

No. 250, S.]

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**CHAPTER 58.**

AN ACT to amend chapter 396, laws of 1903, sections 9, 15 and 20, as last amended by chapter 309, laws of 1949, relating to the municipal court of Brown county.

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

SECTION 1. Section 9 of chapter 396, laws of 1903, as last amended by chapter 309, laws of 1949, is amended to read:

(Chapter 396, Laws of 1903) Section 9. The judges of said municipal court shall provide a seal for said court and all papers, depositions, certificates, acknowledgements, examinations or other documents, executed or signed by said judges, when sealed with the seal of said court, shall be evidence in all courts and places in the state. The general provisions of law which shall at any time be in force relative to circuit courts, and actions and proceedings therein including the enforcement of judgments, shall relate also to said municipal court unless inapplicable, except that in actions at law for money damages where the relief demanded is more than \$200 and less than \$2,500, the same may be tried by a jury of 6 persons as hereinafter provided, 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 nearly as practicable to the rules and practice of the circuit courts, except that in actions at law where the relief demanded exceeds \$200 and is less than \$2,500 the same may be tried by a jury of 6 persons as hereinafter provided, but in case of the change in the place of trial of any cause of which a justice court would not have jurisdiction, or of any criminal case begun by information or of any bastardy case certified to said court, said case shall be removed to the circuit court for Brown county, unless such change is taken on the ground of prejudice of the people of said county, in which case the place of trial shall be changed to the circuit court of an adjoining county within this state. All civil actions originally commenced in said municipal court of which a justice court would not have jurisdiction, shall be commenced in a manner provided by the Wisconsin statutes for the commencement of civil actions in circuit courts, and the provisions of the Wisconsin statutes relating to pleadings, practice and procedure shall, so far as applicable, govern said actions. All civil actions originally commenced in said court of which a justice court would have jurisdiction, shall be commenced in the manner provided by the Wisconsin statutes for the commencement of actions in justice courts, and the provisions of the statutes of Wisconsin relating to pleadings, practice and procedure in justice courts shall, so far as applicable, govern such actions, *except that adjournments and continuances may be granted for such time as the judge sees fit and the provisions of section 302.27 shall not apply.* Said court, in actions of which a justice court would not have jurisdiction, shall have 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. Any warrant, summons, subpoena, writ or other process issued out of the municipal court in a civil or criminal action may be served or executed in any part of the state in the same manner and with the same force and effect as a like warrant, summons, subpoena, writ or process issued out of the circuit court. All informations for criminal offenses, except murder, committed in said county of Brown, shall be filed in said municipal court by the district attorney of said county before the day fixed for the trial thereof. It shall be the duty of said district attorney to prosecute all criminal actions in said court in which the state is a party. The sheriff of Brown county and his deputies shall be officers of said court, and may execute all process, sentences and judgments thereof.

SECTION 2. Section 15 of chapter 396, laws of 1903, as last amended by chapter 309, laws of 1949 is amended to read:

(Chapter 396, Laws of 1903) Section 15. The municipal court jury commission hereinafter provided for shall, on or before the first Tuesday in June in each year, and from time to time thereafter as it may be deemed necessary and ordered by either of the judges of the said court, make 2 lists, the first list to contain the names of 300 qualified electors of the city of Green Bay; the second list to contain the names of 300 qualified electors of Brown county, who are citizens of the United States, to serve in said court as jurors for one year from the said first Tuesday in June, or for one year from the time they may be placed upon said lists, and deliver the said lists to the judges of said court. In civil cases the jury shall be deemed waived unless demanded by one of the parties before entering upon the trial. In all criminal prosecutions for crimes punishable by imprisonment in the state prison or Wisconsin state reformatory or Wisconsin home for women and in all civil

cases of which a justice of the peace would not have jurisdiction, and where the relief demanded does exceed the sum of \$2,500, a jury shall consist of 12 jurors, unless a trial by 12 jurors is waived. In all cases where the relief demanded does not exceed the sum of \$2,500, a jury shall consist of 6 jurors, unless a trial by 6 jurors is waived or a trial by 12 jurors is demanded. The fees of jurors shall be the same as they received in circuit court in all cases. In all cases the court may fix a particular day for the trial of the case which shall not be more than 20 days after the day fixed in the recognizance or commitment for the appearance of the accused, in all criminal cases, and not more than 20 days after the filing of the return on appeals to said court, and not more than 20 days after the joining of issue in civil actions originally commenced in said court and may adjourn the trial of any case for cause. A jury shall be drawn in open court in the presence of the accused and prosecuting officer in all criminal and bastardy cases and of the parties or their attorneys in civil cases, on the day of the trial; but such jury may be drawn in a like manner at any previous time by consent of the parties. All such juries shall be drawn in the manner following: The clerk of said court shall draw, in the presence of the court, from a box containing the names of all persons not disqualified by previous service, from the city of Green Bay, furnished by the jury commission hereinafter provided, 36 names, in all matters in which a jury of 12 persons is authorized to be drawn, and 18 names where a jury of 6 persons is herein provided, and shall make a list thereof, and each party alternately, beginning with the prosecution or plaintiff, shall strike a name from said list until only 24 names, or 12 names, as the case may be, remain. In case either party shall neglect or refuse to strike out such names, the judge shall appoint some person to strike for him. The 24 persons, or the 12 persons, as the case may be, whose names remain shall be summoned and each party on the trial shall alternately strike a name until 12 names or 6 names, as the case may be, remain, who shall be the jury in such case. In civil and criminal actions before said judge, originally commenced in said court, of which a justice of the peace has jurisdiction, and in all actions arising under the charter, ordinances and by-laws of the city of Green Bay, and in all civil actions where the relief demanded does not exceed \$2,500 and in which a jury of 12 persons is not demanded, 18 names from whom a jury shall be struck, shall be drawn from such box in like manner, each party striking 6 names, instead of 12, in the manner aforesaid. The 6 persons whose names remain shall be summoned as jurors in such case. 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 set aside as incompetent, another name may be drawn from said list to supply his place and the person whose name is so drawn shall be summoned in like manner, or the judge may direct the issue of a venire to the sheriff of said county to summon the necessary jurors to complete the panel from said county at large. In any case where a jury of 12 is required, and in all civil actions where a jury of 6 is herein provided for, where a justice of the peace would not have jurisdiction, said judge may at his option, and shall, at the request of the defendant or prosecuting officer, in a criminal case, and of either party, in a civil action, direct the clerk to draw 36 names, or 18 names, as the case may be, from the box containing the names of jurors from the body of the county, from which list a jury shall be struck and summoned in the same manner as provided above. And in case any of said jurors cannot be summoned or be excused for any cause, a sufficient number of talesmen to complete the panel and make a jury may be summoned in the manner hereinbefore provided. In any case where a jury of 12 or a jury of 6 is provided for, in civil actions where a justice of the peace would not have jurisdiction, said judge may, at his option, direct the sheriff or one of his deputies to make a list of 36, or 18, as the case may be, qualified electors from the body of the county, from which list a jury shall be struck and summoned in the same manner as above provided, and talesmen necessary for any cause, to complete the panel and make a jury, may be summoned from the body of the county. *At the option of either of said judges of the municipal court of Brown county, jurors may be chosen when directed by either of said judges for a period not to exceed 3 terms. The said jury commissioners shall however prepare a sufficient list to be known as the Brown county circuit court branch jury list from which list the jurors shall be drawn as is now provided by law for trial in the circuit court under the direction of the municipal judge for the circuit court branch. Such jurors shall be summoned as in circuit court and the municipal judge of the circuit court branch may direct at what time the jurors shall be summoned to appear, but no juror 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. At least 6 days before each term, unless otherwise ordered by the judge, the deputy clerk of the municipal court, circuit court branch, in all cases held in the circuit court branch, and the clerk of municipal court, in all criminal cases, shall in the presence of the judge draw from the list of persons provided therefor 24 jurors for such term and the list selected for circuit court*

branch cases shall forthwith be filed in the office of the clerk of circuit court for Brown county, and the list selected in all criminal cases shall forthwith be filed in the office of the clerk of municipal court. If the name of any persons known to be disqualified or no longer liable to jury duty in said county be drawn, such names shall be cast out and the name of another juror drawn to take his place. The panel of jurors selected for any term of the circuit court branch of said municipal court under its civil jurisdiction or criminal jurisdiction shall constitute the panel of jurors for all succeeding terms of court until discharged by the court, but no panel shall continue for a period of more than 3 terms; but the judge of said court in his discretion, may order a new panel of jurors to be drawn for the subsequent or any succeeding term. Whenever directed by the judge, the said deputy clerk or clerk of municipal court, as the case may be, shall issue a venire to the sheriff of said county to summon such jurors returnable at such time as the judge may direct. The above method of selecting a jury shall apply in all cases where a 6-man jury or a 12-man jury is provided for. If any of the jurors named in such venire shall not be found or shall fail to appear, or if there be any legal objection to any that shall appear; or if any of them be excused by the court, or the 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 4 such talesmen shall be selected from the residents of any one town, city or village, except by consent of the parties. The officer summoning the same may insert the names of such talesmen on the venire. The method of selecting the jury for either of the branches of said municipal court shall be directed and designated by each of the judges thereof in the branch over which said judge presides. Every person having served as a juror of said court shall be disqualified from serving as a juror for 3 months next succeeding such service. The clerk shall not replace in the box from which the names of jurors are drawn the name of any person while such person is disqualified from acting as a juror by reason of previous service. The judge of said court shall keep or cause to be kept by the clerk of said court, a full and complete record and account in a book to be furnished as the other records and books of said court are furnished, of all fees and costs so received by said judges or clerk, in such a manner that such record shall show the exact amount paid, by whom, at what time, and on what account, and if paid in any case, what case. Said judges shall also make duplicate certificates showing the same facts and file same with the county clerk. In all civil cases coming before said court there shall be paid to the judges the sum of \$3 at the time of issuing the summons, in actions originally commenced in said court and at the time of filing the papers, in actions brought into said court by appeal on change of venue, and no appeal to said court or change of venue to said court in civil cases shall be of any effect unless said sum is paid. Said sum of \$3 shall be applied by said judge to the payment of the costs of said court, and if there be any surplus, such surplus shall be refunded to the party paying. Payments to the clerk of the circuit court shall be deemed payment to the judges as hereinbefore provided. If the party paying such sum shall obtain judgment for his costs in such action, the amount so paid by him shall be included in his judgment, but if the adverse party have judgment for cost, such sum shall not be included therein.

SECTION 3. Section 20 of chapter 396, laws of 1903, as last amended by chapter 309, laws of 1949 is amended to read:

(Chapter 396, Laws of 1903) Section 20. The judge of said municipal court shall, on or before May 10, 1904, appoint a commission to be known as the municipal court jury commission, and consisting of 3 members. The persons so appointed shall be freeholders residing in the county of Brown, citizens of the United States and qualified electors of the state of Wisconsin; one of said commissioners to hold office for one year, one for 2 years and one for 3 years, and the said judges shall designate the terms of each commissioner so appointed. Thereafter each of said judges shall in alternate years appoint one such commissioner each year to serve for 3 years from May 10. The first appointment by the judge to have charge of the civil branch for the municipal court for Brown county shall be made on or before May 10, 1951. Vacancies shall be filled for the unexpired term by the judge appointing the commissioner whose term is vacated, and any commissioner may be removed by the judge at will. Each commissioner shall, before entering upon his duties, take and subscribe before the clerk of said court an oath to support the constitution of the United States and of the state of Wisconsin and faithfully to discharge the duties of the office of jury commissioner to the best of his ability. Such oath shall be certified by said clerk and filed in his office. Two of said commissioners shall constitute a quorum. Said commissioners shall receive the \* \* \* same compensation as is provided for jury commissioners in the circuit court for Brown county, the same to be paid by the county of Brown on the order of the clerk of said court, countersigned by either of said judges.

Approved April 5, 1951.