

ed, so as to read as follows: "Section 1. Section thirty-seven of chapter seventy-nine of the revised statutes is hereby repealed [amended,] so as to read as follows: 'All actions brought or instituted against any railroad corporation created by the laws of the state, or any corporation operating any railroad within this state under any lease or otherwise, (except appeals from the award of commissioners or jurors appointed under its act of incorporation, to appraise compensation and damages for property taken for the use of such corporation,) shall be brought in some county through which such railroad runs; and no proceeding shall be had or entertained in any such action, unless process shall have been duly served upon the president, secretary, superintendent, or (or) general attorney of such corporation: *provided*, that in all actions for damages, when the amount claimed against any railroad company or corporation operating any railroad within this state under any lease or otherwise, shall be five hundred dollars, or less than that sum, the process may be served upon any agent or corporation against which the damage is claimed, who has charge of a depot or station on the line of railroad owned or operated by said company or corporation.'"

When process
may be served on
agent.

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

Approved April 10, 1865.

CHAPTER 525.

[Published June 8, 1865.]

AN ACT to regulate the mode of repairing mill dams by joint owners.

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

SECTION 1. Whenever two or more persons, party or parties, shall own jointly any mill-dam, in the absence of any written agreement between the owners thereof, providing for keeping in repair and maintaining the same, it shall be the duty of each of such joint

Each owner to
keep his portion
of dam in repair.

In case of neglect after notice, to make repairs, other party may make them.

owners to keep in repair and maintain such portion thereof as shall belong to him; and whenever, in the opinion of either of such joint owners, any mill-dam so owned shall need repairs, and his co-owner or owners shall neglect or refuse, after five days' notice in writing, to commence making such repairs, and to prosecute the same with all reasonable diligence to completion, it shall be lawful for the party giving such notice to make such repairs, and to recover therefor of the party so neglecting or refusing to make the same, in the manner hereinafter in this act provided.

Before repairs are made by party giving notice, the necessity of such repairs to be determined by jury.

SECTION 2. When any co-owner or owners of any mill-dam shall, after the expiration of the time mentioned in any notice given as herein provided, (*shall*) neglect or refuse to commence and prosecute with all reasonable diligence to completion, the repairs to such dam, the owner or owners giving such notice, and offering to do his or their due proportion of such needed repairs, may apply to a justice of the peace in the county in which such dam is situated, by complaint on oath, setting forth the interests of the different owners in such dam, and the notice to any defaulting owner or owners, and the justice shall issue in his or their behalf as plaintiff or plaintiffs, against such co-owner or owners as defendant or defendants, a summons, directed to the sheriff or any constable of the county aforesaid, commanding him to summon six disinterested freeholders of his county to meet at such dam, on a day to be therein named, not less than three nor more than six days from the time of the service of such summons upon the defendants therein named, to serve as a jury, who, after being first sworn by the officer serving or having the said summons, to faithfully discharge their duties as such jurors, shall determine what, if any, repairs are deemed necessary to be made upon such dam, and the time in which the same shall be commenced and completed, and shall make a fair and just estimate of the costs and expense of making such repairs, and the proportions thereof to be made by each of the parties to such action so as aforesaid commenced; all of which shall be reduced to writing and signed by said jury, and delivered to the officer having the summons, who shall deliver to each of said parties a copy thereof, if to be found within his county, if not, by leaving the same at the last place of residence, or

Jury to make estimate of and apportion expense, and deliver copy to each party.

with the attorney or agents or employee of said party or parties, in like manner as the summons was served, and shall make return of his doings with the summons to said justice; and the said justice shall thereupon render judgment against the defendant or defendants in such action, in case the jury shall have determined that any repairs on such dam are deemed necessary, if not, then against the plaintiff or plaintiffs, for all the costs and fees, to be taxed the same as allowed by law in other cases to jurors, officers and witnesses, and to issue execution thereon: *provided*, that in case any person summoned as a juror shall not attend at the time and place mentioned in such summons, or shall be interested, it shall be the duty of the officer having such summons, to summon some other disinterested freeholder of his county to serve in his place.

Judgment for costs.

Vacancy in jury.

SECTION 3. The notice required to be given to co-owner or owners of any dam, shall be served in the same manner as the summons is required to be served in the case mentioned in the next preceding section; and if within five days after the service of any such notice, the said owner or owners receiving the same, shall notify the other owner or owners giving such notice, that they have abandoned the said dam and claim no further interest therein, such other owner or owners being so notified, shall have the right to take full possession of and make the necessary repairs on such dam, and thereafter to hold and enjoy the same as if his or their own sole property, and to keep up and maintain such dam without let or hindrance from the other said owner or owners so abandoning the same.

Service of notice.

In case of abandonment of dam.

SECTION 4. Whenever either party to an action so as aforesaid commenced, being therein adjudged to make repairs upon any dam, shall neglect or refuse to make the same as required, the other party shall have the right and authority to make such repairs and to demand, receive, sue for and recover of and from the party so neglecting or refusing to make such repairs, the full amount of the cost and expense thereof, as estimated by the jury as aforesaid, and in addition thereto the sum of twenty-five per centum upon the amount of such estimated cost and expense, besides the costs and disbursements of the action, in any court having jurisdiction.

When party giving notice may make repairs and recover expense of same, and 25 per cent. in addition thereto.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved April 10, 1865.

CHAPTER 526.

[Published April 20, 1865.]

AN ACT to authorize the city of Madison to improve the streets of said city.

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

Grading and repairing streets, &c.

SECTION 1. The common council of the city of Madison shall have power, by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading, paving, repairing and cleansing of streets and parts of streets, alleys, public grounds, reservoirs, gutters and sewers, in the manner hereinafter mentioned, and direct and control the persons employed therein: *provided*, that no street shall be ordered to be graded, paved or graveled, unless the same shall be petitioned for in writing by the owners of two-thirds of the front on the street or part of street proposed to be so improved, except as hereinafter provided, and each petitioner shall state in such petition the lot or lots or parcel of ground owned by him.

To be petitioned for.

Improvements chargeable to city.

SECTION 2. The cost and expense of surveying streets, alleys, sewers and gutters, and of estimating work thereon in the execution of any public improvement, shall be chargeable to and payable by the city. The cost and expense of opening, grading, graveling, planking, paving or repairing streets and alleys, shall be chargeable to and payable by the lots fronting on such street or alley, so that each lot or parcel of land shall pay for the work between the front of each lot or parcel of land and the center of such street or alley, except such portions of Main, Pinckney, Mifflin and Carroll streets as are fronted upon one side by the capitol square, and on such portions of said streets the expense of grading, graveling, planking, paving or repairing for the whole width of said streets or said portions of them,

Improvements chargeable to lots.