

provided and furnished with a suitable slide or chute for the passage of rafts, logs, lumber, railroad ties and hoop poles, which shall be twelve feet in width, constructed of hewn or sawed timber and planks, made tight and sunk at the upper end, together with that part of the dam beneath it, and such slide or chute shall be properly constructed and maintained by the owner or persons in possession of such dam or dams, and be in readiness at all times to permit the passage of rafts, logs, lumber, railroad ties and hoop poles, at a cost of one dollar per thousand for railroad ties.

Nuisance.

SECTION 4. Every such dam not furnished with slide or chute as provided in the preceding sections, is declared a nuisance and may be abated by the circuit court, at the suit of any persons aggrieved thereby.

Damage.

SECTION 5. Any person damaged by reason of the construction or maintenance of a dam in and across said creek without furnishing and maintaining a proper and suitable slide or chute, as provided in this act, may bring and maintain an action, in the circuit court, against the owner or person in possession of the same, and any judgment recovered for any such damages, shall be a lien upon the real estate upon which such dam may be maintained, and such real estate may be sold on execution as provided for sale of real estate on execution.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1881.

[No. 316, A.]

[Published March 28, 1881.]

## CHAPTER 197.

AN ACT to re-establish a municipal court in Rock county.

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

Municipal  
court.

SECTION 1. A municipal court for the city of Janesville and county of Rock, is hereby established under the name of the municipal court for Rock county. The same shall be a court of record, have a clerk, and a seal with a suitable device to be procured under the directions of the judge thereof at the expense of the city of Janesville. Said court may exercise powers and jurisdiction equal and concurrent with the circuit court of Rock county in all cases of crimes and misdemeanors arising in said county, except murder. Such

jurisdiction includes the right to try and determine all appeals in civil or criminal cases from justices of the peace or police justices of said county. No justice of the peace, police justice or court commissioners, within said city of Janesville, shall exercise any jurisdiction in criminal or bastardy cases, but all such jurisdiction is vested in the judge of said court; and all examinations, recognizances and commitments from said judge, justices of the peace and police justices of said county, in criminal cases (except murder) and in bastardy cases, shall be certified and returned to said municipal court instead of said circuit court, at least five days before the time fixed for the appearance of the accused; and the accused shall, and all witnesses required to attend may, be committed to be brought or recognized to appear before said municipal court, on a day certain, not more than thirty days from the date of such commitment or recognizance. Said court shall have jurisdiction to try or determine all appeals in civil and criminal cases from justices of the peace and police justices in said county and in all cases removed from said justices' or police courts on account of the title of lands coming in question, and all such cases shall be certified and returned to said municipal court instead of the circuit court of said county, within ten days after the perfection of the appeal, in appealed cases, or the joining of issue, in other cases. Civil cases appealed or certified to said court shall stand for trial at the next regular term of said court after the filing of the papers in such cases in said court without notice, when such terms shall be held as hereinafter provided, and when such terms are not held, either party may bring any such case to trial at any time after the filing of the papers in such case, by thereafter giving the opposite party ten days' notice in writing of the day on which said case will be moved for trial; and when said notice shall be given by a party, the opposite party may move such case on the day named, without having given a notice; such notice may be served on a party or his attorney, if an attorney of record shall have appeared in a justice's court, or in said municipal court in such cases, in the same manner as now provided by law for serving notices of trial in circuit courts. When any such case is continued for any cause, it shall be to the next term of said court, when terms are held, and when not, to a time to be fixed by said court, and when any such case has been continued, it need not again be

Powers and jurisdiction.

Civil cases.

**Duty of clerk  
of circuit court.**

noticed for trial. The clerk of the circuit court shall, upon the production to him of a duly certified transcript of a judgment for more than ten dollars, exclusive of costs, rendered by said municipal court or the judge thereof, forthwith file the same, and docket such judgment in the docket of said circuit court, in the manner prescribed in the revised statutes of this state of 1878, for docketing judgments of justices of the peace, and such judgments, so docketed, shall be in all respects the same as judgments originally rendered in said circuit court. The judgments of said municipal court, in criminal cases tried upon information, bastardy cases, and in all cases not originally commenced in said court, may be reviewed by the supreme court, in the same manner as like judgments of the circuit court may be, and all judgments originally rendered by said court, or the judge thereof, in criminal cases of which justices of the peace have jurisdiction, and in all other cases originally commenced in said court, except on information, may be appealed to and tried by the circuit court for said Rock county, in the same manner as like judgments rendered by justices of the peace.

**Judgment may  
be renewed.**

**Laws relating  
to circuit courts  
to apply.**

SECTION 2. The general provisions of law which shall at any time be in force relative to circuit courts, and actions and proceedings therein, shall relate also to said municipal court, unless inapplicable, and the rules of practice prescribed by the justices of the supreme court for circuit courts shall be in force in said municipal court, and its rules of practice and proceedings shall conform as nearly as practicable to the rules and practice of circuit courts, but in case of a change in the place of trial of any cause not originally commenced in said court, or of any criminal case begun by information, or of any bastardy case certified to said court, said case shall be removed to the circuit court for Rock county, unless such change is taken on the ground of prejudice of the people of said county, in which case the place of trial shall be changed to the circuit court of an adjoining county within this state. Said court shall have power and authority to issue all process necessary to carry into effect its jurisdiction; which process shall in substance be the same, when applicable, as used in circuit courts, or shall be as directed by the judge thereof. Process issued by said court, its judge, or clerk, in criminal cases, or in civil cases not originally commenced in said court, may be executed in any part of the state by the officer to whom it is addressed.

All informations for criminal offenses, except murder, committed in said county of Rock, shall be filed in said municipal court, by the district attorney of said county, at the next term at which the same may be triable, if terms are held as hereinafter provided, and if not, before the day fixed for the trial thereof. The sheriff of Rock county and his deputies shall be officers of said court, and may execute all process, sentences and judgments thereof.

SECTION 3. The municipal judge of said court, in addition to the powers vested in the municipal court as aforesaid, is vested with all the powers and jurisdiction of a justice of the peace in said county, in criminal actions and proceedings, and jurisdiction of all prosecutions for the breach of any ordinance or by-law of the city of Janesville; and, also, with all the powers and jurisdiction of justices of the peace in said county in civil actions and proceedings; and, also, power to hear and determine any such case, although the title to land may come in question therein, and said municipal court, and the judge thereof, shall have power and jurisdiction, concurrent with the circuit court of Rock county, of all classes of actions and proceedings now cognizable by or before justices of the peace in said county, where the value of the property in controversy, or the amount of money claimed or sought to be recovered, after deducting all claims and setoffs, shall not exceed five hundred dollars, and to exercise such jurisdiction, shall hold the municipal court as courts are held by justices of the peace. The general provisions of law, relative to civil and criminal actions before justices of the peace, shall apply to said municipal court so far as applicable, and shall so apply when the value of the property in controversy, or the amount of money or damages claimed or sought to be recovered, exceeds two hundred dollars, except that no change of venue shall be taken from said court in any criminal or bastardy examination, or criminal trial, except cases tried on information as hereinbefore provided; and when, in civil cases, a change of venue shall be taken to a justice of the peace, such justice shall have full power and jurisdiction to hear, try and determine the same, in the same manner as said municipal judge or court might have done if no change of venue had been taken, although the value of the property in controversy, or amount of money or damages claimed or sought to be recovered, shall exceed two hundred dollars, or the title to land shall come in ques-

Court.  
vested with  
powers of jus-  
tice of the  
peace.

Change of  
venue.

Appeals.

tion. Appeals in cases removed from the municipal court shall be taken to the circuit court of Rock county, instead of to said municipal court. Whenever in any case commenced in any of the justice or police courts of said county, a plea of title to land shall be interposed in such a manner as to entitle the defendant to have such case removed, the same shall be certified to said municipal court instead of the circuit court, in same manner as such cases are now required to be certified to the circuit court, and said municipal court shall have full power and authority to hear, try and determine the same in the same manner as cases brought to said court on appeal. The city marshal of the city of Janesville, constables of said county, and other officers having the same power and authority as constables of said county, shall be officers of said court, with the same powers and duties as now conferred upon them by the laws of this state in reference to justice or police courts, in cases where said court, or the judge thereof, exercises original jurisdiction in civil actions, and in all criminal cases and examinations, including examinations in bastardy cases, except appeal cases and cases when informations have been filed; and such officers shall receive the same fees for such services as they would by law be entitled to receive, for like services in justice's court. Appeals from judgment rendered in said court in civil and criminal actions originally commenced in said court, except cases commenced by information and bastardy cases, may be taken to the circuit court in the same manner as appeals from justices of the peace and police justices in similar actions. The judge of said court shall open court each morning, Sundays and legal holidays excepted, and hear and dispose of, in a summary way, all cases for the violation of the by-laws and ordinances of said city as shall be brought before him by police officers or otherwise, either with or without process. Proceedings in such cases shall be in the forms heretofore used in the police court of said city, except as modified by said judge, and the city attorney shall be the prosecuting officer in all such cases. All provisions in the charter and ordinances of the city of Janesville relating to the police court or to criminal prosecutions, shall be held applicable to said municipal court. The judge of said court shall have the same power to solemnize marriages, take acknowledgements and depositions, and to administer oaths, as a justice of the peace, and shall receive the same fees therefor. The judge of said court may, in

Officers of said court.

Appeals to circuit court.

Session of court.

Powers of judge

his discretion, summon witnesses before him and examine them on oath, for the purpose of determining whether a warrant ought to issue, and witnesses so summoned shall be compelled to attend before him and answer all pertinent questions relative to the subject of inquiry, and shall be subject to punishment for contempt for refusal to attend or answer.

SECTION 4. The qualified voters of the county of Rock shall on the first Tuesday of April, 1881, and on the same day of the same month each six years thereafter, elect a suitable person to the office of judge of said municipal court, to be called municipal judge, who shall hold his office for the term of six years from the last Monday in June next succeeding his election, and until his successor is elected and qualified, and who may be removed from office in the manner provided in the constitution for the removal of supreme and circuit judges. Whenever a vacancy shall happen in the office of such judge, the governor shall appoint to fill the same until a successor is elected and qualified. Elections to fill the vacancy for the residue of the term only, shall be held as provided in section eighty-eight, revised statutes, for other judges, and notice thereof shall be given by the sheriff of Rock county in the same manner as for elections of county judges. All such elections shall be held and conducted, and the votes cast thereat shall be returned and canvassed and a certificate shall be given in all respects as is provided by law in case of the election of county judges. Said judge, before entering upon the duties of his office, shall take and subscribe the oath of office prescribed in the constitution, which shall be filed in the office of the clerk of the city of Janesville, and a duplicate oath in the office of the clerk of the circuit court of the county of Rock. Said judge may, by order in writing to be filed in said court, appoint a justice of the peace of said county or any attorney of record who is an elector of said county, who shall discharge the duties of such judge during any absence, sickness or other temporary disability, who shall have all the powers of such judge while administering such office, except the power to try cases begun by information and cases not originally begun in said court. The order appointing any such justice or attorney may be revoked by said judge at any time.

SECTION 5. Said judge shall appoint in writing a clerk of said court, who, before entering upon his duties, shall take and subscribe the oath of office pre-

scribed in the constitution, which appointment and oath shall be filed in the office of the clerk of said city, and a duplicate thereof in the office of the clerk of the circuit court of Rock county. He shall make and keep the records of said court and perform all ministerial acts required of him by and under the direction of the judge. He shall have power to administer oaths and take bail in the absence of the judge, subject to his revision. He may examine on oath all persons applying for warrants, may reduce their examination to writing and file the same, and may issue all warrants and other process from said court. He shall procure, under the direction of said judge, all necessary record books, blanks, stationery, lights and fuel for said court, at the expense of the city of Janesville, subject to the approval of the common council of said city.

Court to be held at Janesville.

SECTION 6. Said municipal court shall be held at the city of Janesville, in some suitable place to be provided and suitably furnished by said city. All fines and penalties collected in criminal cases in which the state is a party, shall be immediately paid by said judge to the treasurer of said city, and shall be by him annually accounted for, and paid over to the treasurer of the county of Rock at the time of his paying over the county taxes. All fines collected in city prosecutions shall be immediately paid by said judge to the treasurer of said city. At the time of such payment to the county treasurer, the said county shall pay to said city two-thirds of all sums paid by it for record books, blanks, stationery, rent, office furniture, lights, fuel and the other expenses of said court.

Special terms for trial of certain offenses.

SECTION 7. Said judge may, if he deem it best, by order in writing filed in said court, direct terms to be held for the trial of offenses on which informations may be filed, and of bastardy cases, and of all other cases not originally commenced in said court, not exceeding four in any one year. When such terms are ordered, the clerk of said court in the presence of the judge, at least three days before such term, shall draw from the list of persons selected as hereinafter provided, to serve as jurors therein, thirty-six jurors for such term, and shall issue a venire to summon them as such. If no such terms are ordered the court shall fix a particular day for the trial of the cases heretofore mentioned in this section, not more than twenty days after the day fixed in the recognizance or commitment for the appearance of the accused, or after the filing of the

return on appeals and in other cases, and a jury shall be drawn in open court in the presence of the accused and prosecuting officer, in criminal and bastardy cases, and of the parties or their attorneys, in civil cases, on the day of the trial; but such jury may be drawn in the same manner at any previous time by consent of parties. All such juries shall be drawn in the manner <sup>Juries.</sup> following: the clerk shall draw, in the presence of the court, from a box containing the names of all persons not disqualified by previous service, furnished by the senior aldermen and supervisors, as hereinafter provided, thirty-six names, and shall make a list thereof, and each party alternately, beginning with the prosecution or plaintiff, shall strike a name from such list, until only twelve names remain. In case either party shall neglect or refuse to strike out such names, the judge shall appoint some person to strike for him. The twelve persons whose names remain shall be summoned as jurors in such cases. In all actions before such judge, originally commenced in said court, except cases begun by information, and bastardy cases, eighteen names, from whom a jury shall be struck, shall be drawn from such box in like manner, each party striking six names instead of twelve, in the manner aforesaid. The day for trial may be adjourned from time to time in the discretion of the court. If any person thus drawn cannot be summoned, or be excused or set aside as incompetent, another name may be drawn from said list to supply his place, who shall be summoned in like manner, or the judge may direct the issue of a venire to said sheriff to summon the necessary jurors to complete the panel from said county at large. In any case where a <sup>Duty of sheriff.</sup> jury of twelve is required, said judge may, at his option, direct the sheriff or one of his deputies, to make a list of thirty-six qualified electors from any or all of the four towns of said county adjoining the city of Janesville, from which list a jury shall be struck and summoned in the same manner as hereinbefore provided, and in case any of such jurors cannot be summoned, or be excused from any cause, a sufficient number of talesmen to complete the panel may be summoned in the manner hereinbefore provided. Every person having served as a juror at any regular term of said court, shall be disqualified from serving as a juror at the next succeeding term, except he shall be summoned on a special venire or as a talesman, and every person having served as a juror in any case not tried at a regular <sup>Disqualification of juror.</sup>



term of said court, shall be disqualified from again serving for three months next succeeding such services, except at a regular term. The clerk shall not replace in the box from which the names of jurors are drawn, the name of any person while such person is disqualified from acting as a juror by reason of previous service.

Senior alderman and supervisors to make lists of jurors.

SECTION 8. The senior alderman and supervisor for each ward of the city of Janesville shall each, before the third Tuesday in April in each year, make a list of twenty qualified electors of his ward, to serve in said court as jurors for one year from said third Tuesday in April, and deliver said list to said judge, and any such electors shall not be disqualified from sitting as a juror in said court by reason of not being a full citizen of the United States. A jury trial in said court in criminal cases begun by information, or not originally begun in said court, may be waived by the accused in writing, or by consent in open court entered on the minutes. In civil cases the jury shall be deemed waived unless demanded by one of the parties before entering upon the trial. In trials on information, bastardy cases, and cases not originally commenced in said court, a jury shall consist of twelve jurors. The fees of jurors shall be one dollar per day in cases tried on information, bastardy cases, and cases not originally commenced in said court, and in other cases the same as are allowed by law in courts of justices of the peace. In all cases tried on information, bastardy cases, and cases not originally commenced in said court, the fees of the judge, clerk, attorneys, witnesses, sheriff and other officers of said court, shall be the same as in circuit courts, and in other cases, the same as in courts held by justices of the peace, except as hereinafter provided, and shall be paid in like manner as in circuit and justices' courts respectively, except said judge or clerk shall receive no fees from said county or city. Two-thirds of all fees of said judge or clerk, collected or received by said judge or clerk, shall at the end of each month be paid into the county treasury by said judge, for the use of the county, and one third into the city treasury of the city of Janesville for the use of said city. The judge of said court shall keep or cause to be kept by the clerk of said court, a full and complete record and account, in a book to be furnished as the other records and books of said court are furnished, of all fees and costs so received by said judge or clerk, in such a manner as that such record shall show the exact amount paid, by whom, at

Jurors' fees.

Fees of judges, clerks, etc.

Record.

what time, and on what account, and if paid in any case, what case. Said judge shall also make duplicate certificates showing the same facts, and file one with the county clerk and one with the city clerk at the end of each month.

SECTION 9. The salary of the judge of said court Salary of judge. shall be the sum of two thousand six hundred dollars per annum, to be paid as follows: two-thirds shall be paid out of the treasury of Rock county, and one-third out of the treasury of the city of Janesville, to be paid quarterly, at the end of each quarter after such judge shall enter upon the duties of his office, out of said county and city treasury respectively. The said sum of two thousand six hundred dollars shall be in full for all services rendered by said judge and the clerk of said municipal court. The judge of said court, before entering upon the duties of his office, shall give a bond to Rock county in the sum of five Bond. thousand dollars, with two sufficient sureties, to be approved by the chairman of the board of supervisors and the clerk of said county, for the faithful performance of his duties. The conditions of said board shall be substantially such as are now provided by law for the bond of the clerk of the circuit court. Said judge shall also give a bond to the city of Janesville in the same manner as now provided by law for city officers of said city. Said judge shall be responsible, on his official bonds, or either of them, for all and any official default or misconduct of his clerk.

SECTION 10. Nothing in this act shall be construed Jurisdiction of other courts not interfered with. as in any manner affecting the right or jurisdiction of any court, judge, justice of the peace or police justice, to hear, try and determine any cause now pending in such court, or before such judge, justice of the peace or police justice, or which may be commenced before the judge of said municipal court shall enter upon the duties of his office.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1881.