

year from and after the first day of May next succeeding his election.

Repealing clause.

SEC. 3. Section two, and all parts of chapter 432 of the session laws of 1852, conflicting with the provisions of this act is hereby repealed.

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

Approved, March 17, 1853.

Chap. 35.

An Act to establish a code of procedure for the Police Court of the City of Milwaukee.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Powers, &c.

SECTION 1. The term of office of the police justice shall be two years. He shall be *ex officio* a justice of the peace, with all the authority, powers, and rights of the same, except that he shall in no case entertain any civil suit to which the city is not a party; and he shall have and possess the jurisdiction and powers conferred upon him by the charter of the city of Milwaukee, and the acts amendatory thereof.

May sue for, and recover fines, penalties, &c.

SEC. 2. The city of Milwaukee, in its corporate name, may sue for and recover any and all fines, penalties, and forfeitures under said city charter, and the acts amendatory thereof; or under the ordinances, by laws, or police or health regulations made in pursuance thereof, any general law of the state to the contrary notwithstanding; and such action shall be commenced by complaint substantially in the following form:

Form of complaint.

State of Wisconsin, }
 Milwaukee County, } ss.
 City of Milwaukee, }

being duly sworn, complains on oath to the police justice of the city of Milwaukee, that did, on the _____ day of _____ 18____, violate the _____ section of an ordinance, by-law, or resolution (describing it by its title), which said _____ is now in force, as this complainant verily believes, and prays that said _____ may be arrested, and held to answer to the said city of Milwaukee therefor.

Subscribed and sworn before me, this _____ day of _____ 18____.

It shall be sufficient to give the number of the section or sections, and the title of the ordinances, by-laws, regulation, or resolution, or of the law violated, in such complaint. And said complaint may be sworn to before any officer authorized to administer oaths in the courts of this state. Upon the filing of such complaint in the office of the police justice, he shall issue a warrant thereon, substantially as follows:

State of Wisconsin, }
 City and County of Milwaukee, } To the sheriff, or any
 constable of said county, or to the marshal of the city of
 Milwaukee, greeting:

Whereas, _____ has this day complained to me in writing, on oath, that _____ did, on the day of _____ 18 _____, violate the section or sections of an ordinance, by-law, regulation, or law (describing it by its title), which said _____ is now in force and effect, as said complainant verily believes; therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of the said _____ and him forthwith bring before the police justice of the said city, to answer to said city of Milwaukee, on the complaint aforesaid.

Given under my hand, this _____ day of _____ 18 _____ .
 Police Justice.

Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with surety for his appearance, in such sum as the court shall direct; or, in default thereof, may be put in charge of the officer who made the arrest; or be committed to the common jail of Milwaukee county. The complaint made aforesaid shall stand in lieu of a declaration, and the plea of not guilty shall put at issue all subject matter which pertains to the defence of the action.

SEC. 3. A printed copy of an ordinance, by-law or resolution, passed by the common council and published in a newspaper, or in pamphlet or book form, shall be prima facie evidence of its due passage and publication, and may be received in evidence. After issue joined and before trial in all cases cognizable before the police justice, the defendant may demand a jury, of not more than twelve, nor less than six men, and shall designate the number at the time of the demand. The proper officer

whom the justice may direct, shall thereupon make a list of twice the number of jurors demanded, who may be qualified to serve as jurors in courts of records of Milwaukee county, and the parties shall then alternately strike therefrom, the defendant commencing, so many names as will leave remaining the number demanded. The court shall thereupon issue a venire, commanding the officer to summon those so remaining to appear before him, at such time as he may direct, to make a jury for the trial of the said action, and the court may compel their attendance by attachment. Either party may challenge any juror for cause, and deficiencies occasioned thereby or by any other cause, shall be supplied by talesmen, to be selected and summoned by the officer; if the defendant shall not demand a jury, the city or state may demand a like jury, as is above provided; and if no jury be demanded, it shall be deemed a waiver of a jury trial. If either party declines to strike from the list the names which he is entitled to strike, the court shall strike the same for such party. Each juror shall receive for his services fifty cents.

Witnesses and jurors to attend without payment of fees.

SEC. 4. Witnesses and jurors shall attend before the police court, in all city and criminal prosecutions, without the payment of fees in advance or a tender thereof, upon the process of the court duly served, and in default thereof, their attendance may be enforced by attachment. In case the jury, after being kept a reasonable time, should disagree, they shall be discharged without the payment of fees, and thereupon the court shall adjourn the cause to a day certain, and issue a new venire as aforesaid.

Justice may issue execution.

SEC. 5. In city prosecutions the finding of the court or jury, shall be either guilty, or not guilty. If guilty, the court shall render judgment thereon against the defendant, for the fine, penalty, or forfeiture contained in the ordinance, by-law or resolution for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution, and shall determine and enter upon the docket the length of time the defendant shall be imprisoned, which, in no case, shall exceed six months, and also insert such time in the commitment or execution. Such execution may be in the following form:

State of Wisconsin. }
 City and County of Milwaukee. } To the sheriff or any

constable of the county of Milwaukee, the city marshal, and to the keeper of the common jail in said county: Form of execution.

Whereas, the city of Milwaukee, on the _____ day of _____ 18____, recovered a judgment before the police court of said city, against _____ for the sum of _____ dollars, together with _____ dollars costs of suit, for the violation of (here insert the number of section and title of the ordinance, as set forth in the complaint.) These are, therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of the said _____ (excepting such as the law exempts,) and make sale thereof, according to law in such cases made and provided, to the amount of said sums, together with your fees, and twenty-five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels, whereon to levy, take the body of the said _____, and him convey and deliver to the keeper of the common jail in Milwaukee county. And the said keeper is hereby commanded to receive and keep in custody, in said jail, the said _____, for the term of _____, unless said judgment, together with all costs and jail fees are sooner paid, or he be discharged by due course of law.

Given under my hand and seal this _____ day of _____ 18____.

[L. S.]
Police Justice.

The form of commitment may be substantially the same as that of the execution, leaving out all that relates to levy and sale, and return of the writ.

SEC. 6. The defendant in all city prosecutions, may appeal to the circuit court of Milwaukee county by filing an affidavit and bond, and complying with all the requirements of appeals in civil cases before justices of the peace: *Provided, however,* That such appeal shall be taken and perfected within twenty-four hours from the time that judgment is rendered in the suit. Upon any appeal being taken and allowed, the police justice shall stay all further proceedings in the case, and the defendant if in custody, shall be discharged; and the police justice shall transmit the papers in the case so appealed, with a transcript of his docket, to the clerk of the circuit court, on or before the first day of the term thereof next after the appeal shall have been allowed. Defendant may appeal. Provide.

SEC. 7. The jail fees and officers fees for commitment in prosecutions in behalf of the city, shall be audited and Costs, how to be paid.

allowed by the common council, when the same cannot be collected of the defendant before his discharge; and said common council may, by resolution, direct the police justice to discharge from the jail, any person confined for a judgment due said city, but such discharge shall not operate as a release of the judgment, unless said common council shall so direct in their resolution. Upon filing a certified copy of such resolution, attested by the clerk of the common council, the police justice shall order such defendant discharged from custody, and make an entry of such discharge upon his docket; an execution may issue or be renewed by indorsement from time to time before or after the return day thereof, and before or after the commitment of the defendant, until the judgment is satisfied or released; but after the defendant shall have been committed no execution shall be issued against the body of the defendant, nor if previously issued shall authorize the taking of the body of the defendant thereon.

SEC. 8. This act shall take effect from and after its passage, and all acts and parts of acts contravening any of the provisions of this act are hereby repealed.

Approved, March 17, 1853.

Chap. 36.

An Act to postpone the April Term of the Circuit Court for Dane County, for the year 1853, until the October Term of the same year.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

To what time postponed.

SECTION 1. The regular April term of the circuit court for the county of Dane, for the year 1853, is hereby postponed until the October term of the same year.

How writs returnable.

SEC. 2. All writs at law or in chancery, venires, summonses, indictments, recognizances, and all other proceedings whatsoever made returnable or appertaining to the said April term of the said circuit court for the year 1853, shall be considered returnable and appertaining to the October term of said court, of the same year, as fully in all respects as though the same had been originally made returnable at the said October term; and all adjournments, appearances, continuances, motions and notices to said April term of said court shall be considered to appertain and belong to the said October term of said court, any rule or law to the contrary notwithstanding: *Provided*, This act shall not interfere with or affect any special term of said court.

Proviso.

