

CHAPTER 136.

[Published March 18, 1875.]

AN ACT to amend chapter 22, of the laws of 1874, in relation to the municipal court, city of Madison.

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

SECTION 1. Section one, of said chapter 22, of the laws A. D. 1874, is hereby amended so as to read as follows: "Section one. Section two of the said chapter 107, of the laws A. D. 1873, is hereby amended so as to read as follows: There shall be established in the city of Madison and county of Dane, a municipal court, for the transaction of all business that may lawfully come before it. And for that purpose the city of Madison and county of Dane, is hereby declared a municipality. The municipal court shall be a court of record, with a clerk and seal, and shall have concurrent jurisdiction with the circuit court of Dane county, with full power and authority to hear, try and determine, all cases of crimes and misdemeanors of whatever kind, except murder, that are or may be cognizable before the circuit court, which may be committed in the county of Dane; *provided*, that in all cases in which defendants are charged with committing offenses punishable by imprisonment in the state prison, the said municipal court shall not proceed to try and determine the same, unless the defendant or person charged with such offense shall first signify his desire or willingness to be so tried in said municipal court, by giving his or her consent in open court, to be entered on the minutes or the docket of said court, or in writing signed by him or her, to be filed in said municipal court; *provided, further*, that in all cases in which the person charged with crime shall plead guilty to the charge, the said municipal court shall have full power and authority to sentence such person so pleading guilty, to hard labor in the state prison, in case the offense is liable to such punishment, or to inflict any other punishment or penalty under the laws of this state, in as full a manner as the circuit court could do in such cases.

Amended.

Municipal
court establish-
ed.Jurisdiction
of court.

Proviso.

Power to sen-
tence.

Amended.

SECTION 2. Section 4 of said chapter 22 of the laws of A. D. 1874, is hereby amended so as to make that portion of it numbered section twenty (20), of

chapter 107, of the laws of A. D. 1873, read as follows: And the said municipal court shall have power to commit, or bail over to such time as may be convenient, such persons as may be found on examination before it to be indictable or subject to a criminal information, in which such persons are charged with any offense punishable by imprisonment in the state prison, in case such person shall consent to be tried in said municipal court, as provided in section one of this act; and on or before the time fixed for the trial of such persons so committed or bailed over, the district attorney shall file in said municipal court the proper information against such persons, and the court shall then proceed to hear, try and determine the same, unless the said cause is continued by the court for cause. And in any criminal cause not cognizable before a justice of the peace, and in which an information may be filed as aforesaid, after the same is at issue, the judge may fix a day for the trial of the same, and the same may then be tried by the court, in case a trial thereof by jury is waived by the counsel of the accused in writing or in open court, to be entered upon the minutes; and in case a trial by jury is so waived, the cause shall be tried by the court. A jury in said municipal court, in criminal cases, shall consist of twelve men qualified to sit as jurors under the laws of this state.

Power of court.

District attorney shall file information.

Jury.

Amended. SECTION 3. Section five (5), of said chapter twenty-two, of the laws of A. D. 1874, is hereby amended by adding to the end of said section the following: The manner of selecting a jury in said municipal court, shall be as follows: The senior alderman of each ward of the city or Madison, and the supervisor for each ward, shall, on or before the third Tuesday of April in each year, make a list of twenty names of persons for each ward, qualified under the laws of this state to serve as jurors, and report said list to the judge of said court; and the clerk of said court, under the direction of said judge, shall write down said names, so reported, each on a separate slip of paper, and carefully fold said slips, and deposit them in a box to be kept for that purpose. Any resident of Dane county qualified under the laws of this state to sit on juries may be selected as a juror in said municipal court. And whenever a jury shall be required in said court, the clerk of said court, under the direction of the judge, shall draw from said jury box twelve names, and the persons whose names are

Manner of selecting jury.

so drawn, shall be summoned as jurors in the case, unless the parties shall object; and in such case each party shall have the right to strike off the names of the persons to whom he may object, which names, so stricken off, shall be supplied by others drawn from the box as fast as they are stricken off, until each party has stricken off his six names; and the persons whose names remain on the list thus made up shall be summoned as a jury in the case unless challenged for cause or peremptorily by a venire issued under the hand of the judge. In case any of the jurors named in the venire cannot be found, or in case any of them shall be excused, the judge may order other names drawn from the jury box to supply their places, or summon from the county at large a sufficient number to supply the places of the persons who cannot be found, or who may have been excused, or challenged and set aside for cause. The court shall, on motion of either party in any suit, examine on oath any person who is called as a juror, touching his qualifications as a juror in the case. All laws conferring powers of jurisdiction on or regulating proceedings in circuit courts, or the judges thereof in criminal proceedings, are hereby extended to and over the municipal court; and the judge thereof may do and perform all acts, such as hearing motions, granting new trials and doing all other matters and things which may be done and performed by the circuit court of Dane county or the judge thereof, in criminal cases under the limitations and restrictions imposed by this act. All sentences and judgments of said municipal court in criminal cases and all the judgments and orders of said municipal court in criminal proceedings may be reviewed by the supreme court upon writ of error or otherwise in the same manner and to like extent as the judgment of circuit courts of the state; *provided*, that in civil causes tried in said municipal court appeals shall be taken as heretofore to the circuit court, and this act shall be so construed as not to change the jurisdiction of said court in civil cases.

Laws extended to municipal court.

Sentences, judgments, &c., may be reviewed by supreme court.

SECTION 4. Section 4, of the said chapter 22, of laws of A. D. 1874, is hereby amended by adding to the end of that portion of said section, which is numbered "section 18," being understood as section 18, chapter 107, of laws of A. D. 1873, as follows: The judge of said municipal court shall appoint under his hand and the seal of said court, some suitable person

Amended.

Clerk of court as clerk of said court. The said clerk, when so appointed, shall, before entering upon his duties, take and subscribe an oath to support the constitution of the United States, and of the state of Wisconsin, and faithfully to discharge the duties of his office, which appointment and oath shall be filed in the office of the city clerk of the city of Madison, and a duplicate of the same in the office of the clerk of the circuit court of Dane county. The duties of such clerk shall be to do and perform all [such] ministerial acts as shall be required of him by the judge of said court. He shall have power to administer oaths, take acknowledgments of bail and other instruments, and under the direction of the judge of said court, to take testimony and record the judgements, orders, and sentences of the said municipal court.

Amended. SECTION 5. The said chapter 22, of the laws of A. D. 1874, is hereby further amended by adding to the same the following sections which shall stand as sections 8, 9, 10, 11, 12, 13, 14, 15, 16, of said chapter 22, of laws of A. D. 1874: Section 8. All

Fines and penalties to be paid into city treasury.

finer and penalties collected in criminal cases, in which the state is made a party, shall be paid into the city treasury quarterly by said municipal judge, and shall be annually accounted for and paid over to the county treasurer at the time of accounting for the state and county taxes. The county

County of Dane to account for half of stationery &c.

of Dane shall, at the same time, account to the city of Madison for one-half of all the blanks, stationery, record books, office furniture, lights, fuel, and other necessary expenses for the municipal court, which shall be furnished and paid for by said city of Madison in the first instance. Section 9. The common council of the city of Madison, by and with the consent of the board of supervisors of Dane county,

Salary of judge.

may provide for the payment of a salary to the judge of the municipal court, in lieu of his fees, which shall not exceed the sum of three thousand dollars per annum. And when so provided, one-half of the sum so agreed on shall be paid by the city of Madison, and the other half by the county of Dane. And in such case the same fees shall be taxed and collected as before, and, when paid into said court, shall be reported to the common council, by the judge thereof, and applied to the payment of such salary. Section 10. The jurors in said municipal court shall receive one dollar per day in criminal cases, and in civil cases the same as heretofore allowed by law. Section 11.

The sheriff of Dane county shall execute the sentences of said municipal court, in case of conviction for offenses punishable in state prison, in the same manner and to the same extent as in cases of criminal conviction in the circuit court. Section 12. Appeals from justices of the peace of Dane county in criminal cases may be made to the municipal court in the same manner as provided by law for appeals to the circuit court; or may be made to the circuit court, at the option of the party appealing. And said municipal court is hereby empowered to hear, try and determine the same; in like manner all examinations, recognizances and commitments from such justices, may run to, and be certified and returned to the municipal court, instead of the circuit court for Dane county, and in case the defendant or person held shall wish or consent to have his case tried and determined in said municipal court as provided by section one of this act. And it shall be the duty of all such justices, before whom such trials or examinations shall have been held, to transmit to the judge of the municipal court, all the papers in such cases, together with a certified copy of his docket, within thirty (30) days from the time of the trial or examination before such justice, and he, the said justice, shall fix the time when the party appealing or held on examination shall be required to appear before said municipal court, which time shall not be less than ten nor more than thirty days from the time of said trial or examination. On the receipt of such papers, the judge of the said municipal court shall cause the case to be duly entered in the court docket, and on the time fixed by the justice for the hearing thereof, the said municipal court shall proceed to hear, try and determine the same, unless the same is continued by said judge, or by the parties for cause. Appeals shall be tried before said municipal court in the same manner as appeals in the circuit court; in all examinations of criminal cases returned to said municipal court by justices on or before the time fixed for the hearing of the same by the municipal court, the district attorney of Dane county shall file his information in said municipal court, as in other cases originally brought in said court; *provided*, the accused shall consent to be tried in said court as herein provided. Section 13. The judge of said municipal court may, if he shall deem it best, hold terms of court for the trials of of-

Duty of sheriff

Of appeals.

Justices shall transmit papers.

District attorney of Dane county to file information.

Judge to fix terms of court.

fenses which are indictable, or in which informations may be filed, and for the trial of appeal cases, and in which juries may be demanded. Which said terms may be held as often as the judge may think necessary, not exceeding four terms in each year, in case such terms are ordered; and in case such a term or terms are ordered, the clerk of said municipal court, in presence of the judge and of the sheriff of Dane county, at least three days before the first day of said term, shall draw thirty-six names from the jury box, and the persons whose names shall be thus drawn, shall be summoned as jurors for the said term. In case any of the persons thus drawn cannot be found, or are excused from any cause, the judge may cause other names to be drawn from the box to supply the places of the persons so excused, or he may, in his discretion, order the sheriff or other officer to summon from the county at large, any persons qualified to act as jurors, under the laws of this state.

Clerk to draw jury.

In case terms of court are ordered as aforesaid, the judge of said court shall have power to commit or bail over to the next term, such persons as may be found on examination before him to be chargeable with offenses which are subjects of indictments or information in which juries are demanded, ordered or required by law and in which the defendants consent to be tried in said court as provided in the first section of this act, and he may also put over to such term all appeal cases. Section 14. The clerk of said municipal court shall have the power to examine on oath all persons who may apply for warrants in said court, and he shall reduce the examination to writing and cause the complainant to subscribe the same, and upon such complaint the judge may issue a warrant the same as if such examination had been made before him personally. Section 15. The judge of said municipal court is hereby authorized to tax the following fees in criminal causes: Hearing and deciding motions, one dollar; for hearing and deciding on any other motion, fifty cents; allowing an appeal to the supreme court, three dollars, together with fifteen cents per folio for all writing in making such return; making and recording all necessary orders in a case, fifty cents; for issuing venire, fifty cents; recording verdict, fifty cents; taking and approving bail, fifty cents; commitments to state prison, one dollar; each commitment to jail, fifty cents; drawing jury, fifty cents; and for all other services

Power of judge to commit.

Powers of clerk.

Fees in criminal cases.

not herein provided for, such fees as are allowed by law to justices of the peace, which said fees shall be taxed as costs in each case, and paid as other costs in criminal cases are paid, and out of such fees the said judge shall pay the clerk of said court such compensation as he may deem just and reasonable. Section 16. Any person or persons committed to jail by any justice of the peace of Dane county for trial in the circuit court may, on the order of the judge of the municipal court, be arraigned before him, and if such person or persons shall consent, as provided in the first section of this act, such person or persons may be tried in said municipal court for the offense with which he or they may be charged, in the manner prescribed by this act.

Persons committed by justice of peace may be arraigned before municipal court.

SECTION 6. This act shall take effect and be in force from and after the third Tuesday of April, A. D. 1875, and all acts and parts of acts conflicting with it are hereby repealed; *provided*, that nothing herein contained shall be so construed as to abridge or take away any of the powers or jurisdiction heretofore enjoyed by the said municipal court, which are not inconsistent with this act, it being expressly understood that the said municipal court shall have full power and authority, concurrently with the circuit court, to hear, try and determine all misdemeanors and all other offenses under the laws of this state which are punishable only by fine or imprisonment in jail, or punishable in any other manner than by imprisonment in the state prison. It being further understood that the jurisdiction of said municipal court in civil matters remains the same as heretofore.

Repealed.

Power and authority of municipal court.

Approved March 2, 1875.