

Donnell, his associates and assigns, but subject always to the provisions of section two of this act.

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

Approved March 11, 1880.

[No. 149, S.]

[Published March 19, 1880.]

CHAPTER 206.

AN ACT to preserve and promote the public health in the city of Milwaukee.

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

SECTION 1. Any person who shall deposit, or knowingly cause to be deposited, in any open stream or river in the city of Milwaukee, after June 1, 1880, any offal, garbage or filth, or any refuse, obnoxious, odious or unhealthful matter of any kind or nature whatever, from any factory, brewery, distillery, stock yard, slaughter house, tannery, gas factory, glue factory or other building or establishment of whatever kind located in said city, and the contents of any privy, privy vault or water closet which now are or may hereafter be connected with or empty into any of the sewers of said city, unless means are provided and employed for the abundant flushing of the same with clear water every time it may be used, shall be deemed guilty of a misdemeanor, and for every such offense shall be punished by imprisonment in the county jail not more than three months, or by a fine not exceeding one hundred dollars, or by both fine and imprisonment, as the court may determine. It shall be the duty of the commissioner of health to rigidly enforce this provision of law, and for this purpose he shall have power to employ a sufficient number of assistants, the compensations of whom shall be fixed and determined by the common council.

Penalty for depositing filth in river or sewer.

SECTION 2. Immediately after the passage and publication of this act, it shall be the duty of the board of public works of said city, with the approval of the common council, to proceed to provide for the care and disposal of all offal, garbage, filth, refuse, and all obnoxious, odious or unhealthful matter of every kind whatever, now emanating or hereafter to emanate, in the ordinary course of business, from any factory, brewery, distillery, stock-yard, slaughter-house, tannery, gas factory, glue factory, or other building or establishment of whatsoever kind, located on or near

Duty of board of public works.

the banks of any such stream or river in said city, or draining therein, in such manner as to entirely exclude all such noxious material above described from any portion of any such stream or river in said city, and to convey the same beyond the limits of said city by the shortest and most practicable route, to such locality as said board of public works, with the approval of said common council, may provide.

Powers of same.

SECTION 3. In the performance of the duties prescribed in this act, said board of public works, with the approval of the council, shall have power to negotiate with the owner or owners of any establishment, yard or factory, hereinbefore described, as far as may be necessary for the protection of any private or corporate property from unnecessary damage or injury in consequence of the action of said board in the discharge of said duties, and as to mutual, necessary and equitable expenditures for the same, but nothing herein shall be deemed to excuse said board from the exercise of any power or authority necessary to be exercised for the permanent preservation of the purity of the natural waters of any such stream or river, or for the extermination of any nuisance now existing therein.

Erection of pipes, pumping works, etc.

SECTION 4. In the further performance of its duties as provided in this act, said board of public works, with the approval of said council, shall have power to erect pipes, pumping works, or other apparatus or machinery, to construct reservoirs, basins, sewers, water mains and conduits, and to dredge and flush any portion of said rivers, or otherwise to abrogate any existing nuisance or cause of nuisance, with respect to any such stream or river, and to maintain and enlarge any of the works herein provided for, and for the purposes of this act said board may purchase the necessary material and cause the necessary work to be done without the intervention of a contract, whenever, and to such extent as the common council by resolution shall provide: *provided, however*, that said board of public works shall not, with or without the approval of the common council, exercise any power or authority by virtue of this act not in conformity with the purposes expressed herein.

Assessment of costs.

SECTION 5. In the apportionment of any expenditure necessary to the purposes of this act, the owners or occupants of property from which any of the deleterious matter hereinbefore described in this act shall proceed or emanate in the ordinary course of business, carried on or near any such stream or river in said city,

or which shall drain into any such stream or river, shall be assessed such equitable amount as may be agreed upon in writing between such owner or occupant and said board, for the purpose of discharging any such obnoxious matter or materials into any sewer, conduit or other receptacle for such matter or material as said board, with the approval of said council, may provide, or for the disposal of any such matter otherwise; and such amount so agreed upon shall be expended for such purpose by such owner or occupant under the direction of said board, or be paid into the city treasury for the use of said city, as said board may determine and direct; but in case of the failure of said owners or occupants to agree with said board, in any case, or if any such owner or occupant shall fail to pay such amount into the city treasury as hereinafore provided, said expenditure shall be levied, assessed upon, and apportioned among said owners or occupants, or upon the property owned or occupied by them, in such manner as said board may determine to be equitable and just, and be levied assessed and collected in the same manner that other taxes are levied, assessed and collected for sewerage purposes, and all other expenditures required or provided by this act and for the maintenance of any work provided or permitted by this act shall be paid from the general fund of said city.

SECTION 6. The common council of said city is hereby authorized to levy and collect a sufficient tax, not exceeding one mill on the dollar of the assessed valuation of said city in any one year, upon all the taxable property of said city, in addition to the amount now authorized by law, to pay the expense of any work or improvement which may be ordered or undertaken, under the provisions of this act.

SECTION 7. The time hereinbefore provided in the first section of this act for the enforcement of the provisions of this act as to any factory or other establishment hereinbefore described, may be extended when both the common council and board of public works shall concur in approving such extension, but such time shall not be extended for any period greater than may be actually necessary to render the enforcement of all the provisions of this act as to said factory or other establishment practicable.

SECTION 8. All acts and parts of acts contravening the provisions of this act in so far as they conflict herewith are hereby repealed.

SECTION 9. This act shall take effect and be in force from and after its passage and publication.

Approved March 11, 1880.

[No. 181, A.]

[Published March 19, 1880.]

CHAPTER 207.

AN ACT to amend section three thousand seven hundred and twenty-five of chapter one hundred and fifty-eight of the revised statutes of 1878, relating to proceedings in garnishment.

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

If the plaintiff recover against defendant.

SECTION 1. Section three thousand seven hundred and twenty-five of the revised statutes is hereby amended so as to read as follows: Section 3725. If the plaintiff recover against the defendant in the original action, and the answer of the garnishee, when no issue is made thereon, or the finding of the court or jury on an issue, show that the garnishee at the time of the service of the summons had property in his possession belonging to the defendant, or that he was indebted to him, the justice shall enter an order in his docket, requiring the garnishee, within ten days, to pay or deliver to the justice such property, or the amount of such indebtedness, or so much thereof as may be necessary to satisfy such judgment, with costs thereof, and the costs of the garnishee proceedings; or if it appears from such answer or finding that the garnishee is to pay or deliver to the defendant any money or property in any other manner or at any other time than immediately, and at the time of the service of the summons, the same belonging to the defendant, then the order of the justice shall be, that such payment or delivery be so made to the justice for the benefit of the plaintiff. If such garnishee shall pay such indebtedness and deliver such property as directed by such order, the costs of the garnishee shall be paid out of the money or property received by the justice, unless the garnishee upon an issue joined with him by the plaintiff shall have been held liable in a greater amount of property or indebtedness than was disclosed in his answer, in which case he shall not have costs; and all property and effects, except money, delivered to the justice, shall be by him ordered to be sold on the execution against the defendant.

Garnishee to pay within ten days.

Costs of garnishee to be paid.

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

Approved March 12, 1880.