended by chapter 319, laws of 1927) (Section 22) 1. No action, examination or other proceeding shall be removed from said court, but whenever prior to joining issue in any action and before the commencement of any examination it shall appear by affidavit that from prejudice said judge will not decide impartially in the matter, or that he is interested pecuniarily in the action, examination or other proceeding, or is a material witness, or that he is within the forbidden degree of consanguinity, the said judge shall notify any \* \* \* judge of any court of record in the state of Wisconsin who is not disqualified, to forthwith appear in said court to try and hear said cause, and it shall be the duty of said \* \* \* judge to forthwith appear in said court and discharge the duties of said judge in the trial or hearing of said cause, in the same manner and with like effect as said judge would if not disqualified to act. In case of disability arising from any cause, said municipal judge may by order, in writing to be filed in said court appoint \* \* \* any judge of any court of record in the state of Wisconsin to try and dispose of all matters coming before said court, enter all orders, issue all warrants and direct the filing of complaints to the same extent as the said municipal judge could do if present and acting. Until changed by the county board of Fond du Lac county said \* \* \* acting judge shall, providing he is not a full time judge, receive the sum of ten dollars for each day actually spent in the

performance of such judicial duties *and full time judges shall only receive their actual expenses.*

SECTION 3. This act shall take effect upon passage and publication.

Approved May 2, 1933.

No. 37, A.]

[Published May 3, 1933.]

### CHAPTER 97.

AN ACT to create subsection (31) of section 60.29 and section 66.30 of the statutes, relating to powers of town boards.

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

SECTION 1. A new subsection is added to section 60.29 and a new section is added to the statutes to read: (60.29) (31) TOWN BOARD MAY BRING ACTIONS. The town board of any town is authorized to institute an action to test the validity of an ordinance attaching or detaching its territory or a part thereof to or from any town, village or city, and any expense incurred by the town board, its agents, attorneys or representatives in such action or proceedings shall be paid by the town.

66.30 TOWN BOUNDARIES, ACTIONS TO TEST ALTERATION. In proceedings whereby territory is attached to or detached from any town, the town is an interested party, and the town board may institute, maintain or defend an action brought to test the validity of such proceedings, and may be interpleaded in any such action.

SECTION 2. This act shall take effect upon passage and publication.

Approved May 2, 1933.

No. 233, A.]

[Published May 3, 1933.]

### CHAPTER 98.

AN ACT to repeal section 29.207, subsections (2d) and (2e) of section 29.28 of the statutes as created by chapter 10, laws of 1933, and paragraphs (ab), (ee), (mm), (n), (oa), (pp), (qa), and (v) of subsection (1) of section 29.28; to repeal and recreate subsection (2) of section 29.28; to amend section 29.191; the introductory paragraph and paragraphs (am), (e),