

then passed over his veto by a vote of 88 ayes and 0 noes in the assembly, and 28 ayes and 0 noes in the senate. Said act therefore becomes a law without the governor's approval, as prescribed in the constitution.

March 28, 1891.

T. J. CUNNINGHAM,  
Secretary of State.

No. 804, A.]

[Published March 26, 1891.

## CHAPTER 69.

AN ACT to create a municipal court for the county of Polk.

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

Municipal  
court of Polk  
county

SECTION 1. There is hereby created and established in and for the county of Polk, a municipal court, to be known and designated as the Municipal court of Polk County, with the powers and jurisdiction hereinafter specified and provided.

Election of  
judges, when,  
and term of  
office.

SECTION 2. On the first Tuesday of April, A. D., 1891, there shall be elected in the county of Polk, a municipal judge, who shall hold his office for the term of two years from the first Monday in May following his election, and until his successor is elected and qualified; for the purposes of such election, the county clerk of said county shall make out a notice in writing, stating that on said first Tuesday in April a municipal judge for said county is to be elected, and shall cause the same to be delivered to each town and village clerk in said county at least four days before said election (the mailing of said notice to each of said town and village clerks, or to any or either of them eight days before said election shall be a sufficient delivery thereof to such clerks); immediately upon receipt of said notice, the said town and village clerks shall give notice to the town and village electors respec-

tively, by posting notices in three conspicuous places in the towns and villages aforesaid, stating the time and place at which such election is to be held and that a municipal judge for said county is to be elected. The said election shall be held and conducted in the same manner as the election of town officers; all votes given for such officer shall be put in a ballot box separate from that used for any other election on the same day. The provisions of sections 42, 43, 44, 46, 47, 48, 49 and 50, of the revised statutes and the acts amendatory thereof, shall be applicable to such election, except that no compensation shall be allowed the person for delivering the returns thereof to the county clerk. On the first Tuesday of April, A. D. 1893, and every four years thereafter, there shall be elected in the county of Polk, in the same manner as county judges are elected, a municipal judge, who shall hold his office for the term of four years from the first Monday of May following his election, and until his successor is elected and qualified, and in case of vacancy occurring in the office of municipal judge, the vacancy shall be filled by appointment by the governor, and the person so appointed to fill such vacancy shall continue in office for the residue of the term for which his predecessor was elected or appointed.

**SECTION 3.** No person shall be eligible to the office of judge of said municipal court, except an attorney of a court of record, and such judge shall hold no other county office during the term for which he is elected.

Judges must be attorneys of court of record.

**SECTION 4.** The said municipal judge before entering upon the duties of his office, shall take and subscribe the constitutional oath of office and file the same, duly certified, in the office of the clerk of the circuit court for said county, and execute to the said county a bond in the sum of one thousand dollars, with two or more sureties to be approved by the county treasurer of said county, and recorded and filed as provided in section 702 of the revised statutes, conditional for the faithful performance of the duties required of him by law and for the faithful application and payment of all moneys and effects that may come into his hands in the execution of the duties of his office.

Oath of office and bond.

Judge shall  
keep office,  
where.

SECTION 5. The judge of the said municipal court of Polk county shall hold his office at the county seat of said county in some suitable room to be provided by said judge; provided, that the same shall not be in any room adjoining or over any room where intoxicating liquors are sold; and provided, further, that the said judge shall not hold his office in that of any practicing attorney, unless such judge shall be the law partner of said attorney, in which case said law partner shall not be engaged as attorney or counsel in any manner, matter or proceeding before said court.

Jurisdiction.

SECTION 6. The judge of the municipal court of Polk county shall have cognizance of and jurisdiction to hear, try and determine all actions and proceedings at law, wherein the amount of the debt, damages, demand, penalty or forfeiture shall not exceed the sum of five hundred dollars, actions to recover the possession of personal property with damages, for the unlawful taking or detention thereof, wherein the value of the property therein claimed shall not exceed the sum of five hundred dollars, and all charges for offenses arising within said county and which are not punishable by commitment to the state prison, and shall have power to sentence and commit all persons convicted of any offense of which he has jurisdiction. Said judge shall also have power and jurisdiction throughout said county, to cause to come before him, persons who are charged with committing any criminal offense and commit them to jail or bind them as the case may require. Said judge shall further have all the jurisdiction, authority, powers and rights given by law to justices of the peace, and shall be subject to the same prohibitions and penalties as justices of the peace. Said judge shall also have, and may exercise in his county, all the powers, and perform all the duties of a court commissioner, as defined in section 2434, of the revised statutes, and every authority granted to, or limitation of the powers of a court commissioner by the laws of the state of Wisconsin, shall be construed to extend to the said municipal judge, acting in such capacity, except when otherwise expressly provided. The official designation of said office in matters wherein he shall so act, shall be, municipal judge

of Polk county. The proceedings and practice of said court shall in all respects be governed as far as practicable by the laws relating to justices' courts of this state, and transcripts of the judgments of this municipal court may be filed and docketed with the clerk of the circuit court for said county, with the same effect as may be transcripts of judgments rendered by justices of the peace of said county, and appeals, civil and criminal, from any judgment of said court, may be taken in the same manner and with like effect as is provided by law for appeals from courts of justices of the peace. Nothing herein contained shall be construed to give said municipal judge cognizance of any actions mentioned in subdivisions 1, 2 and 3 of section 3573, of the revised statutes.

**SECTION 7.** A judgment by confession may be entered before the judge of the municipal court of Polk county, in any sum not exceeding five hundred dollars, without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, if a statement in writing be made, signed by the defendant and verified by his oath to the following effect: First. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor by the municipal judge of said court. Second. If it be for money due or to become due, it must state concisely the fact out of which it arose, and must show that the sum confessed therefor is justly due or to become due. Third. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the fact constituting the liability, and must show that the sum confessed does not exceed the same.

**SECTION 8.** In case of a vacancy in the office of said municipal judge, or in his absence or inability to act, the nearest justice of the peace of said county, shall have all the powers and jurisdiction of the municipal judge of the municipal court for Polk county, and it shall be his duty to act in the same and discharge all the duties of said municipal judge, until such vacancy is filled, or such absence or inability to act by the said municipal judge is removed.

Judgment by confession.

During vacancy, justice of the peace nearest court room shall act.

When judge disqualified by interest, etc., nearest justice to be notified.

SECTION 9. Whenever it shall be made to appear by affidavit that the municipal judge is interested pecuniarily in the action, examination or other proceeding, or that said judge is a material witness, or is within the forbidden degree of consanguinity, the said municipal judge shall notify the nearest justice of the peace of the county of Polk, not disqualified to try said cause, or to hear said examination or other proceeding, as the case may be; whereupon it shall be the duty of said justice so notified as aforesaid, to forthwith appear at the court room of said municipal court, and to discharge the duties of judge of said municipal court, on the trial of said case, or the hearing of said examination or other proceeding, in the same manner and with like effect as said municipal judge would, if not disqualified to act; and the doings of said justice of the peace, while so presiding over said municipal court, shall have and be of the same force and effect as like proceedings of said municipal judge, and when said action, examination or other proceeding is concluded, a like record, as in other cases, shall be made in said court and thereupon and thereafter execution may be issued as in other cases tried before said municipal judge. Said justice of the peace, while presiding over said municipal court, shall receive the same fees as are allowed by law to said municipal judge for like service.

Causes may be removed to municipal judge.

SECTION 10. Whenever any action, examination or other proceeding shall be removed from any justice of the peace of said county of Polk, upon the oath of the defendant, his agent or attorney, according to the provisions of law for such removal, if such defendant, his agent or attorney requests, in writing to such justice, that the action, examination or other proceeding be removed to the municipal court of Polk county, then the action, examination or other proceeding, and all the papers therein, shall be transmitted to the presiding judge thereof, who shall proceed with the matter in the same manner as if originally instituted before him; provided, that no action of debt, demand or replevin, where the amount claimed or the value of the property is less than twenty-five dollars, shall be so removed.

**SECTION 11.** Trial by jury may be had in said court in the same manner and process as in justices' courts. Trial by jury.

**SECTION 12.** Sheriffs and constables of Polk county shall have the same power to serve and execute process of this court as of justices' courts, and shall be entitled to receive the same fees as in justices' courts. Sheriff and constables.

**SECTION 13.** The judge of said court shall keep a docket, and all docket entries and processes shall be made and kept in the same manner, as far as applicable to this court, as the same are required to be kept by justices of the peace under the laws of this state. Docket, how kept.

**SECTION 14.** The same fees in all actions, civil and criminal, that are now allowed by law to justices of the peace, it shall be lawful for said municipal judge to charge and collect, and one dollar in addition thereto for each and every action, proceeding or matter had or heard in his court. All fines imposed and collected by said judge for the punishment of any criminal offense under the laws of this state, shall be paid over to the treasurer of said county in like manner as is provided by law for justices of the peace. Fees.

**SECTION 15.** In all actions in the municipal court of Polk county, the plaintiff, if he shall obtain judgment, shall be entitled to recover attorney's fees as follows: In all judgments taken in actions wherein the defendant does not appear and answer or demur, when the amount of the judgment exceeds one hundred dollars, and is less than three hundred dollars, ten dollars; when the amount of the judgment is three hundred dollars or over, fifteen dollars. On all other judgments when the amount does not exceed one hundred dollars, ten per cent. of the amount of the judgment; when the amount of the judgment exceeds the sum of one hundred dollars, ten dollars on the first one hundred dollars, and five per cent. on the amount in excess of one hundred dollars; provided, that in no case shall the amount of attorney's fees exceed twenty dollars. When judgment shall be entered for the defendant, he shall be entitled to recover attorney's fees as follows: In all cases where the plaintiff shall claim in his complaint one hundred dollars or less, an assess- Attorney's fees.

ment equal to ten per cent. of such claim; in all cases where the plaintiff shall claim in his complaint a sum over one hundred dollars, ten dollars for the first one hundred dollars, and five per cent. on the amount in excess of one hundred dollars; provided, that in no case shall the amount of attorney's fees exceed the sum of twenty dollars. The provisions of this section shall apply to proceedings for the recovery of possession of personal property, and the value of the property, as found, if judgment be for the plaintiff, and as claimed, if judgment be for the defendant, shall be the basis for the taxation of attorney's fees, and in all other civil actions not herein provided for, an attorney's fee of ten dollars shall be allowed to the party in whose favor judgment is rendered; provided, however, that no attorney's fee shall be allowed in any case unless the party who recovers judgment shall appear by an attorney of a court of record.

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

Approved March 26, 1891.

No. 92, A.]

[Published March 27, 1891.

## CHAPTER 70.

AN ACT to amend section 1227 of the revised statutes of the state of Wisconsin for the year 1878, relating to guide boards.

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

Amends sec.  
1227, R. S. 1878.

Chairman shall  
cause guide  
boards to be  
erected.

SECTION 1. Section 1227, of the revised statutes of the state of Wisconsin for the year 1878, is hereby amended so as to read as follows: "Section 1227. The chairman of each town shall cause to be erected at the intersection within his town, of all main traveled roads, with other established roads, suitable guide boards, giving direction and distance from point of such intersection to adjoin-