

money not to exceed ten thousand dollars for the erection and construction of a suitable monument or memorial building to the memory of the deceased soldiers; provided, no appropriation for said purpose shall be made unless the question whether a tax for the same may be levied and collected is submitted to and agreed to by the voters of the county, in the same manner as is provided for towns, cities and villages in section 937, of chapter 41, of the revised statutes.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1895.

No. 78, A.]

[Published April 20, 1895.

## CHAPTER 231.

AN ACT to revise and amend chapter 239, of the laws of 1887, chapter 71, of the laws of 1891, and chapter 65, of the laws of 1893, entitled, "An act to create a municipal court for the county of Lincoln," and acts amendatory thereof.

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

SECTION 1. Chapter 239, of the laws of 1887, chapter 71, of the laws of 1891, and chapter 65, of the laws of 1893, entitled, "An act to create a municipal court for the county of Lincoln" and acts amendatory thereof, are hereby revised and amended by substituting in lieu thereof the following provisions.

Lincoln county  
municipal  
court bill  
amended.

SECTION 2. There is hereby created and established in and for the county of Lincoln a municipal court with powers and jurisdiction here-

Municipal  
court estab-  
lished.

inafter specified and provided, and the judge thereof shall be known and styled "municipal judge."

**Date of first election and term of office.**

SECTION 3. On the first Tuesday of April, 1887, and every four years thereafter, there shall be elected in the county of Lincoln, in the same manner as county judges are elected, one municipal judge, who shall hold his office for the term of four years from the first Monday in May next 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.

**Attorney of a court of record only eligible to office.**

SECTION 4. No person shall be eligible to the office of municipal judge except an attorney of a court of record.

**Must take the constitutional oath.**

SECTION 5. The municipal judge before entering upon the duties of his said 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 of said Lincoln county, and execute a bond to said county in the penal sum of three thousand dollars, with two or more sureties to be approved by the county clerk of said county, and to be 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.

**Must hold his office at the county seat.**

SECTION 6. The municipal judge of Lincoln county shall hold his office at the county seat of said county, in some suitable room in the city of Merrill, in said county, provided by the board of supervisors of said county.

**Jurisdiction, powers and duties of the court defined.**

SECTION 7. The municipal court of the county of Lincoln, and the municipal judge thereof, shall have cognizance of, and jurisdiction to hear, try and determine all actions and

proceedings at law, except actions wherein the title to real property shall come in question, wherein the amount of debt, damages, demand, penalty or forfeiture shall not exceed the sum of five hundred dollars, actions founded on an account when the same shall be reduced to an amount not exceeding five hundred dollars by credits given, or by the set-off or demand of the opposite party, actions to recover the possession of personal property, with damages for the unlawful taking or detention thereof, wherein the value of the property 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 state's prison, offenses against the city charter, ordinances, by-laws, rules and regulations of the city of Merrill, said county, 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 throughout the county, to cause to have come before him persons who are charged with having committed any criminal offense, and commit them to jail or bind them over 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, together with the power and right in his discretion to charge the jury upon written charges submitted by the parties, and said judge shall be subjected to the same prohibitions and penalties as justices of the peace. The proceedings and practice in said court shall, in all respects, be governed as far as practicable, by the law relating to justices' courts of this state, and transcripts of judgments of the municipal court may be filed and docketed with the clerk of the circuit court of said county, with the same effect as may be transcripts of judgments rendered by justices of the peace of said county, and appeals from said court, in all cases, may be taken in the same manner and with like effect as are provided by law from justices' courts.

Limit of judgment to be stated.

**SECTION 8.** A judgment by confession may be entered by the judge of said court in any sum not exceeding one thousand 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 be made in writing, signed by the defendant, and verified by his oath to the following effect:

Amount of judgment by confession.

1. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor by the judge of said court.

If for money due or to become due to so state.

2. If it be for money due, or to become due, it must state concisely the fact out of which the indebtedness arose and must show that the amount confessed therefor is justly due or to become due.

If to secure plaintiff against contingent liability to so state.

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituting the contingent liability, and must show that the sum confessed does not exceed the same.

County judge to sit in case of absence of municipal judge.

**SECTION 9.** In case of the absence, sickness or disability of the municipal judge, he may by a written order, to be copied in his docket, appoint the county judge of Lincoln county to discharge the duties of municipal judge during such absence, sickness or disability, and the county judge so appointed, shall have and exercise all the duties, powers and jurisdiction of the municipal judge, as conferred by this act, while administering said office, and shall receive the same compensation, to be paid in like manner.

Removals, where to be made.

**SECTION 10.** No action or examination shall be removed from the municipal court of Lincoln county to any justice court of Lincoln county; but removals may be had from the municipal court to the county court of Lincoln county, upon like proceedings had as are now required by law in removal of causes in justices' courts, and upon payment to said municipal judge, in addition to the amount prescribed by law, his taxable fees to the time of removal; and if the defendant recover judgment in the action, he

shall be allowed to tax the amount paid to the municipal judge, as disbursements.

SECTION 11. Whenever any action, examination or proceeding shall be removed from any justice of the peace in the county of Lincoln, 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 proceeding and all the papers therein be transmitted to the municipal court of Lincoln county, such justice of the peace shall forthwith transmit such action, examination or proceeding and all the papers therein, together with a copy of his docket, to the municipal court, and said court shall, upon receipt thereof, proceed with such action, examination or proceeding in the same manner as if originally instituted in the municipal court; provided, that no action, examination or proceeding shall be removed to the municipal court from any justice court in the city of Tomahawk, in said county, without the consent of the plaintiff.

Transmission of cases from justices' to the municipal court.

SECTION 12. Jury trials may be had in the same manner and process as in justices' courts; provided, that the fees of jurors in municipal court shall be one dollar per day and four cents per mile travel in coming to and returning from said trial.

Jury trials the same as in justices' courts.

SECTION 13. Sheriffs and constables of Lincoln county shall have the same power to serve and execute process as of justices' courts, and shall be entitled to the same fees, and shall be subject to the same liabilities and penalties as in justices' courts.

Officers of the peace of said court.

SECTION 14. The municipal judge shall keep one docket for criminal trials, examinations and proceedings, one docket for civil actions and a separate docket for the trial of offenses against the city charter and ordinances of the city of Merrill, in said county. In all civil actions, and in all criminal trials, examinations and proceedings in said court under this act, the docket entries and process shall be made, kept and filed

Two dockets to be kept, what each shall contain.

in the same manner, as far as applicable to the county court, as the same are required to be kept by justices of the peace under the laws of this state; in the trial of offenses against the city charter, ordinances, by-laws, rules and regulations of the city of Merrill, in said county, the forms to be used, and the docket entries, process and proceedings, as far as the same shall be applicable to the municipal court, shall be substantially the same as required by chapter 6 of the city charter, and by the ordinances of the city of Merrill; provided, that in all civil actions, said judge may sign in blank, summons and other process and deliver the same to attorneys of courts of record throughout the county, to be issued by them as occasion may require, and upon the filing of said summons or other process at any time before the day on which the same is made returnable, said judge shall forthwith docket said case, which docket entries shall have the same force and effect as if made at the time of issuing such summons or other process; provided, further, that no summons or other process issued by an attorney at law under the provisions of this act shall be valid unless said attorney shall endorse thereon his name, or the name of the firm of which he is a member, which endorsement shall be substantially in the following form: "Issued by A. D., attorney-at-law;" provided, further, that all process, except subpoenas, shall be made returnable at nine o'clock a. m., of the return day, and when any action, examination or proceeding in the municipal court shall be adjourned or continued to a day certain, it shall be set for trial at nine o'clock a. m., of the day to which the same has been adjourned or continued, unless otherwise agreed to by the parties; and at the hour above specified, the parties shall proceed to the trial of the case without delay, unless the same shall be adjourned or continued by the court, for cause shown, and upon such terms as may be just and equitable.

Fees of municipal judge.

SECTION 15. In all actions, examinations or proceedings in the municipal court, under this

act, the municipal judge shall have and receive the same fees as are now allowed by law to justices of the peace for like services, and the sum of one dollar in addition thereto for every criminal action, examination or proceeding in the municipal court; provided, that where a phonographic reporter shall be called to take testimony in any action, examination or proceeding in the municipal court, the municipal judge shall be allowed the sum of six dollars per day for each day's actual attendance, and three dollars for each half day's attendance on such action, examination or proceeding, which sum shall be taxed as costs in the case, and paid in like manner as provided by this act for the payment of the phonographic reporter.

Pay of phonographic reporter.

SECTION 16. In all actions in the municipal court, under this act, an attorney's fee shall be allowed to the plaintiff, if he recover judgment, as follows: If the judgment does not exceed twenty-five dollars, the sum of two dollars and fifty cents; if the judgment exceeds twenty-five dollars and does not exceed one hundred dollars, a sum equal to ten per cent. of the judgment; if the judgment exceeds one hundred dollars and does not exceed two hundred dollars, ten dollars on the first hundred dollars and five per cent. on the balance of the judgment; if the judgment exceeds two hundred dollars, fifteen dollars on the first two hundred dollars and two and one-half per cent. on the balance of the judgment. In case judgment shall be for the defendant, he shall receive the same attorney's fee, and the amount claimed by the plaintiff shall be the basis for computing the same. In actions of replevin, the value of the property as proved shall govern the amount of attorney's fee in case judgment is for the plaintiff, and the value of the property as claimed shall govern the amount of attorney's fee in case judgment is for the defendant. In any case not herein provided for, a reasonable attorney's fee may be allowed in the discretion of the court; provided, that no attorney's fee shall exceed the sum of twenty-five dollars; and

When attorney's fees shall be allowed.

provided further, that no attorney's fee shall be allowed unless the prevailing party shall appear in the action by an attorney of a court of record.

May call in a phonographic reporter.

SECTION 17. It shall be lawful for the municipal judge to call in a phonographic reporter, skilled in the art of shorthand reporting, to take testimony in any action, examination or proceeding in the municipal court, and the reporter's notes, so taken, may be filed in lieu of the minutes of testimony required by law to be taken by justices of the peace in like proceedings; provided, that in case of appeal in civil actions, said reporter, when requested by the appellant, shall file a transcribed copy of his notes, verified by his oath, which shall be returned as the testimony in the case; and the fees for transcribing said testimony, not exceeding five cents per folio, shall be taxed as part of the judge's fees in the case. Said reporter shall receive such compensation for taking testimony as shall be fixed by the municipal judge, not exceeding three dollars per day for each day's actual attendance, and two dollars for each half day's attendance on said court, which amount shall be taxed as costs in the case. In all cases wherein the county shall become liable for the costs, said fees and per diem shall be certified, audited and paid out of the county treasury monthly, upon filing with the county treasurer the certificate of the municipal judge showing the title of the case and the amount due said phonographic reporter for services therein. The sum per diem paid to the municipal judge, and to the phonographic reporter shall be in lieu of the fees allowed by law to justices of the peace for taking testimony therein. Section 2439 of the revised statutes shall apply to said reporter and said court.

Stationery and blanks to be furnished by county of Lincoln and city of Merrill.

SECTION 18. All needful stationery and blanks required by said court in the trial of civil and criminal cases, and the dockets required by law in such cases, shall be furnished at the expense of Lincoln county; the docket, stationery and blanks required by said court

in the trial of offenders against the city charter and ordinances of the city of Merrill, said county, shall be furnished at the expense of said city.

SECTION 19. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1895.

No. 700, A.]

[Published April 17, 1895.

## CHAPTER 232.

AN ACT to appropriate money to certain persons therein named for expenses incurred as representatives of the legislature of the state of Wisconsin in attending a convention held in St. Paul, Minnesota, to consider means for the extermination of the Russian thistle.

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

SECTION 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for expenses incurred by Charles T. Fisher and Frank L. Fraser, as representatives of the legislature of the state of Wisconsin in attending the convention held in St. Paul, Minnesota, to consider means for the extermination of the Russian thistle, the sum of twenty-five dollars each.

\$50 appropriated for legislative representatives to Russian thistle convention.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1895.