

No. 226, S.]

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CHAPTER 316.

AN ACT to amend section 40, subdivision 28, of section 52. Sections 61, 62, 65, 69, 70, 71, 79 and 208, of chapter 326, of the general laws of 1889, entitled, "An act dividing cities into classes, and providing for their incorporation and government." Section 26, of chapter 326, of the general laws of 1889, as amended by section 14, of chapter 312, of the general laws of 1893, entitled, "An act dividing cities into classes, and providing for their incorporation and government." Section 218, of chapter 326, of the laws of 1889, as amended by section 59, of chapter 312, of the general laws of 1893, entitled, "An act dividing cities into classes and providing for their incorporation and government." Section 24, of chapter 326, general laws of 1889, as amended by section 12, of chapter 312, of the general laws of 1893, entitled, "An act dividing cities into classes and providing for their incorporation and government."

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

SECTION 1. Section 12, of chapter 326, of the general laws of 1889, as amended by section 5 of chapter 312, of the general laws of 1893, is hereby amended by inserting after the word "of" in the last line of said section 12, the words "the wards of" so that said section 12, when so amended, shall read as follows: Section 12. The result of the election as canvassed by the inspectors shall be returned to the clerk of such village, if it be incorporated, and otherwise to the clerk of such town. If a majority of the votes are cast in favor of the city charter, said clerk shall certify the fact to the secretary of state, together with the result of the

Duties of village clerks in case village votes in favor of a city charter.

census taken under the authority of the trustees, if any such has been taken, and thereupon a patent shall be issued as provided in section 5 of this act which shall specify the number and boundaries of the wards of such city.

In regard to the regulation of sewers.

SECTION 2. Subdivision twenty-eight of section 52, of chapter 326, of the general laws of 1889, is hereby amended so as to read as follows: Twenty-eight. To prescribe and regulate the construction of sewers within the city and to acquire by gift, grant, purchase or condemnation lands for such purposes, or to be used in connection therewith, either within or without the city limits.

In regard to the selection of a president of the council, his duties.

SECTION 3. Section 40, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in the first line of said section 40 and inserting after the word "third" in said line one the words "and fourth," so that said section 40, when so amended, shall read as follows: Section 40. In cities of the second, third and fourth classes the common council at its first meeting after organization in each year, shall choose from its number a president, and in the absence of the mayor the said president shall preside at all the meetings of such common council; and during the absence or inability of the mayor to discharge the duties of his office the president shall exercise all the power and discharge all the duties of the mayor. The president, while presiding at meetings of the common council or performing the duties of the mayor, shall be styled "acting mayor;" and any act performed by him in such capacity, shall have the same force and effect as if performed by the mayor; but the president of the common council, as acting mayor, shall have no authority to sign or approve any ordinance, rule, regulation, claim, resolution, warrant or other proceeding whatever which the mayor has refused to sign and communicated such refusal to the common council.

Section of general charter law in regard to city courts of justice amended.

SECTION 4. Section 61, of chapter 326, of the general laws of 1889, is hereby amended by striking out the words, "or wherein justices of

the peace shall have such jurisdiction," in lines six and seven of said section 61, and also by striking out the words "or justices of the peace," in lines 8 and 9 of said section 61; also by striking out the words "or such jurisdiction of such justices" in lines 10 and 11 of said section 61, and by inserting after the word "court" in line 8, of said section 61, the word "or," so that said section when so amended shall read as follows: Section 61. In every city which shall adopt this act for its government, and which shall at the time of such adoption have a court or judge, by what name or title soever such court or judge shall be called, having the jurisdiction herein conferred upon police courts, the jurisdiction and procedure of such court or judge shall continue unaffected by this act until such court, or the office of such judge shall be abolished by law, and in the meantime no police justice shall be elected and no police court established in such city, under this chapter. In every other city governed by this act a police justice shall be elected every fourth year the same as other city officers are elected, whose term of office shall commence the first day of May succeeding his election and who shall hold his office for the term of four years, and until his successor shall have been elected and qualified; provided, that in cities of the fourth class the common council may by an ordinance abolish the police court therein, and thereupon while such ordinance remains in force the jurisdiction herein conferred upon such police court shall be exercised by the municipal court or courts of the city or county, located in such city, if there be any such, and if there be none, then by the justices of the peace of the city.

SECTION 5. Section 62, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in the third line of said section 62, and by inserting after the word "third" in the same line, the words "and fourth," so that said section 62, when so amended, shall read as follows: Section 62. In cities of the first class, the common council

Salary of police justice, and clerk.

shall fix the salary of the police justice. In cities of the second, third and fourth classes the common council may, at its option, fix a salary for the police justice which shall be in lieu of all fees and costs. In every city of the first class the police justice may appoint a clerk, who shall keep the docket, records and papers of the court, and shall be paid such salary as the common council may from time to time allow; but no change in the salary of the clerk shall take effect during the term of office of the judge in which it was made.

Duties of the police court defined.

SECTION 6. Section 65, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in line twelve, of said section 65, and inserting after the word "third" in the same line, the words "and fourth," so that said section 65, when so amended, shall read as follows: Section 65. In cities of the first class the police court shall have jurisdiction to try and sentence all offenders against the ordinances of the city. The police court shall also have jurisdiction to try all misdemeanors triable before a justice of the peace and to issue warrants for the apprehension of persons charged with the commission of offenses not triable before a justice of the peace, and to examine such alleged offenders, and to commit or hold them to bail, the same as a justice of the peace of the city might do but for this chapter. In cities of the second, third and fourth classes, the police court shall have the civil and criminal jurisdiction of a justice of the peace, within the limits of such city, and exclusive jurisdiction of offenses against the ordinances of the city.

When a jury trial is demanded by any accused person, duties of the judge.

SECTION 7. Section 70, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in line thirteen, of said section 70, and inserting after the word "third" in the same line the words "and fourth," so that said section 70, when so amended, shall read as follows: Section 70. In cities of the first class whenever any accused person shall demand a trial by jury in said court the judge

shall direct the officer in attendance or some other suitable person to prepare a list of twenty-four qualified jurors, and the prosecuting officer, or some person designated by the court for that purpose on one part and the accused or his counsel on the other, shall each strike off six names, the prosecution striking off the first name and the defense the second, and so on alternately, and the remaining twelve shall thereupon be summoned and shall serve as jurors in the case. In cities of the second, third and fourth classes, the jury shall be selected in the same manner as in justice courts in criminal cases. The venire may be in the following form:

State of Wisconsin,
 City of _____.

Form of venire.

In the police court of said city.

The state of Wisconsin to (here insert the names of jurors).

You are hereby summoned and required to attend said court forthwith to serve as jurors therein in an action there pending, wherein the _____ is plaintiff and C. D. defendant. Hereof fail not at your peril.

Dated _____.

E. F.,
 Judge (or clerk).

If any juror or jurors named in the venire shall not be found, or shall be unable to serve, a talesman or talesmen shall be called, and if qualified shall take the place on the jury of such juror or jurors not found or unable to serve; provided, that either party shall have a right to challenge such talesman for cause, and at least two talesmen peremptorily.

Summoning talesmen.

SECTION 8. Section 71, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in line three of said section 71, and by inserting after the word "third" in line four of said section 71, the words "and fourth," so that said section 71, when so amended, shall read as follows: Sec-

Taxing of costs.

tion 71. The costs taxable in the police courts shall be the same as in justice courts for similar services, and in cities of the second, third and fourth classes such costs shall be paid to the judge and the officers earning them respectively, unless such judge or officer shall be paid a salary, in which case such costs shall be paid into the city treasury.

Selection of
the president
of the board of
public works.

SECTION 9. Section 79, of chapter 326, of the general laws of 1889, is hereby amended by striking out the word "and" in line five, of said section 79, and by inserting after the word "third" in the same line the words "and fourth," so that said section 79, when so amended, shall read as follows: Section 79. The members of the board of public works shall, on the first Tuesday in May of each year, choose a president of the board from their number; and in cities of the first class a secretary; in cities of the second, third and fourth classes the city clerk shall be the secretary of the board by virtue of his office.

SECTION 10. Section 69, of chapter 326, of the general laws of 1889, is hereby amended by striking out all of said section after the form of warrant in said section, and inserting in lieu thereof the following:

Form of
execution.

EXECUTION.

State of Wisconsin, City of — ss.

In the police court of said city.

The state of Wisconsin to the chief of police or any police officer of the said city or to the sheriff or any constable of the county of — and to the keeper of the common jail of said county, Greeting:

Whereas, The said city of — on the — day of —, A. D. 18—, recovered a judgment in the court above named against — for the sum of — dollars and — cents, and for the costs of suit amounting to the sum of — dollars and — cents, for the violation of (here insert the number, title and date of the ordinance, or the chapter and section of the gen-

eral ordinance) in that he did on the — day of —, 18—, at the said city (insert the act complained of). You are hereby commanded to levy distress of the goods and chattels of said — excepting such as the law exempts and make sale thereof according to law, 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, to take the body of said — — and him convey and deliver to the keeper of the common jail in — county, and the said keeper is hereby commanded to receive, keep in custody in said jail the said — — for the term of— unless the said judgment, together with all the costs and fees are sooner paid or he is discharged by due course of law.

Given under my hand this — day of —, 18—.

Judge (clerk or police justice).

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

Form of the
commitment.

SECTION 11. Section 208, of chapter 326, of the general laws of 1889, is hereby amended so as to read as follows: Section 208. All cities shall have full power to construct systems of sewerage (and to provide for the payment for sewers by the city, by sewerage districts, or by abutting property owners), but no city shall enter upon such construction until it shall have been divided into sewerage districts and a plan shall have been adopted in the manner herein-after specified; provided, that it shall not be necessary before any part of the system is constructed that the plan shall be determined upon in all its details, but it shall be settled so far as relates to that portion of the system upon which the construction is commenced; and provided further, that this shall not apply to cities that have been heretofore divided into sewerage districts and adopted a system of sewerage.

Construction
of a system
of sewerage.

SECTION 12. Section 218, of chapter 326, of the general laws of 1889, as amended by section

The cost of
sewers—
how paid.

59, of chapter 312, of the general laws of 1893, is hereby amended so as to read as follows: Section 218. The cost of all sewers in street and alley crossings, and of all sewers in excess of two dollars per linear foot chargeable to lots and lands, as provided in section 216, of this chapter, of all catch-basins for receiving the water from the gutters, and of the over-flow pipes connecting them with the sewers of all temporary catch-basins and of repairing and cleansing of sewers and all expenditures for temporary work necessary to carry on the system of sewerage herein provided, and all costs for constructing sewers not provided for by special assessment, shall be paid out of the fund of the proper sewerage district, and all cleaning and repairing of sewers and catch-basins and all temporary work necessary to be done as above stated shall be done by the authority of the board of public works, as may be necessary, or by the officer or officers discharging the duties of such board. The cost of constructing the main sewers within the city limits or extending beyond the same may be paid for in whole or in part by the city out of the general fund or out of the funds of the proper sewerage district, or by abutting property owners as the common council shall, by ordinance, direct.

Term of all officers, one year, except justices of the peace.

SECTION 13. Section 26, of chapter 326, of the general laws of 1889, as amended by section 14, of chapter 312, of the laws of 1893, is hereby amended so as to read as follows: Section 26. All officers, except justices of the peace shall hold their offices respectively for the term of one year and until their successors are elected or appointed and qualified, unless the common council shall, by ordinance, provide a longer term for said officers, or any of them, or unless a different term of office is expressly provided in this act, justices of the peace shall hold their offices for the term of two years, and until their successors are elected, or appointed, and qualified.

Time of holding annual election.

SECTION 14. Section 24, of chapter 326, of the general laws of 1889, as amended by section

12, of chapter 312, of the general laws of 1893, is hereby amended by adding after the word "designate" at the end of the first sentence in said section the words "provided, that in cities of the fourth class the common council by ordinance duly adopted by a three-fourths vote may fix as the time of holding the annual municipal election the first Tuesday in March."

SECTION 15. Section 21, of chapter 326, of the general laws of 1889, is hereby amended to read as follows: Section 21. The adoption of said ordinance shall operate to annex such territory to said city and of the ward or wards designated therein, ninety days after the same is passed and published. The validity of the proceedings annexing such territory shall not be called in question collaterally in any of the courts of this state; nor shall the validity of any such proceeding be called in question in any other manner in the courts of this state, unless the action or proceeding therefor be commenced within ninety days after such ordinance is adopted. The sufficiency of all pending proceedings wherein the full time of ninety days has not elapsed, shall be determined by the provisions of this enactment except in cases where some action or proceeding has been commenced in court.

Annexing territory—validity of proceedings.

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

Approved April 19, 1895.