

plans and contract or contracts, including the purchase of land, for the amounts hereby provided for each particular purpose.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved May 8, 1905.

No. 473, A.]

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CHAPTER 176.

AN ACT to amend sections 2515, 2516, 2517, 2518, 2521 and 2522 of the annotated statutes, as amended by chapter 366 of the laws of 1891, and by chapter 49, of the laws of 1901, 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 and civil cases; change of venue; review by supreme court. SECTION 1. Section 2515 of the annotated statutes, as amended by section 1, of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2515. 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, and in all civil actions and special proceedings within the county of Dane, in law and equity, where the value of property in controversy or the amount of money claimed or sought to be recovered, after deducting all payments and set-offs, shall not exceed five thousand dollars and also of all actions for the foreclosure of mortgages and mechanics' liens, in which the amount claimed does not exceed the sum aforesaid, although the value of the property to be affected exceed that sum. Such jurisdiction includes the right to try and

determine all appeals to such court * * * 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. * * *

The provisions of law applicable to change of venue in the circuit courts of this state shall be applicable to all civil actions and proceedings in said municipal court, except that when the venue of any action shall be so changed, it shall be changed to the circuit court of Dane 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 2622 of the statutes of 1898 of this state, provided, however, that nothing herein contained shall be construed as abrogating the right to the change of venue provided for by section 2621 of the statutes of 1898 of this state and when such change of venue shall be made it shall be by said municipal court direct to the proper county for the trial of the action, and provided further that section 2625 of the statutes of 1898 of this state so far as applicable shall apply to said municipal court, and that the judge thereof shall have the right to call upon a circuit 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 municipal court; and all judgments originally rendered by said court, or the judge thereof, in criminal and civil cases and action, 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. The judgments and orders of said municipal court in civil and criminal actions, except such as would otherwise be recognizable by justices of the peace, may be reviewed by the supreme court in the same manner that judgments and orders of circuit courts may be.

Laws and rules applicable; change of venue; process; information; clerk of the court; judgments. SECTION 2. Section 2516 of the annotated statutes, as amended by chapter 366, of the laws of 1891, and by section 2, of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2516. 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. *To carry out its jurisdiction the said municipal court shall have all the powers of circuit courts and shall have full power and authority to issue all legal process and writs proper and necessary to carry into effect the jurisdiction given by law, which process and writs shall in substance be the same, when applicable, as used in circuit courts, or shall be as directed by the judge thereof. Actions may be commenced in the same manner and with like effects as in circuit courts. Process or writs issued by said court, its judge or clerk, * * * may be executed in any part of the state by the officer to whom it is addressed in the same manner and with like effect as process or writs of the circuit courts.* 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 tri-

able, 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. *The clerk of the circuit court of said Dane county shall ex-officio be the clerk of the said municipal court in civil actions and proceedings not otherwise cognizable by justices of the peace, and shall have the care and custody of all books and papers belonging to said municipal court in so far as they appertain to civil actions and proceedings therein not otherwise cognizable by justices of the peace, and shall in such actions and proceedings perform the duties of the clerk of said municipal court in the same manner as is now by law required of him as clerk of the circuit court so far as it shall be requisite and necessary to discharge the duties of clerk of said municipal court and to carry into effect the provisions of this act; and as said clerk of the municipal court he shall keep in the office of clerk of the circuit court all necessary dockets, indexes, minute books and other records of the proceedings and judgments had in said municipal court in like manner and with like effect as is now provided in the circuit court in civil actions and proceedings; and his fees and compensation therefor shall be the same as are now or may hereafter be provided by law for the fees and compensation of the clerk of the circuit court except as hereinafter limited or provided. Such clerk with the approval of the judge of the municipal court may appoint the clerk of said municipal court as deputy clerk, which appointment shall be in writing and filed in the office of the said clerk of the circuit court. Such deputy shall in all matters pertaining to the municipal court aid the said clerk in the discharge of his duties, and in his absence from the said municipal court may perform all his duties in said court; or in case of vacancy by resignation, death, removal or other cause, said deputy shall perform all duties in relation to said municipal court until such vacancy shall be filled. The said clerk of the circuit court shall give his bond in the sum of One Thousand (\$1000) dollars or such other amount as shall be required by the county board of Dane county conditioned as near as may be as his bond as clerk of the circuit court and the said clerk shall be responsible on said bond for all official default or misconduct of his said deputy arising in any way out of the performance of his duties as deputy clerk of said municipal court. All judgments, orders and decrees made and entered in and by said municipal court shall be filed, recorded, docketed and indexed as shall like judgments, orders and decrees made and entered in and by the circuit court for Dane county, and when so filed, recorded, docketed*

and indexed shall have the same force, effect and lien and shall be executed and carried into effect and enforced as judgments, orders and decrees made and entered in said circuit court, and all remedies given and proceedings provided for the collection and enforcements of the judgments, orders and decrees of the circuit court shall apply to and be exercised by and pertain to said municipal court.

Powers and duties of judge; violations of city ordinances.

SECTION 3. Section 2517 of the annotated statutes, as amended by section 3, of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2517. 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 the charter or 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. * * * 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 charter 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 criminal prosecutions not inconsistent or contradictory thereto shall be held applicable to said municipal court.

Election and term of judge; vacancy; absence or disability of judge; reporter. SECTION 4. Section 2518 of the annotated

statutes, as amended by section 4 of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2518. 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 * * * 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 a 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. *In all actions and proceedings in which this court has jurisdiction concurrent with that of the circuit court for Dane county any circuit judge may act as judge of said municipal court 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 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 transcript from short hand notes as may be ordered by said judge, *which compensation shall be paid by the county treasurer out of county funds upon the order of the municipal judge.*

Judge may order terms; jury, how drawn; challenges. SECTION 5. Section 2521 of the annotated statutes, as amended by section 5, of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2521. 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 * * * 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, *twenty-four* 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 *eighteen* 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. * * * 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 in-

competent, 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 as amended by section 6 of chapter 49, of the laws of 1901, is hereby amended so as to read as follows: Section 2522. The jury commissioners appointed by the circuit judge for Dane county shall at the meeting for drawing the jury for the *May* 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 * * * 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 *and civil* cases, the jury shall consist of twelve jurors. The fees of the jurors in cases otherwise triable by justices of the peace shall be one dollar per day and in all other cases *two dollars per day besides mileage*. The fees of said judge, witnesses, sheriff and other officers, shall be the same in * * * 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 *herein* provided, and shall be paid in like manner as in circuit and justices' courts respectively.

Conflicting acts 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 May 8, 1905.