

No. 259, S.]

[Published May 20, 1921.]

**CHAPTER 244.**

AN ACT to create a municipal court in the county of Fond du Lac, except the city and town of Ripon.

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

SECTION 1. There is hereby created and established in and for the county of Fond du Lac, state of Wisconsin, a court to be known and designated as the "Municipal Court of Fond du Lac County", which court, after the first day of May, A. D., 1921, shall have the powers and jurisdiction hereinafter specified and provided, and shall be presided over by a judge to be known as the "Municipal Judge."

SECTION 2. The municipal court of Fond du Lac county shall be a court of record, with a seal to be designed and procured by the judge thereof at the expense of the county.

SECTION 3. Said municipal court shall be held in the city of Fond du Lac, in some suitable room or rooms to be furnished and supplied at the expense of the county under the direction of the county board thereof, and may hold court in such other places in the county as the municipal judge may order.

SECTION 4. No person shall be eligible to the office of judge of the municipal court unless he be licensed to practice law in the state of Wisconsin and is a qualified elector of said county, and during his term of office he shall not practice his profession.

SECTION 5. On the first Tuesday in April, 1922, and every four years thereafter, there shall be elected in the county of Fond du Lac, in the same manner as county judges are elected, a judge of the municipal court, who shall hold his office for the term of four years thereafter, beginning on the first day of May next succeeding his election, and continuing until his successor is elected and qualified and shall be subject to removal from office in the manner provided by the constitution of this state for the removal of the judges of the circuit court. The nominations of candidates for municipal judge shall be made in the same manner as provided for county judges.

SECTION 6. The municipal judge, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office and file the same in the office of the clerk of the circuit court for Fond du Lac county, and shall execute to said

county a bond in the penal sum of two thousand dollars, with surety to be approved by the treasurer of said county and recorded and filed as provided in section 59.13 of the statutes; conditioned for the faithful performance of the duties required of him by law and the faithful and prompt application and payment of all moneys and effects which may come into his hands in the execution of the duties of his office.

SECTION 7. Whenever a vacancy shall happen in the office of municipal judge after the first day of May, A. D. 1921, the governor shall appoint a suitable person duly qualified to fill such vacancy, until a successor is elected and qualified, and the governor shall appoint the first incumbent as such municipal judge to hold office until his successor has been duly elected and qualified, as stated herein. Elections to fill vacancies for the residue of the term shall be held and notice thereof given in the same manner as for the election of a county judge.

SECTION 8. The municipal judge shall receive a salary, payable monthly out of the treasury of Fond du Lac county, said salary to be determined by the county board of supervisors for Fond du Lac county, and until the salary shall be determined by said county board it shall be three thousand dollars per year, and the same shall be in full compensation for all his services as such judicial officer.

SECTION 9. 1. In all civil actions in said court when no demand is made for a jury trial, the procedure shall be as provided for by the statutes for trials of civil actions in justice court. In all actions in which a jury is demanded, the party demanding said jury will deposit with the clerk of said court two dollars for the fee of each juror to be called for said trial, and the manner for the selection of the jury shall be as follows: The clerk of said municipal court shall, in the presence of the jury commissioners for the county of Fond du Lac at such times as said jury commissioners shall meet as prescribed by law for the selection of the circuit court petit jury, draw from the box containing the names deposited therein by said jury commissioners and after the petit jury for the circuit court has been drawn, one hundred names of those known to be residents of the county of Fond du Lac outside of the city and town of Ripon; and in addition he shall draw one hundred names of those known to be residents of the city of Fond du Lac, and as such names are drawn they shall be entered in a suitable record book to be kept by said clerk, making two lists

—one list of the names of those who are residents of the county of Fond du Lac outside of the city and town of Ripon, to be known as the “County at Large List,” and a second list of the names of those known to be residents of the city of Fond du Lac, to be known as the “City List,” said lists shall be kept by the clerk of said municipal court and shall be available at all times and shall be used until the selection of the new lists prepared as above. From said lists the clerk shall write the names thereon on separate slips of paper, each in the same manner as near as may be, and fold each slip so that the name shall not be visible and deposit said slips respectively in two boxes, one for the county at large list, and one for the city list. Unless the “County at Large List” is demanded by one of the parties, the clerk shall draw from the “City List” the names of twelve jurors and the parties to the action will then proceed to strike alternately, first by the plaintiff and then by the defendant until there remain but six names which six names will be reported to the judge by the clerk of said court, who will order their appearance before said court as prescribed for justice court procedure, and said men shall be summoned and sworn and duly examined by the attorneys to the action, and should it appear that any of them are partial or prejudiced within the meaning of the law, talesmen shall be substituted at the discretion of the judge, which talesmen shall be summoned as prescribed by the statutes or circuit court procedure, until a jury of six shall be selected and qualified to act in accordance with law. If, however, either party to said action demand a jury of twelve instead of six, the procedure shall be the same as above, except that there shall be drawn eighteen names instead of twelve and the parties will alternately strike until there remain but twelve names which shall be reported to the judge and the same procedure for obtaining a jury of twelve qualified to act shall be used as above prescribed for obtaining a jury of six qualified jurors; provided that the party demanding the jury of twelve men shall be required to deposit with the clerk, two dollars for each juror demanded.

2. The judge of the municipal court shall instruct the jury in accordance with the practice prescribed for circuit courts in the state of Wisconsin.

3. Any juror on either the “County at Large List” or the “City List” who shall remove from said county or from said city respectively shall have his name stricken from the lists and with-

drawn therefrom upon order of the court and the name of any juror on either list who shall be entitled to, and claim his exemption from jury service, shall likewise have his name stricken from such lists and withdrawn from the boxes, and whenever either of the several lists shall have been depleted by reason of removals, exemptions or otherwise, the court may in its discretion require the commissioners to certify additional names of persons eligible for jury service and the clerk shall forthwith enter such names on the proper list. Any person who has been a member of either of the jury lists herein provided for and has actually served as a juror in the trial of any action in said municipal court, shall not be eligible to have his name appear on either of said lists during the succeeding year, and during such period of ineligibility shall be disqualified for jury service except he be summoned as a talesman. All persons not having so served shall be eligible for jury service during such succeeding year.

4. Whenever a jury is demanded in any action pending in said court, or when it appears to the said municipal judge that it is necessary to adjourn any action pending in said court for a longer time than is prescribed by law for adjournment in justice court, such adjournment may be ordered by the court, and the docket shall show the reason therefore, which shall be final, and no loss of jurisdiction shall result therefrom.

SECTION 10. The judge of the municipal court shall appoint a clerk of said court who shall also act as phonographic reporter, and who shall be skilled in the art of shorthand reporting, and said judge shall remove said clerk at pleasure.

SECTION 11. The clerk shall receive an annual salary, payable monthly out of the county treasury on the first secular day of each month, which salary shall be in full compensation for all services rendered as such clerk and reporter, except for fees hereinafter specified. The amount of such salary shall be fixed by the county board of supervisors of Fond du Lac county, and until so fixed shall be twelve hundred dollars per year.

SECTION 12. The clerk shall be deemed an officer of the municipal court, and before entering upon his duties shall execute and file with the clerk of the circuit court, an oath of office as clerk and reporter of the municipal court and shall also execute and file a bond, with sureties approved by the county treasurer, in the sum of one thousand dollars, conditioned to faithfully perform the duties of said office as required by law. He shall be

furnished with all necessary stationery, and shall attend when requested by said judge and report the proceedings, trials and examinations had in said court, and perform such other duties as the court or judge thereof may require, and is hereby authorized and empowered to administer oaths, make and keep the records of said court, and to issue subpoenas and processes. Upon any appeal the reporter shall make a transcript of all testimony taken upon the trial of said action and shall duly certify same to be a correct transcript thereof.

SECTION 13. Such reporter shall upon the request of a party to any action, transcribe in longhand the evidence or other proceedings taken by him in such action, or any part thereof, as requested, and duly certify the same to be a correct transcript thereof, for which he shall be entitled to receive and collect from the party requesting the same the sum of five cents per folio for the original transcript and two and one-half cents per folio for copies. Such funds received by this reporter to be accounted for and turned over by him to the treasurer of the county of Fond du Lac, in addition to all other funds of every kind and nature whatsoever received by him in the course of his duties as such clerk, except fees received for copies of proceedings, transcripts and other official documents.

SECTION 14. In any trial of any criminal action or information or an appeal, or any bastardy case, the court may, in its discretion, order a transcript of the evidence or proceedings, or any part thereof, to be made and certified by the reporter and filed with the clerk of the municipal court.

SECTION 15. Except in criminal actions appealed to the circuit court and in criminal examinations and bastardy proceedings where the defendant has been bound over for trial, the stenographic notes of the reporter may be filed by the judge as the testimony in the case.

SECTION 16. In addition to the powers hereinafter vested in the municipal court, the municipal court is vested with all the powers and jurisdiction of a justice of the peace in said county in criminal actions, criminal and bastardy examinations and proceedings for contempt, except as may be hereinafter specifically denied. The municipal judge shall have full power to summon and compel the attendance of witnesses before him, and examine them on oath for the purpose of determining whether a warrant should be issued, and in case any witness so summoned shall

refuse to attend or answer pertinent questions relative to the subject of inquiry, he shall be subject to punishment for contempt.

SECTION 17. The municipal court shall have exclusive original jurisdiction to hear, try and determine all criminal actions and misdemeanors arising in the city of Fond du Lac, the punishment of which does not exceed six months' imprisonment in the county jail or a fine of one hundred dollars, or both said fine and imprisonment, and shall have concurrent jurisdiction with the justices of the peace and other magistrates throughout the county, except in the city of Fond du Lac. Said court shall also have jurisdiction in bastardy examinations and in proceedings for contempt. Costs in preliminary examinations and bastardy proceedings shall, in addition to all disbursements as herein defined for civil actions, include the sum of four dollars as court costs.

SECTION 18. Said judge and circuit court commissioners shall have exclusive jurisdiction to institute and conduct examinations in all criminal and bastardy cases arising within the city of Fond du Lac, and said judge shall have the power and jurisdiction to cause to come before him the persons so charged with committing bastardy or criminal offense, within such district and commit them to jail or bind them over for trial at the next term of the circuit court, as the case may require, and shall have power and jurisdiction concurrent with the justices of the peace or other magistrates throughout the county. This section shall not be construed as in any way limiting the jurisdiction of the circuit courts of the state of Wisconsin.

SECTION 19. Said court shall have exclusive original jurisdiction of prosecutions for the violation of the ordinances and charter provisions of the city of Fond du Lac. The court costs for each of said prosecutions shall be four dollars, which court costs shall be recorded and reported to the city of Fond du Lac on the first secular day of each month, and said city shall pay to the county treasurer of the county of Fond du Lac, the total of said court costs as soon thereafter as practicable, in accordance with law. Disbursements, including such court costs, incurred in any such prosecution shall be taxed against the losing party, and any fines or judgments in favor of said city resulting from said prosecutions, which shall be paid, shall be also reported and

turned over to said city at the same time as herein provided for the reporting of court costs.

SECTION 20. The municipal court shall have original jurisdiction to hear, try and determine all actions and special proceedings which may arise in said county, and be of the following classes:

(a) Civil actions and special proceedings at law where the value of the property in controversy or the amount of money claimed or sought to be recovered, after deducting all payments and set-offs, shall not exceed one thousand dollars.

(b) Forfeitures and actions for the breach of any recognizance given in said court.

(c) Actions of unlawful detainer.

(d) This court shall not have jurisdiction to try those actions denied to justice courts by section 3573 of the statutes.

SECTION 21. A change of venue in any civil action or proceeding pending before any justice of the peace of the county of Fond du Lac except the city of Ripon and the town of Ripon may be taken to the municipal court, provided either party to the action shall, on or before the return day, by himself or attorney, in writing demand that such action be removed to the municipal court, in which case the justice shall forthwith transmit the papers to the municipal court, whereupon the plaintiff shall pay to said municipal court the court costs prescribed in section 25 of this act, and a failure to pay said court costs shall be cause for a dismissal of said action with costs and disbursements thus far incurred to be taxed against said plaintiff, and on the payment of said court costs or by order of the court the action shall proceed in like manner as if originally commenced in the municipal court.

SECTION 22. 1. No action, examination or other proceeding shall be removed from said court, but whenever prior to joining issue in any action and before the commencement of any examination it shall appear by affidavit that from prejudice said judge will not decide impartially in the matter, or that he is interested pecuniarily in the action, examination or other proceeding, or is a material witness, or that he is within the forbidden degree of consanguinity, the said judge shall notify any circuit court commissioner in said county who is not disqualified, to forthwith appear in said court to try and hear said cause, and it shall be the duty of said court commissioner to forthwith appear in said

court and discharge the duties of said judge in the trial or hearing of said cause, in the same manner and with like effect as said judge would if not disqualified to act. The judge of said municipal court shall also have the power on his own motion, in any case in which he deems it advisable, to call one of said circuit court commissioners to try and hear any cause or matter pending in said court. Said court commissioner while presiding in said court shall receive such per diem as may be fixed by the county board of Fond du Lac county, and until so fixed shall be the sum of ten dollars per day.

2. Nothing herein contained shall be construed as abrogating the right to change of venue provided for by section 2621 of the statutes if application for said change be made on or before the return day and when such change of venue shall be made it shall be by the municipal court direct to the circuit court of the proper county for the trial of the action.

SECTION 23. All appeals from said municipal court shall be direct to the circuit court of Fond du Lac county, and shall be taken in the same manner as provided by law for the appeals from courts of justices of the peace. Such appeals shall be heard on the original papers and the return of the municipal judge, containing a full transcript of the evidence and all rulings of the court in said actions; and said circuit court shall have full power in all cases where it is deemed necessary for the furtherance of justice, to order a new trial in said circuit court, and shall have the same powers upon the hearing of said appeal as are granted in section 3769 of the statutes.

SECTION 24. Processes, proceedings and practices to be followed in both civil and criminal matters in said municipal court shall be as is provided by law for the courts of justices of the peace, except as otherwise herein provided and except that the jurisdiction and authority of all processes of said court shall be recognized and enforced throughout the state of Wisconsin.

SECTION 25. 1. In all civil actions and special proceedings, before process shall issue the plaintiff shall pay to the clerk of said court for court costs and clerk's fees the sum of three dollars, if said cause of action shall be for one hundred dollars or less, and shall pay four dollars if said cause of action shall exceed said sum of one hundred dollars; provided if no jurisdiction be obtained all of said court costs shall be returned to plaintiff except the sum of fifty cents. All court costs shall be taxed against

the losing party in addition to the disbursements hereinafter provided for, and said sum shall be paid to the county treasurer on the first secular day of each month. The fees of witnesses and interpreters shall be as provided by section 4067 of the statutes for courts of record, and the fees and mileage for jurors and talesmen shall be as provided for in section 3775 of the statutes, except that the per diem shall be two dollars.

2. The disbursements which may be taxed against and recovered from the adverse party and which shall be collected and paid over as part of the judgment, shall be limited to witness fees, interpreter fees, officers' fees and jury fees.

3. No taxable attorney's fees shall be allowed in any civil or criminal action in said court except as now provided by law in labor claims.

SECTION 26. The judge of the municipal court shall be a conservator of the peace and have the same power as judges of other courts of record to solemnize marriages, administer oaths, take acknowledgments of deeds and other written instruments throughout the state, and shall receive like fees therefor, which shall be delivered to the county treasurer.

SECTION 27. The sheriff of Fond du Lac county shall be an officer of the municipal court, and he or any of his deputies or any constable may serve and execute the civil and criminal process of said court, provided however, that the village marshals, their deputies and the police officers of any city of Fond du Lac county shall have authority to serve and execute the criminal process of said court within the limits of the village or city in which they are officers and shall have the authority and be required to serve and execute all processes issued out of said court wherein said village or city is a party plaintiff.

SECTION 28. The judgments, orders and decrees of the municipal court, or of the judge thereof, shall have the same force and effect and be enforced in the same manner as judgments, orders and decrees of the circuit court, and said court shall keep a docket of all said judgments, orders and decrees, which docket shall be available at all times in the office of the clerk of said municipal court. In order, however, that any judgment of said municipal court shall constitute a lien upon real property, a transcript of said judgment shall be docketed in the office of clerk of the circuit court as provided in section 2900 of the statutes, and when so docketed shall have the same force and effect as therein provided.

SECTION 29. 1. The judge of the municipal court shall keep or cause to be kept in a book provided for that purpose, a full and complete record and account of all fees and costs received by said judge or the clerk, in such manner that the records shall show the exact amount of money paid to said judge or clerk, by whom, at what time, in what amount, in which case and how and on what account such moneys are disbursed.

2. A certified statement showing all such facts in detail shall be made and filed with the county clerk at least ten days before the annual session of the county board.

SECTION 30. All necessary stationery, blanks, dockets and other record book required by the municipal court shall be furnished at the expense of the county.

SECTION 31. This act shall take effect upon passage and publication.

Approved May 13, 1921.

No. 171, A.]

[Published May 20, 1921.

## CHAPTER 245.

AN ACT to create section 59.96 of the statutes, relating to the county board.

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

SECTION 1. A new section is added to the statutes to read:  
59.96 (1) Any county in this state may reorganize under section 59.96 by proceeding as provided in said section.

(2) Upon petition therefor by electors equal in number to ten per cent of the votes cast by all parties in the county for governor at the last preceding election at which a governor was elected, and filed in the office of the county clerk at least forty days prior to the first Tuesday in April in any year, the county clerk shall call a special election to be held on the first Tuesday in April following receipt of said petition, for the purpose of submitting to the electors the question of reorganizing said county under section 59.96 of the statutes. Said petition shall be signed by qualified electors in at least five towns, cities or villages of said county.

(3) The county clerk shall cause notice of such special election to be published for three successive weeks immediately preceding such election in one or more newspapers published in the