

ment in favor of the adverse party or, in his discretion, allow the party interposing the same to plead over within a limited time, on such terms as may be just. If no further pleading be served within the time so fixed the adverse party may obtain such judgment as he may be entitled to in the manner provided in case of a failure to answer or reply in the first instance.

SECTION 3. Any provision of law conflicting with the provisions of this act is hereby superseded.

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

Approved April 19, 1899.

No. 198, S.]

[Published April 22, 1899.

CHAPTER 218.

AN ACT to establish a district court in the county of Milwaukee, Wisconsin.

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

County declared to be a district court district.

SECTION 1. The county of Milwaukee, Wisconsin, is hereby declared to be a judicial district for the purpose of establishing a district court therein, to have jurisdiction as hereinafter provided over and throughout the extent of the city and county of Milwaukee, and all the cities, villages and towns in said county.

District court established. To be a court of record.

SECTION 2. There is hereby constituted and established in said county of Milwaukee a court to be known and called the district court of the county of Milwaukee. It shall be a court of record and have a clerk and a seal with suitable de-

vice to be procured under the direction of the judge thereof, at the expense of the county of Milwaukee.

SECTION 3. On the first Tuesday of April 1901 and on the same day of the same month each six years thereafter, the qualified electors of said county of Milwaukee shall elect, in the same manner as is provided for the election of county officers for said county, a suitable person to the office of judge of said district court, to be called "district judge," who shall be a resident of said county and an attorney-at-law admitted to practice in the circuit court of Milwaukee county. Such district judge shall hold his office for the term of six years, from the first Monday of May next succeeding his election, and until his successor shall have been elected and qualified, and who may be removed from office for cause in the manner provided by law for the removal of justices of the peace. The resignation of the district judge shall be made to the governor of the state. Whenever a vacancy shall occur in the office of such judge, from any cause whatever, the governor shall appoint a district judge and the person so appointed shall hold for the residue of the term.

Judge of, when to be elected. Term of. Vacancy, how filled.

SECTION 4. Before entering upon the duties of his office, the district judge shall take and subscribe the oath of office prescribed in the constitution, which oath shall be filed in the office of the county clerk of Milwaukee county.

Oath of office.

SECTION 5. Said district court shall have exclusive jurisdiction to try and sentence all offenders against the ordinances of said city of Milwaukee, and it shall also have exclusive jurisdiction to hear, try and determine all charges for offenses arising within said county of Milwaukee, the punishment whereof does not exceed one year's imprisonment in the state prison or county jail or a fine of five hundred dollars, or both such fine and imprisonment; to hear, try and determine all charges for misdemeanors arising within said county, otherwise triable before a justice of the peace; and to issue warrants

Jurisdiction of court.

for the apprehension of persons charged with the commission of offenses in said county of Milwaukee and not triable before a justice of the peace, and to examine said alleged offenders and commit or hold them to bail, the same as a justice of the peace might otherwise do. Said district court shall in no event have jurisdiction in bastardy proceedings.

Examinations, etc., to be returned to municipal court.

SECTION 6. No justice of the peace, court commissioner, police justice or other committing magistrate in said county of Milwaukee, shall exercise any jurisdiction in any criminal cases, except as hereinafter provided, but all such jurisdiction is vested in said district judge; and all examinations, recognizances and commitments for trial in said district court in criminal cases, not otherwise triable before a justice of the peace, shall be certified, returned and made to the municipal court of the city and county of Milwaukee instead of the circuit court, at or before the time fixed for the appearance of the accused. All such cases shall thereafter be prosecuted and tried in said municipal court as provided by law in similar cases in the circuit court, and the general provisions of law relating to criminal actions, proceedings and examinations before justices of the peace, shall apply to said district court as far as applicable.

Jurisdiction and duties of justices of peace in relation to district court.

SECTION 7. For the apprehension of persons charged with any of offense specified in section 4739 of the Wisconsin statutes of 1898, any justice of the peace of said county residing outside of the corporate limits of the city of Milwaukee, is authorized to entertain complaints and to issue warrants as in this section provided. Upon complaint made to any such justice of the peace by any person that any such offense has been committed within said county, he shall examine the complainant on oath and the witnesses produced by him and shall reduce the complaint to writing and cause the same to be subscribed by the complainant; and if it shall appear that an offense has been committed the said justice of

the peace shall issue his warrant reciting the substance of the complaint and requiring the officer to whom it is directed forthwith to arrest the accused and bring him, together with such complaint, before the district court to be dealt with according to law; and such justice may require the officer to summon such witnesses as shall be necessary to appear and give evidence at the trial, and thereupon said district court shall proceed to hear, try and determine the cause in the same manner as cases originally commenced in said district court.

SECTION 8. Said district court shall be held in the city of Milwaukee in some suitable place to be provided and suitably furnished by said city and county of Milwaukee, and it shall open for business every morning (Sundays and legal holidays excepted). In case of the absence, sickness or temporary disability of said district judge, he may, by an order in writing, to be filed in said court, appoint a justice of the peace of said city or county to discharge the duties of said district judge during such absence, sickness or disability, who shall have all the powers of said district judge while administering such office, and such justice of the peace shall receive for his services five dollars per day to be paid by said city and county. Said district judge shall not voluntarily absent himself from the duties of his office for more than forty days in any one year, except for sickness.

Court, when
and where to
be held.

SECTION 9. The clerk of the municipal court of the city and county of Milwaukee shall be ex-officio clerk of said district court. He or one of his deputies, shall be present during the sessions of said district court and shall keep and have care and custody of all records, books and papers of the court, perform all ministerial acts required of him by and under the direction of the district judge, and when the court is not in session shall have power to take bail for the appearance of any person under arrest before the court, subject to the revision of the court; he, or

Duties of clerk
of court and
his deputies.

one of his deputies, may administer all necessary oaths, enter the judgments of the court, issue commitments and executions to enforce the same, and make up and keep the records of the court in all cases therein under the direction of the judge; he or one of his deputies, shall issue all processes under his hand and the seal of the court and attest it in the name of the judge, signing it by his title of office, and shall tax costs; he, or one of his deputies, may issue warrants upon complaint filed in writing and upon oath in all cases. The complaints, warrants, recognizance, commitments, attachments, venire, subpoenas and all other writs and papers in said court shall be in substance in the form hitherto used in the police court of the city of Milwaukee, or the municipal court of the city and county of Milwaukee. In city prosecutions, said clerk, or one of his deputies, shall enter upon the records of the court a statement of the offense charged, which shall stand as the complaint, unless the court shall direct formal complaint to be made; then the defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in such case at issue. Said clerk shall also, under the direction of the common council of said city of Milwaukee, procure and furnish all the necessary blanks, stationery, book and paper cases, desk, record books, office furniture, lights and fuel for the use of said district court and its clerks, at the expense of said city and county. Such clerk and his deputies and the police officers attending said district court and serving its processes shall receive no fees.

Entries on records.

Trial by jury.
How secured.

SECTION 10. After issue joined and before trial in all cases cognizable before said district court the accused may demand a trial by a jury of not more than twelve nor less than six men, and shall designate the number at the time of the demand. The court shall then direct the clerk to proceed to draw in the presence of the

jury commissioners of Milwaukee county, unless such accused shall waive the presence of said commissioners, from the box containing the names of persons furnished by said jury commissioners to serve as petit jurors in the municipal court of the city and county of Milwaukee, twice the number of jurors demanded, and from the list so prepared by the clerk, the parties shall then alternately strike, the accused commencing, so many names as shall leave remaining the number demanded. A venire shall thereupon be issued, commanding the officer to summon those so remaining to appear before the court at such time as may be directed, to make a jury for the trial of said action, and the court may compel their attendance by attachment, either party may challenge any juror for cause, and the deficiencies occasioned thereby, or by any other cause, shall be supplied by talesman to be selected and summoned by the officer. Challenges. If no jury shall 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 appoint some disinterested person to strike the same for such 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 said action. Witnesses and jurors shall attend before said court in all city and criminal prosecutions without any payment of fees in advance or a tender thereof, upon the processes 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, and thereupon the court shall adjourn the cause to a day certain and issue a new venire as aforesaid.

SECTION 11. The sheriff of Milwaukee county shall be the officer of said district court, and he or any of his deputies, or any constable of said county shall serve its processes and carry into Sheriff to be
officer of court

effect its orders and judgments in state cases, and the police officers of said city of Milwaukee may serve its processes in city prosecutions and state cases arising within the city.

Phonographic reporter, how appointed and duties of.

SECTION 12. The judge of said district court is hereby authorized to appoint a phonographic reporter for such court. The person so appointed shall be deemed an officer of the court, and before entering upon the duties of his office shall take and subscribe the constitutional oath of office and file the same, duly certified to, in the office of the county clerk of Milwaukee county. Such reporter so appointed shall attend all the sessions of said district court and shall report all preliminary examinations held before said court, but in all cases of prosecutions for violations of the ordinances of the city of Milwaukee and in all prosecutions for misdemeanors said reporter shall not be required to report such trial or proceeding, nor shall it be necessary for said judge of said court to take minutes of the evidence given before him; but said district judge may require said reporter to report any trial or proceeding, other than preliminary examinations which may be had before said court. Said reporter shall receive a salary of twelve hundred dollars per annum, payable monthly, at the end of each and every month by said city of Milwaukee. It shall be the duty of said reporter, at the request of any party, to transcribe in long hand the evidence of any proceeding or trial taken by him in said district court, or any part thereof, which transcript shall be duly certified by him to be correct, and for which he shall be entitled to receive from the party requesting the same, five cents per folio, when written out in full, and when, at the request of the party it shall be written in narrative form, ten cents per folio. Said reporter shall be furnished all necessary stationery and supplies. It shall be the duty of such reporter to transcribe free of charge and file as soon as may be, the charge of the court to the jury and

the evidence taken upon preliminary examination, and in cases where the accused is committed to the Industrial School for Boys.

SECTION 13. All fines and penalties imposed by said district court and the costs and fees of trial, shall be payable to the clerk of said court, and it shall be his duty to account for and pay over to the treasurer of said city of Milwaukee, on the first Mondays of January, April, July and October, all fines, penalties, collections and other fees, except witness fees collected which may have come into his hands as such clerk up to the day of such payment, and shall also account for and pay over to said city treasurer on the first Mondays of January and July in each year the witnesses' fees which may have come to his hands as such clerk up to the day of payment which have not been paid to the persons entitled thereto, which witness fees may thereafter be paid by said treasurer to such persons upon the certificate of such clerk specifying the name of the person entitled thereto, the amount due him and the title of the case in which he was a witness. The foregoing provisions shall not apply, however, to witness fees of members of the police department of the city of Milwaukee who may testify for the prosecution. It shall be the duty of the clerk to tax witness fees for such members, but when collected such witness fees shall be paid by the clerk to the treasurer of the policeman relief fund association of the city of Milwaukee, on the first Mondays of January, April, July and October of each year.

SECTION 14. All fines and penalties collected in criminal cases except prosecutions for violation of ordinances of said city of Milwaukee and paid into the treasury of said city, shall be accounted for and paid over to the treasurer of said county annually at the time of paying over state and county taxes. The county of Milwaukee shall also, at the same time pay to the city of Milwaukee one-half of the salaries of district judge and the phonographic reporter of said

Fines and penalties, to whom payable.

How accounted for.

court, and one-half of the expenses of blanks, stationery, book and paper cases, desks, record books, office furniture, lights and fuel, used for said court and its clerks and all other expenses of said court which may have been paid for by said city.

Continuance
may be
granted.

SECTION 15. In all cases brought before the district court, the court may, in its discretion, grant such continuance as may be necessary to the ends of public justice either with or without bail.

Salary of
judge.

SECTION 16. The salary of said district judge shall be three thousand dollars a year, payable monthly at the end of each and every month by the city of Milwaukee. The fees of the clerk, witnesses, jurors, sheriff and other officers, and the taxable costs of the suit shall be the same as now in the police or municipal court of said city in the county of Milwaukee in similar cases. In all cases before said district court, the costs shall be paid in criminal prosecutions in the name of the state, by the county of Milwaukee, and in the city prosecutions by the city of Milwaukee, when not otherwise collected, upon a certificate of the clerk of said court.

Imprisonment
may be where.

SECTION 17. All persons convicted in said district court, who would otherwise be sentenced or committed to imprisonment in the county jail or state prison, may be sentenced to imprisonment in the house of correction of Milwaukee county, and the court may order the prisoner to be kept therein at hard labor during the term of his imprisonment, if he shall have the ability to labor.

Appeal may be
had.

SECTION 18. Every person convicted before said district court may appeal from the sentence or judgment against him to the municipal court of said city and county of Milwaukee, within the time and in the manner as is now provided by law for appeals in criminal cases from justices of the peace of the county of Milwaukee. Said municipal court is empowered to hear, try and determine such appeals and all provisions of law relating to appeals in criminal cases from justices

courts, and the trial and determination thereof shall apply to appeals from said district court to the municipal court.

SECTION 19. On the first Monday of May, 1901, all actions, causes, pleadings, processes and proceedings, which may be pending in the police court of the city of Milwaukee in relation to any violations of the ordinances of said city, or the laws of this state, in cases of crimes and misdemeanors not indictable arising in said city and county, and in relation to the examination of persons charged with the commission of an offense in said county and not triable before a justice of the peace, shall on that day be transferred, returnable and continued to and become actions, proceedings and examinations in said district court as herein constituted, and such actions, proceedings and examinations shall, on and after that date, be deemed and treated as pending in said district court for all purposes, to the same extent and with the same effect as if said actions, proceedings and examinations had been originally commenced and had in said district court as herein constituted, but until said first Monday of May 1901, the jurisdiction and procedure of said police court of said city shall continue unaffected by this act.

Police court,
when to be
discontinued.

SECTION 20. When the district court of Milwaukee county shall be duly organized, and not otherwise as herein specified, the police court of the city of Milwaukee shall no longer exist, and all laws and parts thereof establishing the police court of said city of Milwaukee shall be deemed repealed and no longer in force and effect, provided, however, that all criminal actions pending and at issue before any justice of the peace of said county on the first Monday of May, 1901, shall be tried and determined by such justice.

Powers of po-
lice court,
when to be
repealed.

SECTION 21. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, such repeal taking effect on and after the first Monday of May 1901.

SECTION 22. This act shall take effect and be in force from and after its passage and publication.

Approved April 19, 1899.

No. 310, A.]

[Published April 21, 1899.

CHAPTER 219.

AN ACT to amend chapter 278, laws of 1895, entitled "an act to amend section 2 of chapter 112 laws of 1893, entitled 'an act to amend chapter 181, as amended by chapter 61 laws of 1891,' entitled 'an act to create a municipal court for Douglas county.'"

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

Jurisdiction
of court in
civil matters.

SECTION 1. Chapter 278 laws of 1895, is hereby amended so that when amended said chapter 278 shall read as follows: Section 2 of chapter 61, laws of 1889, entitled "an act to create a municipal court for Douglas county," is hereby amended so as to read as follows: Section 2. The municipal court of Douglas county shall have jurisdiction in civil matters over such subjects as justices of the peace have jurisdiction, and where the amount claimed, over and above all set-offs, does not exceed five hundred dollars; and shall have jurisdiction to hear, try and determine all criminal actions arising in said county not punishable by imprisonment in state's prison; and have jurisdiction to hold to bail all persons charged with other offenses against the laws of the state of Wisconsin, and exclusive jurisdiction of all penalties and offenses against the charter, ordinances and by-laws of the city of Superior, and shall have all the jurisdiction of

Jurisdiction
in criminal
cases.