

No. 421, A.]

[Published July 28, 1959.
[Republished July 30, 1959.

CHAPTER 219

AN ACT to repeal chapter 192, laws of 1951, section 15, and section 17, as created by chapter 20, laws of 1953; and to amend chapter 192, laws of 1951, sections 3, 5, 13, 14 and 16, relating to the municipal court for the eastern district of Waukesha county.

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

SECTION 1. Chapter 192, laws of 1951, section 3 is amended to read:

(Chapter 192, laws of 1951) Section 3. The municipal court for the eastern municipal district of Waukesha county, is a court of record, and shall have a clerk and a seal, with suitable device, to be procured under the direction of the judge thereof, at the expense of the county of Waukesha. It may exercise powers and jurisdiction concurrent with the circuit court of Waukesha county in all cases of bastardy, crimes and misdemeanors arising in the eastern municipal district of the county, except murder. Said municipal court is also vested with all powers and jurisdiction of a justice of the peace in the eastern municipal district, in bastardy cases, criminal actions and proceedings, and jurisdiction of all prosecutions for breach of any ordinance of any city, town and village now or which may hereafter be incorporated in said territory; and jurisdiction of all prosecutions for breach of any ordinance enacted by the county board of Waukesha county * * *. The general provisions of law relative to civil, criminal and bastardy cases before justices of the peace, shall apply to said court so far as applicable. No justice of the peace, police justice or court commissioner within said eastern municipal district, except when called in to sit as judge of the municipal court of said district as hereinafter provided, shall exercise any jurisdiction in cases of bastardy, crimes, misdemeanors or breaches of any town, village, city or county ordinance arising within the limits of said county, and all such jurisdiction within the limits of said eastern municipal district is vested in the municipal court; except that the police justice of any village or town now, or which may hereafter be incorporated, in said territory, or if there be no police justice therein, then any justice of the peace of said village, or town, has concurrent jurisdiction with said municipal court in all breaches of any ordinance or * * * *bylaws* of said village or town, and all the general provisions of law as to the arrest, trial and punishment of offenders shall govern so far as applicable in all such actions and proceedings before said police justices or justices of the peace. Whenever any police justice or justice of the peace before whom any such action or proceeding is pending is legally disqualified from any cause to

try the same, said action or proceeding shall be sent for trial to any justice of the peace of said village or town or to the 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 until a transcript thereof is duly docketed in the office of the clerk of the 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 county as judgments of the circuit court so docketed have. All judgments of said municipal court may be examined and reviewed by the supreme court in the same manner as judgments of the circuit court. To carry out its jurisdiction the municipal court has all the powers of circuit courts, and the municipal judge has the same powers in all matters pertaining to the jurisdiction of said municipal court, as circuit judges.

SECTION 2. Chapter 192, laws of 1951, section 5 is amended to read:

(Chapter 192, laws of 1951) Section 5. The said municipal court has all the powers and jurisdiction heretofore or now vested in justices of the peace, police justices or police courts of the city of Waukesha in said municipal district, in all cases of bastardy, crimes and misdemeanors arising in said city, and has jurisdiction of all prosecutions for breach of any ordinance, law, rule, regulation or resolution of said city. To carry on its business the court shall be open * * *, *according to circuit court practice*, hear, try and determine in a summary way, all cases which shall be brought before it by the proper officers, either with or without process, for violation of the laws of this state; and in any case of bastardy, crime or misdemeanor arising in said city or in said eastern municipal district, or of any breach of any such ordinance, law, rule or regulation 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 he may issue the same under the supervision of the municipal judge. A printed copy of any ordinance, bylaw or resolution passed by any city, town, village or county, in the official newspaper of said city, town, village or county or in pamphlet or book form, is 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 misdemeanor cognizable before said court, of which justices of the peace would have jurisdiction, the defendant may demand a jury of not more than 12 nor less than 6 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 desired. The court shall thereupon issue a venire commanding the officer to summon those so remaining to appear before it, at such time as it 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 the deficiency occasioned thereby, or by any other cause, shall be supplied by talesmen to be selected and summoned by the officer. In all cases for the breach of an ordinance, bylaw, rule or resolution, if the defendant shall not demand a jury, any city, town, village and the county 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 decline 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. * * * *Jurors shall be paid and fees taxed in accordance with circuit court*

practice. Witnesses and jurors shall attend before said court in all bastardy proceedings and criminal prosecutions and in actions for the breach of any ordinance, bylaw or resolution, 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 out 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.

SECTION 3. Chapter 192, laws of 1951, section 13 is amended to read:

(Chapter 192, laws of 1951) Section 13. The fees of the witnesses, jurors, sheriff and other officers and taxable costs of suits, except as herein provided, shall be the same as in circuit courts * * *. The costs shall be paid in all criminal prosecutions in the name of the state, by the county, and in the city, village and town prosecutions, by the respective city, village or town prosecuting the same.

SECTION 4. Chapter 192, laws of 1951, section 14 is amended to read:

(Chapter 192, laws of 1951) Section 14. The salary of the judge and the clerk of said municipal court shall be * * * *set from time to time by the county board of Waukesha county*, to be paid as follows: Three-fourths of the same to be paid out of the county treasury of Waukesha county, one-fourth to be paid out of the treasury of the city of Waukesha, to be paid monthly at the end of each month out of said county and city treasuries respectively. * * *

SECTION 5. Chapter 192, laws of 1951, section 15 is repealed.

SECTION 6. Chapter 192, laws of 1951, section 16 is amended to read:

(Chapter 192, laws of 1951) Section 16. The judge of said court may appoint, and from time to time remove, a stenographic reporter for said court who shall not be a relative of said judge, who shall take and subscribe the oath of 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 that of stenographic reporters in the circuit court, which shall be in full compensation for his services and for making such transcripts * * * as * * * required by the judge; and he shall furnish to, and may charge persons requiring them, like transcripts at a price * * * *in accordance with circuit court practice.* Three-fourths of said reporter's per diem compensation shall be paid by the county and one-fourth by the city of Waukesha quarterly.

SECTION 7. Chapter 192, laws of 1951, section 17, as created by chapter 20, laws of 1953, is repealed.

Approved July 22, 1959.