

SECTION 16. This act shall take effect and be in force from and after its passage and publication.

Approved March 12, 1895.

No. 87, A.]

[Published March 13, 1895.

CHAPTER 23.

AN ACT to establish a municipal court at Oconomowoc for the western municipal district of the county of Waukesha.

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

SECTION 1. The city of Oconomowoc and the towns of Oconomowoc, Merton, Delafield, Summit and Ottawa, in Waukesha county, Wisconsin, are hereby declared to be a municipal district, to be called and known as "The western municipal district of the county of Waukesha," for the purpose of establishing a municipal court therein, to have jurisdiction as hereinafter provided, over and throughout the extent of the city and towns above named.

Western municipal court of Waukesha county organized. Territory defined.

SECTION 2. There is hereby constituted and established in the territory comprised within the towns named in section 1, of this act, a court to be known as "The municipal court for the western district of Waukesha county," which court shall be held at the city of Oconomowoc, in said county, by a judge to be elected for that purpose.

Court shall be held at Oconomowoc.

SECTION 3. The municipal court for the western municipal district of Waukesha county 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 county of Waukesha. It has and may exercise powers and jurisdiction concurrent and equal with the circuit court of

Shall be a court of record. Jurisdiction defined.

Waukesha county, in all cases of crimes and misdemeanors arising in said western municipal district of said county, except murder. The municipal judge, in addition to the powers vested in said 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 the jurisdiction of all prosecutions for breach of any ordinance of all cities or villages, now or which may hereafter be incorporated in said territory, and also all the powers and jurisdiction of a justice of the peace in said county in civil cases and proceedings, arising within said municipal district; and also power to hear and determine any cases, although the title to land may come into question therein; and to exercise such jurisdiction, shall hold the municipal court as courts are held by justices of the peace. The general provisions of law relative to civil and criminal cases before justices of the peace shall apply to said court, so far as applicable. Appeals from judgments rendered in said court in civil actions may be taken to the county court for Waukesha county in the same manner as appeals from judgments of justices of the peace in similar actions. No justice of the peace or court commissioner within said western municipal district, on or after the first Monday of May, A. D. 1895, except when called on to sit as judge of said court as hereinafter provided shall exercise any jurisdiction in cases of crimes or misdemeanors or breaches of any village or city ordinance, arising within the limits of said county, or arising through any breach of the charter, ordinances or by-laws of the city of Oconomowoc, but all such jurisdiction within the limits of said western municipal district is vested in said municipal court. The said municipal court has also jurisdiction of all cases brought for breach of any recognizance given in said court, but no judgment in any such action shall constitute a lien upon real estate in said district, until a transcript thereof is duly docketed in the office of the clerk of the

Justices of the peace shall not exercise jurisdiction after May, 1895.

circuit court of said county, in like manner as judgments of circuit courts in civil cases are required to be docketed, and when so docketed shall have the same lien upon real estate in said district, as judgments of the circuit court so docketed have. The judgments of the municipal court in criminal cases tried before it, may be examined and reviewed by the supreme court in the same manner as a judgment of the circuit court. To carry out its jurisdiction, the said municipal court shall have all the powers of circuit courts, and the municipal judge shall have the same powers in all matters pertaining to the jurisdiction of said municipal court as circuit judges.

SECTION 4. The general provisions of law which may at any time be in force relative to the circuit courts, and actions and proceedings therein, in case of crimes and the manner of impaneling and drawing jurors therein, shall apply 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 these rules of practice and proceedings shall conform as near as practicable to the rules and practice of circuit courts, and it has power and authority to issue all process necessary to carry into effect this practice, which process shall be in substance the same, when applicable, as used in circuit courts. The municipal court may, by rule, direct the practice in said court, and the form and direction of process, when not otherwise provided by law, or the rules prescribed by the justices of the supreme court, and the process of said municipal court may be executed in any part of this state by the officer to whom it is addressed. It may, when necessary, issue special venires to complete any panel of jurors therein in like manner as in circuit courts.

General rules of court in regard to drawing of jurors shall prevail.

SECTION 5. The said municipal court has all the powers and jurisdiction heretofore vested in the justices of the peace of the city of Oconomowoc, in said municipal district, in all cases of crimes and misdemeanors arising in said

Shall have all the powers and jurisdiction of justices of the peace.

Duties and powers enumerated.

city, and has jurisdiction of all prosecutions for breach of any ordinance, law, rule, regulation or resolution of said city; for such purpose, the said municipal court shall be open for business every morning, Sundays and legal holidays excepted, to hear, try and determine in a summary way, all cases which shall be brought before it by the officers of said city, or otherwise, either with or without process for violation of the laws of this state, and any case of crime and misdemeanor arising in said city, or in said western municipal district, or of any such ordinance, law, rule, regulation or resolution of said city; the said court may, in its discretion, grant such continuance of cases, as may be necessary to the ends of public justice, with or without bail. Applications for warrants may be made to the clerk of the court; and the said clerk shall have power to issue the same, exercising the discretion a justice of the peace may exercise in granting or refusing the same. If the clerk shall refuse a warrant, the court on application, may grant the same in its discretion. A printed copy of any ordinance, by-law or resolution passed by any city or village and published in the official newspaper of said city or village, or in pamphlet or book form, shall be prima facie evidence of its due passage and publication, and can be received in evidence. After issue joined and before trial in all cases of misdemeanors cognizable before said court, of which justices of the peace would have jurisdiction, 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 court 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 record in Waukesha county, and the parties shall then alternately strike therefrom so many names as will leave remaining the number demanded. The court shall thereupon issue a venire, commanding the officer to summon those remaining, to appear before him at such time as he may di-

Printed copies of ordinances, etc., to be prima facie evidence of passage.

Drawing jurors—procedure.

rect 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, any city or village may demand a jury, as above provided; and if no jury be demanded, it shall be 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 may appoint some disinterested person to strike the same for said party; each juror shall receive for his services the same fees allowed by law to petit jurors in courts of record in said county, and the fees of such jurors shall be taxed as costs in such action. Witnesses and jurors shall attend before said court in all city and criminal prosecutions without the payment of fees in advance, or tender thereof, upon the process of the court duly served; and in default thereof, their attendance may be enforced by attachment. In case a jury, after being kept a reasonable time, should disagree, they shall be discharged, and the court shall adjourn the case to a day certain, and issue a new venire as aforesaid. The president of each incorporated village, the mayor of each city, and the chairman of the town board of each town within said municipal district shall each, on or before the first Tuesday in May in each year, make a list of twenty residents of each village, city or town, qualified to act as jurors in the circuit court of said county of Waukesha, to serve in said municipal court as jurors for the then ensuing year, and deliver such list to the clerk of said municipal court to be filed therein. The jurors for each term of said municipal court shall be selected as follows: At least three days before each term of said court at which cases may be tried by jury, the clerk of said court, in the presence of the judge thereof, shall draw from the list of persons selected as above provided to serve as jurors therein, thirty-six jurors for such

term, and the clerk and the judge of said court shall make a list of the names of the persons so drawn, sign the same, and forthwith file such list in the office of said clerk; and the clerk shall issue a venire to summon such jurors. The clerk shall put the names of all such persons so drawn in a box in the manner prescribed for jurors in circuit courts, and when a jury shall be required for the trial of any offense on which an information or indictment may be filed, the same shall be drawn from the names in such box conformably to the practice prevailing in circuit courts.

Election of
municipal
judge—term of
office when to
begin.

SECTION 6. The qualified electors of the said western municipal district of the county of Waukesha, shall on the first Tuesday of April, A. D. 1895, and on the same day of the same month each six years thereafter, elect a suitable person, who shall have been admitted to practice in courts of record in said county, and be a resident of the district for which he is elected, to the office of judge of said municipal court, to be called "the municipal judge," who shall hold his office for the term of six years from the first Monday in May next succeeding such 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. If a vacancy shall happen in the office of judge of said court, the governor shall appoint a judge to fill the vacancy until a successor is elected. Elections to fill such vacancies shall be held as provided in section 88, revised statutes, and notice thereof shall be given by the sheriff of Waukesha county in the same manner as for the election of county officers. All vacancies so filled shall be for the residue of the term only. 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 the case of the election of county judges.

Vacancies, how
filled.

Shall take
oath.

SECTION 7. The judge of the said municipal court shall, before entering upon the duties of

his office, take and subscribe the oath of office prescribed in the constitution, which oath shall be filed in the office of the county clerk in the county of Waukesha.

SECTION 8. Said judge shall appoint in writing a clerk of said court who shall hold his office during the pleasure of said judge, who shall not be a relative of said judge and who before entering upon his duties, shall take and subscribe the oath of office prescribed in the constitution, and give a bond for the faithful discharge of his duties, and to pay over all moneys the same as clerks of circuit courts are required, which appointment, oath and bond shall be filed in the office of the clerk of the city of Oconomowoc, and approved by the judge of the county court of Waukesha county, and a duplicate thereof filed in the office of the county clerk of said Waukesha county. He shall make and keep the records of said court and perform all ministerial acts required of him, by and under the direction of the judge; he shall have power to administer oaths, and take bail in the absence of the judge, subject to his revision. He may examine on oath all persons applying for warrants, and may reduce their examination to writing, and file the same, and may issue all warrants and other processes from said court. He shall procure under the direction of said judge, all necessary record books, blanks, stationery, lights and fuel for said court, at the expense of the county of Waukesha, subject to the approval of the county board of said county.

Clerk to be appointed, duties defined.

SECTION 9. The said municipal judge shall hold terms commencing on the third Monday in the months of June, September, November, January and March of each year, at some place in the city of Oconomowoc, to be provided by the said county. Grand juries, when ordered, shall be drawn and summoned as provided in chapter 116, of the revised statutes. The district attorney of Waukesha county shall be the prosecuting officer in all criminal cases, and the city attorney in all city prosecutions in said court.

Terms of court, when held.

Phonographic
reporter to be
appointed—
compensation.

SECTION 10. The judge of said court may appoint, and from time to time remove, a phonographic reporter of said court, who shall not be a relative of said judge, who shall take and subscribe the oath of said office prescribed in the constitution, and who shall be furnished with all necessary stationery and shall attend only when required by said judge, and perform such duties as he may require. Said judge shall fix his compensation, not exceeding five dollars for each day and three dollars for each half day that he shall attend, and which shall be in full compensation for his services and for making such transcripts of his shorthand notes as may be required by the judge; and he shall furnish to and may charge persons requiring them, like transcripts at a price not exceeding five cents per folio. Said reporter's per diem compensation shall be paid by the county of Waukesha, quarterly.

Change of
place of trial—
county judge
may preside,
when.

SECTION 11. Whenever the place of trial of any action pending in said court shall be changed on account of the prejudice of the judge, or because he is interested in any civil cause of action depending upon the same state of facts that any criminal action is based upon, or is related to the defendant, or has been counsel for him, or is otherwise disqualified to try the cause, it shall be changed to the county court of Waukesha county, providing said county court has power to hear, try and determine said action, otherwise to the circuit court of Waukesha county; provided, however, that the judge of said municipal court may, in his discretion, on cause for removal being shown instead of making an order of removal as aforesaid, set the trial of said action for a day certain and call in the judge of the eastern municipal district of Waukesha county to hear, try and determine the same, whenever such change of place of trial shall be applied for by one or more of the several defendants in any indictment or information, in any case where a separate trial has not been previously awarded to the defendant or defendants making such application. The court in every case where it is

adjudged that the place of trial be changed shall order the change of the place of trial as to all of the defendants named in any such indictment or information, in the same manner and with like effect as if all had joined in such application, and whenever in any case, the place of trial is changed to the circuit or county court of Waukesha county from the said municipal court, at any time when a term of said circuit or county court is being held, the recognition of the accused and the witnesses required by law, shall be for their appearance at such term; otherwise for their appearance at the next term of said court.

SECTION 12. The sheriff of Waukesha county shall be the officer of said court, shall serve its process and carry into effect its orders and judgments; and the marshal of the city of Oconomowoc may serve its process in all actions and proceedings of which justices of the peace of said city heretofore had jurisdiction. The municipal court shall have power to commit or bail over to an existing term, or to its next regular term, such persons as on examination are found to be indictable or subject to information, and such witnesses as may be necessary. In case the judge of said court desires to be absent from said court, or in case of his sickness, press of business at a regular term, or of his inability for any cause to attend, he may designate and appoint, by order entered in the minutes of said court, one of the justices of the peace of said county, resident of said municipal district, to temporarily discharge the duties of judge of said court, except holding the term, or any part thereof, for the trial of indictments, informations or appeals, and his acts shall be of the same force as if performed by the judge. And the clerk shall make a like record of his proceedings, and such justice of the peace shall receive for his services, five dollars per day, to be paid by said county. The municipal judge shall not voluntarily absent himself from the duties of his office, more than six weeks in any one year, except from sickness. Any circuit judge or

County sheriff
to be officer of
the court.

Justices of the
peace may pre-
side—when.

Jurisdiction of court. judge of any municipal court having equal jurisdiction in criminal cases, may hold court as judge of said municipal court in the term time, for the trial of term cases, 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 powers as if elected judge of said court.

Fees of jurors, witnesses, etc. SECTION 13. The fees of the witnesses, jurors, sheriff and other officers, and taxable costs of suits, shall be the same as in circuit court, except that in cases that would otherwise be cognizable by the justice of the peace, the costs shall be paid in criminal prosecutions in the name of the state, by the county, and in city prosecutions, by the city.

Salary of the judge, how payable. SECTION 14. The salary of the judge of said municipal court shall be the sum of one thousand dollars per annum, to be paid as follows: Three-fourths of the same to be paid out of the county treasury of Waukesha county, and one-fourth to be paid out of the treasury of the city of Oconomowoc, to be paid quarterly at the end of each quarter, out of said county and city treasuries respectively. The salary of the clerk of said court shall be six hundred dollars per annum, to be paid in like manner and in like proportions as the salary of the judge, which said salaries shall be in full for all services rendered by said judge and clerk of said municipal court. The said judge is authorized to tax and collect fees as follows: For all services rendered by him in civil and criminal actions when exercising the powers of a justice of the peace, the fees allowed to justices of the peace, except as hereinafter provided: For hearing and deciding any motion, fifty cents each; for issuing each venire, fifty cents; for making and recording all necessary orders, fifty cents each; for receiving and recording verdict of the jury, fifty cents; taking and approving bail, fifty cents; each commitment, fifty cents; drawing jury in every case, fifty cents; for services of clerk, one dollar in each criminal case and one dollar in each civil case; and the same shall be paid as other costs in

Clerk's salary, how paid.

Fees how taxed.

criminal cases are paid; and the said clerk shall pay the same [into] the county and city treasuries, to apply on the salary of the judge and clerk as follows: All costs imposed and collected in criminal cases, arising under the laws of the state shall be paid into the county treasury, and all costs imposed and collected in cases arising under the charter and ordinances of any city or village shall be paid into the treasury of the city or village under whose charter, by-laws or ordinance said case arose, and all costs collected in civil cases shall be paid as follows: Three-fourths of the same into the county treasury of Waukesha county; and one-fourth into the treasury of the city of Oconomowoc. The clerk of said court shall keep an accurate statement of all such costs thus collected, and file the same in the county clerk's office at the end of each month, under his hand and the seal of the said court; and shall at the same time pay over all such moneys as provided for in this act.

Clerk to keep accurate statement.

SECTION 15. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SECTION 16. This act shall take effect and be in force from and after its passage and publication.

Approved March 12, 1895.

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[Published March 13, 1895.]

CHAPTER 24.

AN ACT to establish a municipal court in and for the city of Oshkosh, and the county of Winnebago.

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

SECTION 1. A municipal court for the city of Oshkosh and county of Winnebago, is here-

Municipal court established.