

hundred dollars or less, an assessment 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 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 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 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 30, 1887.

[No. 471, A.]

[Published March 31, 1887.]

## CHAPTER 168.

AN ACT to create a third municipal court for Barron county.

*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 Barron, a municipal court, to be known and designated as the third municipal court of Barron county, with the powers and jurisdiction hereafter specified and provided.

Creating third municipal court for Barron county.

SECTION 2. On the first Tuesday of April, A. D. 1887, and every four years thereafter, there shall be elected in the county of Barron, in the same

Election of judge.

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.

Who eligible.

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.

Judge to take oath of office.

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, conditioned 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.

Hold office in city of Cumberland.

SECTION 5. The judge of the third municipal court of Barron county shall hold his office within the limits of the city of Cumberland, in 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 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 matter or proceeding before said court.

Jurisdiction of court.

SECTION 6. The judge of the third municipal court of Barron 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 have power and jurisdiction to try, hear and determine all actions for any penalty or forfeiture for the violation of any ordinance, by-law, resolution or regulation of the town of Cumberland, or of the city of Cumberland. 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 justice 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 officer, in matters wherein he shall so act, shall be, "Third Municipal Judge of Barron 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.

Judgment by confession may be entered, limitations of amount, etc.

SECTION 7. A judgment by confession may be entered before the judge of the third municipal court of Barron 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.

When justice of peace to exercise powers of judge.

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 third municipal court for Barron 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.

Removal of causes from.

SECTION 9. Any action, examination, or other proceeding may be removed from said court to any other municipal court for the county of Barron, but not elsewhere, in the same manner as is provided by law for removals of actions from justices of the peace, and 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 Barron, 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.

**SECTION 10.** Whenever any action, examination or other proceeding shall be removed from any justice of the peace of said county of Barron, 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 third municipal court of Barron 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.

Proceedings on removal from justice of peace to.

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

Jury trials.

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

Officers fees.

**SECTION 13.** The judge of said court shall keep a docket, and all docket entries and process shall be made and kept in the same manner, as far as applicable to this court, as the same are required

Keep docket.

to be kept by justices of the peace, under the law of this state.

Fees of judge.

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.

Attorney's fees.

SECTION 15. In all actions in the third municipal court of Barron 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 where 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 fees as follows: In all cases where the plaintiff shall claim in his complaint one hundred dollars or less, an assessment 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 claimed 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 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 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 30, 1887.

[No. 299, A.]

[Published April 21, 1887.]

## CHAPTER 169.

AN ACT to provide for the drainage and reclamation of certain lands in Racine and Waukesha counties.

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

SECTION 1. Whenever fifteen or more owners of wet or overflowed lands, lying adjacent to any one or more of the lakes named herein, shall be of the opinion that such lands will be benefited by the system of drainage, and subject to the assessment hereinafter provided, and who shall be of the opinion, that the public health and welfare will be promoted thereby, shall desire to institute proceedings, for the drainage and reclamation of lands in any such part of either of said counties, either by constructing, extending, opening, enlarging, widening, straightening or deepening water-courses, or removing natural or artificial obstructions therefrom, or by permanently lowering the ordinary level of the water in any or all of the lakes in said counties known as Wind, Muskego, and Eagle lakes, they may apply to the circuit court, for the county in which said work is to be done, or to the presiding judge thereof, by petition for the institution of such proceedings, and for the appointment of five commissioners to be known as drainage commissioners. Such petition

Providing for drainage of lands in Racine and Waukesha counties