

[No. 252, A.]

[Published May 2, 1887.]

CHAPTER 310.

AN ACT to amend chapter 127, laws 1874, and acts amendatory thereof, and to repeal parts of same. (Menasha charter.)

(See Vol. 2.)

[No. 454, A.]

[Published April 23, 1887.]

CHAPTER 311.

AN ACT relating to sidewalks and sewers in the city of Green Bay and to amend chapter 169, of the laws of 1882, entitled, "an act to consolidate and amend an act to incorporate the city of Green Bay and the several acts amendatory thereof, and to repeal chapter 297, of the laws of 1885."

(See Vol. 2.)

[No. 123, A.]

[Published April 27, 1887.]

CHAPTER 312.

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

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

Creating municipal court for Oneida county.

SECTION 1. There is hereby created and established, in and for the county of Oneida, a municipal court, with the powers and jurisdiction hereinafter specified and provided.

Election of judge.

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

elected in the county of Oneida, 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 of 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 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. Who eligible.

SECTION 4. The municipal judge before entering upon the duties of 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 for said county, and execute to the said county a bond in the sum of three 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. Judge to take oath, etc.

SECTION 5. The judge of the municipal court of Oneida county, shall hold his office at the county seat of said county in the court room of the court house, or in some other suitable room thereat, to be provided by the board of supervisors of said county. Judge to hold office at county seat.

SECTION 6. The municipal judge of the county of Oneida shall have cognizance of, and jurisdiction to hear, try and determine, all actions and proceedings at law, wherein the amount of 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 claimed, shall not exceed the sum of five hun- Jurisdiction.

dred 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 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. 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 the 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 said court, may be taken in the same manner and with like effect, as are provided by law 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 chapter 154, of the revised statutes.

Judge may exercise powers of court commissioner.

SECTION 7. The municipal judge of Oneida county shall 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 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 municipal judge of Oneida county.

When nearest justice to act.

SECTION 8. A judgment by confession may be entered before the judge of the municipal court for the county of Oneida, in any sum not exceeding five hundred dollars, without action, either for money due or to come due, or to secure any person against contingent liability on behalf of the de-

fendant, 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 money due, or to come 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 9. The nearest justice of the peace of said county, in case of a vacancy in the office of municipal judge of said county, or in his absence, or inability to act, shall have all the powers and jurisdiction of the municipal judge, 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 municipal judge is removed.

When justice of the peace to have jurisdiction of municipal judge.

SECTION 10. No action, examination or other proceeding shall be removed from said court, but whenever it shall 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 municipal judge shall notify the nearest justice of the peace in the county of Oneida, not disqualified to try said case, 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 like cases, shall be made in said court, and thereafter

Removal of actions, etc.

and thereupon 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.

Removal from justices to municipal court.

SECTION 11. Whenever any action, examination or other proceeding shall be removed from any justice of the peace of said county of Oneida upon the oath of said defendant, his agent, or attorney according to the provisions of law for such removal, if said defendant, his agent or attorney requests in writing to such justice, that the action, examination or other proceeding, be removed to the said municipal court, then the action, examination or other proceeding and all papers therein shall be transmitted to the presiding judge thereof, who shall proceed with the action, examination or other proceeding in the same manner as if originally instituted before him.

Trial by jury.

SECTION 12. Trial by jury may be had in said court in the same manner and process as in justices' courts.

Powers of sheriffs and constables.

SECTION 13. Sheriffs and constables of Oneida 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.

Judge to keep docket.

SECTION 14. The judge of said court shall keep one docket for criminal trials and proceedings, and a separate docket for civil actions, 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 to be kept by justices of the peace under the laws of this state.

Fees of judge.

SECTION 15. 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 every civil action or proceeding in his court. For his services in conducting criminal trials and examinations of offenders, he shall receive a salary of four hundred dollars per year for the first term of said judge, payable quarterly at the end of each quarter, out of the treasury of said county, and thereafter a salary of not less than three hundred dollars per year, payable in like manner, to be fixed by the board of

supervisors of said county, as provided in section 694, of the revised statutes. He shall pay over to the treasurer of said county all fines paid him imposed under the laws of this state.

SECTION 16. In all actions in the municipal court for the county of Oneida, the plaintiff, if he shall obtain judgment, shall be entitled to recover attorney fees as follows: On 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 upwards, fifteen dollars. On all other judgments, when the amount does not exceed one hundred dollars, an amount equal to 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 of the judgment in excess of one hundred dollars; provided, that in no case shall the amount of the attorney fees exceed the sum of twenty dollars. And in case judgment shall be 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 the 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 fee of ten dollars shall be allowed to the party in whose favor the judgment is rendered; provided, however, that no attorney fee shall be allowed unless the party who recovers judgment shall appear by an attorney of a court of record.

Attorney's fees.

LAWS OF WISCONSIN—CH. 313.

SECTION 17. All needful stationery and all blanks acquired by said court in criminal actions and examinations, and the judge's dockets, required by law, shall be furnished at the expense of Oneida county.

SECTION 18. This act shall take effect and be in force from and after its passage and publication. Approved April 2, 1887.

[No. 218, A.]

[Published April 29, 1887.]

CHAPTER 313.

AN ACT relating to the destruction of noxious weeds.

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

Noxious weeds to be destroyed.

SECTION 1. Every person and corporation shall destroy upon all lands which he or they shall own, occupy or control, all weeds known as Canada thistles (*circium arveuse*), burdock (*lappa officinalis*), teasel (*dipsacus sylvestris*), white or ox eye daisy (*leucanthemum vulgare*), snap-dragon or toad flax (*linaria vulgaris*), cockle burr (*xanthium strumarium*), sow thistle (*souchus arveusis*), at such time and in such manner as shall effectually prevent them bearing seed. In like manner shall he or they also destroy any of the above mentioned weeds standing or growing as far as the center of the public highway, lanes or alleys adjoining the lands owned or controlled by him or them.

Penalty for failure.

SECTION 2. If the occupant of any such lands shall fail to so destroy such weeds as so required, after having six days' notice in writing by the commissioner of Canada thistles, such occupant shall be fined five dollars for the first offense and ten dollars for each offense thereafter.

Railroad companies, service of notice upon.

SECTION 3. Whenever it shall become necessary to serve notice as provided in section 2, of this act, upon any railroad or other corporation owning or controlling any lands in any town, such notice, if served upon any agent of such corporation resid