

[No. 292, A.]

[Published March 30, 1881.]

## CHAPTER 198.

AN ACT to amend chapter one hundred and twenty-three of the laws of 1876, entitled an act relating to the city of Portage, and codifying, consolidating and amending the act of incorporation, and all acts amendatory thereof.

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

Amendment

SECTION 1. Section two of chapter two of chapter one hundred and twenty-two of the laws of 1876, entitled an act relating to the city of Portage, and codifying, consolidating and amending the act of incorporation and all acts amendatory thereof, is hereby amended by inserting after the word "assessor," where the same occurs in the second line of said section, the words "police justice."

Police justice,  
term of office.

SECTION 2. Chapter three of said act is also hereby amended, by adding fifteen more sections thereto, and which fifteen sections shall read as follows: Section 17. The police justice shall hold his office for the term of two years, and until his successor in office is elected and has qualified. He shall have and possess all the jurisdiction, authority, powers and rights of a justice of the peace, in all proceedings, and shall have sole exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases within the city of Portage, cognizable before a justice of the peace, in which the city is a party; but warrants returnable before said police justice may be issued in criminal cases by any other justice in the city, but no fee shall be received therefor by said justice. The said police justice shall have exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the city of Portage, or its charter, or for a breach or violation of any such ordinance, by-law or regulation; and in all cases of offenses committed against the same. All prosecutions for assault, batteries and affrays, not indictable, and for a breach or violation of any such ordinance, by-law or regulation, shall be commenced in the name of the city of Portage, and the same proceedings shall be had in all civil and criminal suits before said police justice, when not otherwise herein directed, as are established and re-

Jurisdiction of  
police justice.

quired to be had in civil and criminal actions by the laws of this state, before a justice of the peace, provided that in cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city, or its charter, or for any assault, battery or breach of the peace, or an affray not indictable, committed in the city limits, defendants shall have the same right of appeal under the same provisions and requirements, as now are or may be provided for taking appeals from justices of the peace. In all cases of conviction for assaults, batteries and affrays within the said city, or in all cases of conviction under any ordinance of said city for any breach of the peace, disorderly conduct, keeping houses of ill-fame, or of frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, said justice shall have power in addition to the fine and penalty imposed, to enter judgment for costs of prosecution against the defendant, and to compel such offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justice shall have the same power and authority in case of contempt, as a court of record, provided, that nothing herein contained shall be deemed to divest the circuit judges of their authorities as conservators of the peace, nor to affect in any manner the jurisdiction or powers of the circuit courts or supreme court of this state. In case of absence, sickness or other inability of such police justice, or for any sufficient reason, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of said police justice, and it shall thereupon be the duty of the mayor to inform the city attorney and the marshal, of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment or appoint some other justice of the peace, and the justice so appointed shall, for the time being, possess all the authority, powers and rights of such police justice. All fines and penalties imposed by the police justice for a violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city. Section 18. The police justice shall, as often as the common council may require, report to the common council all the proceedings instituted before him, in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by him and belonging to

Same power  
and authority  
as court of  
record.

Fines and  
penalties.

Report to  
council.

said city. He shall be entitled to receive in all cases had before him, the same fees as are allowed by law to justices of the peace of the several counties in this state in similar cases had before them. Section 19. All actions brought to recover any penalty or forfeiture under this act, or the act to which this is amendatory, or the ordinances, by-laws and regulations made in pursuance thereof, shall be brought in the corporate name of the city of Portage. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section and chapter of this act, or of the act to which this is amendatory, or the section and chapter of the ordinance, by-law or regulation, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. Section 20. In all prosecutions for any violation of this act, or the act to which this is amendatory, or any by-laws, ordinances or regulations, the first process shall be by summons, unless oath be made for a warrant, as in criminal cases, before justices of the peace, under the general statutes of the state, for the time being. Section 21. When the action is commenced by summons, such summons may be substantially in the following form:

Actions, how brought.

Columbia county, city of Portage — ss.

Form of summons.

The state of Wisconsin, to the sheriff or any constable of said county, or the marshal of said city, greeting: You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, C. D., police justice in and for said city, at my office, in said city, on the — day of —, 18—, at — o'clock in the — noon, to answer to the city of Portage, in a plea of debt to the damage of said city two hundred dollars or under.

Given under my hand, at Portage, this — day of —, 18 —.

C. D., police justice.

Section 22. Such summons shall be made returnable, and be served, in the same manner as is now or hereafter may be prescribed in the laws of the state, for the commencement of action before justices of the peace by summons; and all proceedings in such action, except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons and triable before justices of the peace. Section 23. When action is commenced by summons, the complaint may be in the following form substantially:

Action commenced by summons.

State of Wisconsin, Columbia county. The city of

Portage against A. B. In police court. Before C. D., justice.

The plaintiff complains against the defendant, for Complaint. that the defendant, on the — day of —, 18—, at said city, did violate (section — of chapter — of this act, or section — of chapter — of an ordinance or by-law or regulation of said city, describing it by its title), which said — is now in force. By reason of such violation an action has accrued to the city of Portage, to recover of the defendant the sum of — dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum of — dollars aforesaid, besides the costs of this action. Section 24. In all cases where oath is made for a warrant by complaint, it shall be made on oath of the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form :

State of Wisconsin, Columbia county, ss: A. B., being duly sworn, complains on oath to C. D., police justice in and for the city of Portage in said county, Oath of complainant. that E. F., on the — day of —, 18—, at said city, did violate (section — of chapter — of this act, or section — of chapter — of an ordinance, by-law or regulation of said city, describing it by title), which said — is now in force, as this complainant verily believes, and prays that the said E. F. may be arrested and held to answer to said city of Portage therefor.

Subscribed and sworn to before me this — day of —, 18—.

It shall be sufficient to give the number of the section of this act, or of the act to which this is amendatory, or of the section and chapter of the ordinance, by-law, or regulation violated, in the foregoing form of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of said complaint with the police justice, he shall issue a warrant, substantially in the following form :

County of Columbia, city of Portage—ss.

The state of Wisconsin to the sheriff or any constable of said county or the marshal of said city, greeting: Whereas, A. B. has this day complained to me in writing on oath, that E. F., on the — day of —, 18—, at said city, did violate (section — of chapter — of this act, or section — of chapter — of an ordinance or by law or regulation of said Warrant.

city, describing it by title), which said — is now in force as the complainant verily believes; therefore, you are hereby commanded to arrest the said E. F. and bring him before me, forthwith, to answer to the said city of Portage, on the complaint aforesaid.

C. D. Justice.

Return of warrant.

Section. 25. Upon the return of the warrant the court may proceed summarily with the case, unless it be continued by consent or for cause or by order of the court. If the case be adjourned, the defendant, if required by the court to do so, shall recognize, with sufficient surety to be approved by the justice for his appearance, in such sum as the court may direct, or in default thereof may be put in charge of the officer who made the arrest, or be committed to the county jail of Columbia county, or to such other place of confinement as may be provided by the common council. The complaint made as aforesaid, shall stand in lieu of a declaration, and the plea of "not guilty" shall put at issue all the subject matter of complaint, and no other pleadings shall be required. Section 26.

Publication of ordinance, by-law or resolution.

A printed copy of an ordinance, by-law, or resolution, passed by the common council, and published in a newspaper, or in pamphlet or book form, shall be prima facie evidence of its due passage, signature and publication, and may be received in evidence on trial of any case cognizable before any court in this state. Section 27.

Witnesses and jurors.

Witnesses and jurors shall attend before said justice court in all city and criminal cases without the payment of fees in advance, or a tender thereof upon the process of the court duly served, and in default thereof their attendance may be enforced by attachment. In case the jury after being kept a reasonable time shall disagree, it shall be discharged without the payment of fees, and thereupon the court may adjourn the case to a day certain, and issue a new venire unless the case by consent is tried by the justice. Section 28.

Trials by jury.

In all prosecutions or actions in which the city of Portage is a party, either party shall be allowed a jury as in other cases in justice courts. In all the aforesaid cases the finding of the court or jury shall either be guilty or not guilty; if guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance, by-law or resolution, for the violation of which the person or persons shall have been found guilty, and for the costs of suit. Upon conviction and non-payment of such judgment,

the court shall forthwith issue execution, unless the same be stayed or appealed from according to the laws of this state; and shall determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed three months, in the discretion of the court rendering judgment, and also insert such time in the commitment or execution, and every person so convicted and committed shall be kept at labor in the common jail of the county of Columbia, or in such place as the city of Portage may provide for the benefit of said city, under the watch, guard and supervision of the marshal of said city or his deputies, for the period of time for which such person or persons shall have been so committed, unless the judgment shall be sooner paid, provided, that all persons so committed and kept at labor shall be allowed one dollar for each day's labor rendered, exclusive of board, and the amount so earned shall be applied in liquidation of the judgment, until such judgment shall be fully paid by such labor, at which time the judgment shall be satisfied, and the defendant discharged from custody. Said execution may be in the following form :

Columbia county, city of Portage — ss.

Form of execution.

The state of Wisconsin to the sheriff or any constable of said county, or the marshal of said city, and the keeper of the common jail of said county : Whereas, the city of Portage on the — day of —, 18—, recovered a judgment before the police justice of said city, against — for the sum of — dollars, together with — dollars costs of suit for the violation of (section —, of chapter —, of this act, or section —, of chapter —, of an ordinance, by-law or resolution of said city, describing it by its title), these are therefore to command you to levy distress on the goods and chattels of the said — (except so much as the law exempts), and make sale thereof according to law, as is in such cases made and provided, to the amount of said sums, together with your fees and twenty-five cents for this writ, and the same return to me within thirty days, and for the want of such goods and chattels whereon to levy, to take the body of the said —, and him convey and deliver to the keeper of the common jail of said county; and you, the said keeper, are hereby commanded to receive and keep in custody in said jail the said —, for the term of —, at labor for the benefit of the city of Portage, as the mayor of said city may direct, unless said judgment, together with all the costs and jail fees, are sooner paid,

or until he be thence discharged by due course of law.

Given under my hand, at Portage, this — day of —, 18—. C. D. Justice.

Prisoners may be compelled to work on streets

If the mayor of said city shall at any time deem it for the interest of the city, he may employ the prisoners, so committed, outside of the jail or yard at labor upon the public streets of said city. The form of commitment may be substantially the same as that of the execution, leaving out all that relates to levy and sale and return of writ. Section 29. The defendant may appeal in

Appeals.

the same manner as provided in cases of an appeal from judgment in courts of justice of the peace in criminal proceedings of this state. And such appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law in the circuit court of the county of Columbia, at the next term thereof after the date of judgment of the justice shall have been rendered, and no notice of trial shall be required to be given to or by either party. Section 30. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation, under which he, she or they are prosecuted, and enter judgment against him, her or them and their sureties for such penalty, together with the costs in both courts, and enforce the execution as in actions of tort. Section 31. The common council of said city may by resolution direct the said justice to discharge from the jail any person confined for a judgment due said city, but such discharge shall not operate as a release of the judgment, unless said common council shall so direct in its resolution; upon filing a certified copy of such resolution, attested by the clerk of said city, the justice shall order said defendant to be discharged from custody, and make an entry of such discharge upon his docket. An execution may issue, or be renewed by endorsement from time to time, and after the return day thereof, and before or after the commitment of the defendant, until the judgment is satisfied or released, but after the defendant shall have been committed, no execution shall issue against the body of the defendant, nor if previously issued, shall authorize the taking of the defendant thereon.

When judgment is affirmed

Common council may direct the discharge of prisoners.

SECTION 3. Section fourteen of chapter three, and sections seven and eight of chapter eleven of said act, and all acts and parts of acts inconsistent and conflicting with this act, are hereby repealed.

Repealed.

SECTION 3. Section fourteen of chapter three, and sections seven and eight of chapter eleven of said act, and all acts and parts of acts inconsistent and conflicting with this act, are hereby repealed.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1881.

[No. 80, S.]

[Published March 29, 1881.]

CHAPTER 199.

AN ACT relating to the incorporation of the city of Oconomowoc, and amendatory of chapter two hundred and thirty-nine of the laws of 1879.

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

SECTION 1. Section two of chapter two of chapter <sup>Elective officers</sup> two hundred and thirty-nine, of the laws of 1879, is hereby amended so as to read as follows: Section 2. The elective officers of the city shall be one mayor, one clerk, one assessor, one treasurer, two justices of the peace, one marshal, one street commissioner and one constable, who shall be elected at large in the city, and one supervisor and three aldermen from each ward, who shall be elected therein, one each year; and each of said officers shall be qualified voters in the city; but the mayor, supervisors and aldermen, shall also be householders or freeholders in the ward from which they shall be elected: provided, however, that no person shall be eligible to the office of treasurer of the city for two successive years. <sup>Eligibility of treasurer.</sup>

SECTION 2. All acts or part of acts which <sup>Repealed.</sup> contravene or conflict with the provisions of this act, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 22, 1881.

[No. 232, A.]

[Published March 29, 1881.]

CHAPTER 200.

AN ACT to amend section two of chapter two hundred and seventy of the laws of Wisconsin for the year 1878, entitled an act to constitute a certain abstract of title to the real estate of the county of Outagamie a part of the official records of the office of the register of deeds of said county, and to provide for continuing said abstract and for the fees of said register.

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

SECTION 1. Section two of said chapter two hundred and seventy, of the laws of Wisconsin for 1878, <sup>Duty of register of deeds.</sup>