

CHAPTER 197.

[Published April 3, 1865.]

AN ACT to consolidate and amend an act entitled "an act to incorporate the city of Madison," approved March 4th, 1856, and the several acts amendatory thereof.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

City of Madison. SECTION 1. All that district of country in the county of Dane, hereinafter described, from and after the seventh day of March, in the year of our Lord one thousand eight hundred and fifty-six, shall be a city, by the name of Madison, and the people now inhabiting and those who shall inhabit said district, shall be a municipal corporation, by the name of the "city of Madison," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Limits of city. SECTION 2. All of section six (6) except the east half of the southeast quarter, all of section seven (7) except the east half of the northeast fractional quarter, in township No. seven (7) north, of range No. ten (10) east, lots three (8) and four (4) in the southeast quarter of section twelve (12), all of sections thirteen (13) and fourteen (14), twenty three (23) and twenty-four (24), all of the southeast fractional quarter of section fifteen (15), the east fractional half of section twenty-two (22), the east fractional half of the southwest quarter of section twenty-two (22), so much of the north part of the west half of the northwest quarter of section twenty-six (26) as is covered by the recorded plat of "Greenbush addition to the village of Madison," and the northeast fractional quarter of section twenty-seven (27), in township No. seven (7) north, of range No.

nine (9) east of the fourth principal meridian in the state of Wisconsin, together with the entire surface of lakes Monona and Mendota to the shores at high water mark around the same, shall be included in and constitute the limits of the city of Madison.

SECTION 3. The city of Madison shall be divided ^{Wards.} into four wards, as follows, to wit: All that part of said city lying north and west of lines drawn through the center of Wisconsin and Washington avenues, Washington street and the Mineral Point road to the city limits, shall constitute and be known as the first ward. All that part of said city lying north and east of lines drawn through the center of Wisconsin and Washington avenues and Winnebago road to the city limits, shall constitute and be known as the second ward. All that part of the city lying south and east of a line drawn through the center of Washington and Wisconsin avenues and Winnebago road, shall constitute and be known as the third ward. All that part of said city lying south and west of a line drawn through the center of Washington and Wisconsin avenues, Washington street and the Mineral Point road, shall constitute and be known as the fourth ward.

SECTION 4. The corporate authority of said city ^{How corporate authority vested.} shall be vested in one principal officer, styled the mayor, in one board of aldermen, consisting of three members from each ward, who with the mayor shall be denominated the common council, together with such other officers as are hereinafter mentioned or may be created under this act.

CHAPTER II.

ELECTIONS.

SECTION 1. The elective officers of said city shall ^{Elective officers.} be a mayor, a treasurer, a police justice for the city at large, and three aldermen, one justice of the peace, and one constable for each ward, which said officers shall hold their respective offices as follows: The mayor, treasurer, constables and two aldermen in each ward, for one year; one alderman in each ward, police justice and justices of the peace, for two years. ^{Terms of office.} The term of officers shall commence on the third Tuesday of April, in each year in which such officers have been elected. Each of said officers shall continue in office for his respective term, and until his successor is elected and

qualified, and shall have such powers and perform such duties as are prescribed in this act, or as may be prescribed in any ordinance of said city, not inconsistent with this act, or which may not be incompatible with the nature of their respective offices.

Annual election.

SECTION 2. The qualified voters of the city of Madison shall hold an election on the first Tuesday of April, in each year, for the election of city and ward officers. The mayor, treasurer and police justice shall be qualified voters, resident in said city; and the ward officers shall be qualified voters and residents of the respective wards for which they are elected. Said elections shall be held in the several wards for the officers herein designated, and shall be presided over by the aldermen in the respective wards, or in case of their absence or disability, the voters present at the hour of opening the polls shall elect by *viva voce*, a sufficient number of inspectors to make three with the alderman or aldermen present, who shall be sworn in accordance with the laws of this state. They shall appoint and swear two clerks, and shall see the names of the voters registered, and the ballots safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns, and the day following the election, shall direct and return one of the said returns to the city clerk of the city of Madison, the other to the clerk of the board of supervisors for the county of Dane. The mayor of the city and such members of the common council as shall hold over, shall constitute a board of canvassers, who shall within five days after such election, meet at the common council chamber and canvass such returns; and after the aforesaid returns have been canvassed by said board, the mayor shall notify, by a certificate, the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon until five o'clock in the afternoon. Said elections shall be conducted in accordance with this act and of the existing laws of the state of Wisconsin, and any frauds or violation of said laws at such elections, shall be punishable in the same manner as any violation of the election laws in any part of the state.

Vacancy

SECTION 3. In the event of a vacancy in the office of

mayor or alderman, by death, removal or other disability, the common council shall order a new election, and shall give five days' notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

SECTION 4. All elections by the people shall be by ballot, and plurality of votes shall constitute an election. All elections by the council may be *viva voce*. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they may direct.

Election to be by ballot—the vote.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, and who shall have resided in the city thirty days next preceding an election in the city of Madison, and in the ward where they offer their vote ten days next preceding such election, shall be deemed qualified electors of said city and ward.

Qualifications of voters.

SECTION 6. If either of the inspectors of election or alderman shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector or alderman, before receiving any such vote, shall require the voter offering to take the following oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age; that you are a citizen of the United States, or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization; that you have resided in the state of Wisconsin one year next preceding this election; and that you have resided in the city of Madison thirty days, and within this ward ten days next preceding this election, and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received; and if such person shall take such oath falsely, he shall be deemed guilty of a willful and corrupt perjury, and upon conviction thereof, upon indictment, shall suffer the pun-

Challenge.

Oath.:

Penalty for false oath.

ishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any election, he shall be liable to indictment, and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars nor less than twenty five dollars. It shall be the duty of the inspector to keep a list of the names of all persons whose vote may be challenged as aforesaid, and shall swear in their votes. And if any inspector or alderman shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to indictment, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars nor less than one hundred dollars. All such indictments shall be tried in the circuit court for the county of Dane.

Penalty for voting more than once.

List of votes challenged.

Penalty for frauds by inspectors or clerks.

Special elections.

SECTION 7. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, or inspectors, as provided by this act, and returns thereof shall be made in the same time, form and manner as of general or annual elections.

Election of aldermen.

SECTION 8. The senior aldermen of each ward who were elected at the election held in the city of Madison, on the first Tuesday of April, A. D. 1864, for the term of two years, or who have since been elected at any special election to fill any vacancy in the office of senior alderman in any ward of said city, shall continue in office until the expiration of the terms to which they were respectively elected; and there shall be elected at the first election under this act, one alderman in each ward, who shall hold his office for two years, and one alderman who shall hold his office for one year, and at every annual election thereafter, one alderman in each ward who shall hold his office for two years, and one alderman who shall hold his office for one year. The alderman having the highest number of votes in each ward shall be the alderman for two years.

SECTION 9. Any officer removing from the city, and

any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify on or before the third Tuesday of April next after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein provided. All officers appointed or elected to fill any vacancy, shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to fill any vacancy under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, chief of police, street superintendent, constables, police justice and justices of the peace, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Madison a bond in such sum and in such security and such conditions as the common council may direct; and the common council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Oaths and bonds
of officers.

SECTION 2. The mayor, when present, shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city, within the corporation, are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall also appoint a chief of police, which appointment shall be approved by the common council before he shall enter upon the duties of his appointment, and whose compensation shall not exceed one dollar and fifty cents per day, to be determined by the common council. The mayor may also appoint as many special or temporary police on election days, or other public or unusual occasions, as he may think proper, but no such special or temporary police shall be paid any compensation for his services out of the city treasury, unless otherwise ordered by a vote of three-fourths of all the members of the common council. The common council may, by ordinance, prescribe

Duties of mayor

the powers and duties of police and other peace officers. The mayor shall communicate in writing to the common council once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

President of the council—his duties.

SECTION 3. At the first meeting of the common council each year, or as soon thereafter as may be, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor, the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office, the president shall execute all the powers and discharge all the duties of mayor. In case the mayor and president shall be absent from any meetings of the common council, they shall proceed to elect a temporary presiding officer, who for the time being shall discharge the duties of mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor. But the president of the council, as acting mayor, shall sign no order, warrant or other proceeding whatever, which the mayor has refused to sign, and communicated such refusal to the council.

President pro tem

City clerk—his duties.

SECTION 4. The common council shall elect a city clerk. He shall keep the corporate seal and all the papers and records of the city. He shall attend the meeting and keep a record of the proceedings of the common council. The records of the common council kept by him shall be evidence in all legal proceedings, and copies of all papers filed in his office, and transcripts from the records certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall keep a full and accurate account of all orders drawn on the city treasury in a book provided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all tax lists delivered to him for collection, and all sums of money paid into the treasury. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem*. The city clerk shall have power and authority to administer oaths and affirmations.

Clerk pro tem.

SECTION 5. The treasurer shall receive all money belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually at least ten days before the annual election, a full and detailed account of all receipts and expenditures after the date of the last annual reports, and also of the state of the treasury, which statement shall be filed with the clerk.

Treasurer—his duties.

SECTION 6. The chief of police shall perform such duties as shall be prescribed by ordinance, for the preservation of the public peace and the collection of fines and license moneys. He shall possess the power of a constable at common law or by the laws of this state, and receive like fees; but shall not serve civil process in any case, unless the city is a party, nor shall he receive any fees for serving any process, making any arrest or performing any duties from the city of Madison, except his *per diem* hereinbefore provided for, nor shall he go beyond the city limits to make any arrests or to serve any process, unless the cause for making such arrest or for issuing such process arose within the city.

Chief of police—his powers and duties.

SECTION 7. The common council shall have power from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

Further duties may be required of officers.

Pay of officers.

SECTION 8. The common council shall annually provide that all printing authorized and required by them to be done for their use or for the city, shall be let by contract to the lowest bidder for the term of one year, but no bid therefor shall be considered unless made by the publisher of a daily newspaper printed and published in the city of Madison, unless the bids of such publishers shall be higher than the rates of legal advertising as fixed by law, or unless such publishers should fail to bid. All ordinances and other proceedings required by this act or by the by-laws or

City printing.

Proof of publication.

ordinances of the common council, to be published, shall be published in the newspaper selected under the provisions of this section. And the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city his or their affidavits of the length of time said ordinance, by-law or proceeding has been published, and such affidavits shall be conclusive evidence of the publication of such notice, ordinance, proceeding or by-law.

Penalty for not delivering books, &c. to successor.

SECTION 9. If any person having been an officer in said city, shall not within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and effects of every description, in his possession, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by this laws of the state.

Peace officers.

SECTION 10. The mayor, sheriff of Dane county, each and every alderman, justice of the peace, chief of police, constable, and watchman, shall be officers of the peace, and suppress, in a summary manner, all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and, if need be, of all citizens and military companies. If any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

Powers of police justice.

SECTION 11. The police justice shall have and possess all the authority, powers and rights of a justice of the peace in civil proceedings, and shall have sole and exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, and shall have exclusive jurisdiction in all cases to which the city shall be a party, and shall have the same power and authority in cases of contempt as a court of record: *provided*, that nothing herein contained shall be deemed to divest the judges of the cir-

cuit or county courts of their authority as conservators of the public peace, nor to affect in any manner the powers or jurisdiction of the circuit or county courts of Dane county. The police justice shall be entitled to receive for his services the same compensation in fees as is allowed by law to justices of the peace for similar services, and no other, but the city shall not be liable to said police justice for his said fees, except such as shall accrue in prosecutions for the violation of the charter or ordinances of the city, wherein the costs are not and cannot be collected of the offender. In case of the absence, sickness or other inability of the police justice, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of police justice, and it shall thereupon be the duty of the mayor to inform the chief of police of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, and the justice so appointed shall for the time being possess all the authority, powers and rights of police justice. Appeals and writs of certiorari may be taken from the police justice in the same manner as from justices of the peace.

SECTION 12. The police justice shall quarterly report to the common council a list of all proceedings instituted before him in behalf of the city, and the disposition thereof, and shall at the same time account and pay over to the treasurer the amount of all penalties and fines collected, which may by law accrue to the city. The city shall not be liable or pay any costs for violations of any law of this state; and such justice shall pay to the county treasurer all fines collected for offenses against the laws of this state, in the same manner that justices of the peace are required by law to do.

SECTION 13. On the third Tuesday of April, of each year, or within ten days thereafter, the common council shall elect one assessor, one superintendent of streets, one member of the board of education, who shall also be a member of the common council, and a city surveyor, and from time to time fill such vacancies as may occur in any of said officers.

SECTION 14. The assessor so elected shall assess all the taxable property of the city of Madison as required by law, without regard to wards, and shall complete and return his assessment roll to the common council

on or before the first Monday in July, in each year. During the last week of the month of June, in each year, the assessor shall attend at the common council chamber for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessment, and shall make such alterations and amendments thereto as justice and equity may require. The assessor shall receive for his services such compensation as the common council shall determine, not exceeding three dollars per day for the time actually employed in making such assessment.

Duties of superintendent.

SECTION 15. The superintendent of streets shall perform the duties, and under the restrictions, and for the compensation prescribed in section nine of chapter six of this act, and such other duties as may be required of him by this act and the ordinances of said city, not inconsistent with this act.

Duties of surveyor.

SECTION 16. The city surveyor shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe the duties and fix the fee and compensation for any service performed by him. All surveys, profiles, plans and estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the surveyor, open to the inspection of the parties interested, and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office, to his successor or to the common council.

CHAPTER IV.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

Style of ordinances, meetings and quorum.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the common council of the city of Madison do ordain," &c. The common council shall meet at such time and place as they by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Stated and special meetings.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual places of abode. The common council shall determine the rule of its own proceedings,

and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members.

SECTION 3. The common council shall have the control and management of the finances and all property of the city, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such ordinances, rules and by-laws are hereby declared to be and have the force of law: *provided*, they are not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinances, resolutions or by-laws: Powers of council

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables and bowling saloons; and to provide for the abatement and removal of nuisances under the ordinances or at common law; and to grant licenses for selling spirituous, vinous or fermented liquors, and regulate groceries, taverns, vitualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and that no license shall be granted for a less time than one year from the date of the filing of the application for such license in the office of the city clerk; and in case the person so applying for a license shall have had a former license within the year next preceding such application, then such license shall be granted for the term of one year from the date of the expiration of such former license; *and* Licenses. *provided, further*, that no person thus licensed shall sell or give away spirituous, fermented or vinous liquors on election days or Sundays. Liquor not to be sold on election days or Sundays.

2d. To restrain and prohibit all descriptions of gam- Gambling.

ing and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming, in said city; and to restrain any person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

Boats, &c.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

**Removing or
cleaning filthy
places.**

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

**Slaughter houses
and gunpowder.**

5th. To direct the location and management of slaughter-houses and markets, and to prevent the erection, use or occupation of the same, where the offal or filth therefrom shall discharge into the waters of the lakes, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of the same, or other combustible material.

**Clearing streets,
&c.**

6th. To prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, fire wood, or any materials or substances whatever.

**Racing and bath-
ing.**

7th. To prevent horse-racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Animals.

8th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinance.

**Putrid animal
matter.**

10th. To prevent persons from bringing, depositing or having with said city, or placing in the lakes adjacent to the said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork,

fish, hides or skins, of any kind, or on default to authorize the removal thereof, by some competent officer, at the expense of such person or persons.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of waterworks for the supply of water to the inhabitants of the city, to regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cobmen, draymen and cartmen in the city; and to erect lamps, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Pounds, water
w rks, hacks,
lamps, &c.

12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Public health
and burial of
dead.

13th. To establish the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Bread.

14th. To prevent all persons riding or driving any horse or mule, cattle or any other animal on the sidewalks in said city, or in any way doing damage to said side walks.

Sidewalks.

15th. To prevent shooting off firearms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to the citizens thereof.

Discharging
firearms.

16th. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Drunkenness or
obscenity.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, cars, public houses and other establishments.

Runners.

18th. To make rules and ordinances for the government and regulation of the police of the city.

Police.

19th. To establish public markets, and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.

Markets, &c.

Hay, fuel, &c.

20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

Clearing sidewalks and lots of unhealthy matter.

21st. To compel the owners of buildings or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in default, to authorize the removal or destruction of the objectionable substances by some officer of the city, at the expense of such owner or occupant.

Contagious diseases.

22d. To regulate, prevent and control the landing of persons from boats, cars and stages, wherein are contagious and infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

Auctions.

23d. To regulate the time, place and manner of holding public auctions or vendues.

Watchmen.

24th. To appoint watchmen, and prescribe their duties.

Weights and measures.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of false weights and measures.

The lakes—fishing.

26th. The common council shall have jurisdiction over the entire lakes bordering on the city, so as to prevent any deterioration of the waters, or any nuisance being cast therein, by which the health of the inhabitants of the city or the purity of the water shall be impaired; and may also prohibit the taking of fish in the waters thereof, or outlet between the same, during the months of May, June and July, of each year.

Shade trees.

27th. The common council shall have power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting the same, and in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expense of the same.

Ordinances, &c.—how passed—to be published and recorded.

SECTION 4. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of all the members of the common council, and shall be signed by the mayor, and shall be published in a paper or papers to be selected by the common council, printed in said city, before the same

shall be in force, and within fifteen days thereafter, they shall be recorded by the city clerk, in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, respectively, within the same time, shall be proved by the affidavit of the foreman or publisher of each newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

SECTION 5. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances. Common nuisances.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, chief of police, street superintendent, and all other officers and agents of the city, at such time as they deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed, shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments. City accounts.
Books and vouchers.

CHAPTER V.

OPENING OF STREETS, ETC.

Laying out public grounds and streets, and manner of obtaining land.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, as follows: Whenever ten or more freeholders, residing in any one ward, shall by petition represent to the common council, that it is necessary to take certain lands within the ward where such petitioners may reside for public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if any there be, or if a portion of such lands shall not be in actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper for four weeks, at least once in each week.

What notice shall state.

SECTION 2. Such notice shall state that on a certain day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the judge of the circuit or county court of Dane county, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary or expedient to take the same for the purpose specified in such petition.

Judge to appoint jury.

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge shall thereupon appoint twelve reputable freeholders, residents of the city, but not residents of the ward in which such premises may lie, nor interested in such application. The said judge shall thereupon issue his precept directed to said jurors, requiring them within thirty days to view said premises, to be specified in said precept, and to make returns under their hands to the common council, whether in their judgment it is necessary to

take said premises for the purpose specified in such application.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be indorsed in the precept. Vacancies in jury.

SECTION 5. The said jurors at such times as they may agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to witnesses. Jury to review premises.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether in their judgment it is necessary to take the premises in question for the public use, which said report, testimony and precept shall be returned to the common council within the time limited therein. Further duties of jurors.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall enter an order among their proceedings confirming said report, and directing the same jurors within one month thereafter, or such further time as may be deemed proper, to again view said premises, for the purpose of ascertaining and determining the amount of damage to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefited by such taking, and to assess and return within the time limited, such damages and benefits to the common council. Proceedings of council.

SECTION 8. If there should be any building standing, whole or in part, upon the lands to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove. Where there is building on land, how to proceed.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual Notice of owner.

place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in the official paper, three successive weeks. Such notice shall specify the building and the award of the jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors, and allow such building to be taken, with the land appropriated, or their intention to remove said building, at the rate set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council may allow.

Council to sell building, if not removed.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner or deposited to his use.

Jurors to examine premises.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will in their judgment be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken, and the injury arising to them, respectively, in consequence of the taking thereof, which shall be awarded to such owners, respectively, as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the land, the jurors shall include the value of the building or buildings (if the property of the owner of such land) as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

Assessment.

Estimate of damages.

Balance between benefits and damages.

SECTION 12. If the damage to any person be greater than the benefits received, or if the benefit be greater than the damages, in either case the jurors shall strike

a balance, and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners, respectively, and the difference only shall in any case be collected of them or payable to them.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subjected to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such person or interests, respectively, may be awarded to them by the jurors, less the benefits resulting to them, respectively, from the proposed improvement. Award by jurors.

SECTION 14. Having ascertained the damage and expenses of the proposed improvement as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which the assessments may be made. The award of the said jurors shall be signed by them and returned, together with the testimony taken, to the common council, within the time limited in their order of appointment. Jurors to assess damages.

SECTION 15. The land required to be taken for the purpose mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or in case the said owner or agent cannot be found, or is unknown, deposited to his or their credit in some safe place of deposit; and then and not before, such lands may be taken and appropriated for the purpose required, and the same shall thereafter be subject to all laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out. Damages to be paid before land is taken.

SECTION 16. Whenever any improvement chargeable to the property adjacent thereto shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot or parcel of land subject to contribute to the payment of the same, shall be ascertained, the city clerk shall forthwith issue to each person occupying such premises liable to contribute, a certificate stating the amount assessed and chargeable to the premises occupied by such person, and the amount Improvements chargeable to adjacent property.

so chargeable to any particular lot or parcel of land, shall be from the time it is so ascertained a lien and charge thereon, and upon no other property; and the said amount shall be entered against said lot or lots in the tax warrant for the year in which the assessment is made and collected, in the same manner as other taxes. The damages assessed shall be paid or tendered or deposited as herein required, within twelve months from the confirmation of such assessments and reports, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void.

*Disposition of
land under lease.*

SECTION 17. When the whole or any lot or tract of land or other premises, under lease or under contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall upon the confirmation of such report, respectively cease and be absolutely discharged.

See

SECTION 18. When only part of a lot or tract of land, or other premises, so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for in respect to the same.

*Proceedings
when owner is a
minor.*

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under any disability, the judge of the circuit court of Dane county, or in his absence the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served on such guardian.

*Council to fill
vacancies in jury*

SECTION 20. After the jurors shall have made their report as to the necessity of taking any lands under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to

serve, and the jurors before entering upon the discharge of their duties, shall severally take an oath before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

SECTION 21. Any person whose property is taken, or against whom any assessment is made, may within ten days from the return of jurors to the common council, appeal from said assessment of damage or benefits to the circuit court of Dane county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal. Appeals.

SECTION 22. Whenever any public ground, street or alley shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor. Survey and profile of lands taken.

CHAPTER VI.

IMPROVEMENT OF STREETS.

SECTION 1. The survey and grade of the streets of the village of Madison, made by Samuel T. Wright, by or under the direction or authority of the president and trustees of said village, shall be and the same is hereby declared to be the established grade of the streets of the city of Madison, so far as the same has been made, and the grade of all other streets hereafter surveyed or established, shall conform thereto, subject only to be altered, changed or varied as hereinafter provided. Village grade re-established.

SECTION 2. Upon application in writing of the resident owners of three-fourths of the lots upon any street, or upon that part of any street in which the grade is proposed to be changed, the common council shall have power to cause a new survey to be made, and to alter such grade or establish a new one in such street or part of street set out in such application, as the public good may seem to require. Altering and establishing grades.

SECTION 3. Any person not being a signer of such application, who shall claim to have sustained damages by such change of grade, shall have his right of action against the city for the recovery of the same: *provided*, that no suit shall be brought against the city for the recovery of such damages, until application has been Damages for change of grade.

made to the common council, and said council shall have refused or neglected for three months to settle the same: The signing of such application shall be taken and construed as a release of all claims for damages of every such signer.

Duties of street commissioner.

SECTION 4. It shall be the duty of the superintendent of streets to see that all ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters of the lakes, and water courses in said city, are duly observed and kept, and direct and control the persons employed therein. The superintendent of streets shall have a general supervision over all work let by contract, for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

Sidewalks—manner of construction.

SECTION 5. Sidewalks shall be constructed upon the proper established grade of any street in said city, of such width, in such manner, of such materials and in such time as the common council, by ordinance, resolution or order shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, the common council may cause the same to be constructed at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city for at least ten days, of the time, place and manner of securing such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same: *provided*, that no such contract shall be let until thirty days after notice shall have been given to such owner or owners, of the ordinance, resolution or order requiring the construction of such sidewalk, by the publication of the same at least ten days in the official paper of the city.

Contracts for building sidewalks.

Notice to owners

Grade of streets.

SECTION 6. The common council of the city of Madison shall have power, by order or resolution, to determine and establish the grade of the streets of the city, but shall not change the grade of any streets which have heretofore been established, and which can be ascer-

tained and determined from the records of the city or the late village, nor any grade which may hereafter be established, except as provided by this chapter.

SECTION 7. No sidewalk shall be ordered to be constructed where none has been constructed, except upon the petition of three-fourths of the owners of lots who reside upon the same, along which the sidewalk is proposed to pass; but where sidewalks have been once built, the common council shall have power, by a two-thirds vote of all the members of the council, without petition, to order such walks to be repaired in such manner as they may deem proper, or may order new walks to be constructed of like or different material. The city clerk shall receive all proposals for constructing or repairing sidewalks, and shall open them in presence of the council, which shall award the contract to the lowest reasonable responsible bidder, subject to such provisions in case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks and levying and collecting special taxes on the respective lots to pay for the same, shall be the same as now provided by law, in case of constructing a new sidewalk. No contractor for building or repairing sidewalks shall receive any pay therefor from the city under any circumstances, until the tax levied for the purpose shall have been actually paid to the city or county.

Petitions necessary for new sidewalks.

Petitions not necessary for repairs, &c. of old ones.

Proposals for constructing sidewalks, &c.

Repair of sidewalks, &c.

When contractor to be paid.

SECTION 8. It shall be the duty of each male inhabitant of the city, over twenty-one years of age and under fifty, except active members of the fire department, to perform one full day's labor, annually, on the streets of the city, such work to be performed under the direction of the superintendent of street, and at such time and place as he shall direct; but such person may, at his option, in lieu of such labor, pay to said superintendent one dollar, to be by him expended in work upon the streets. In case any such person shall fail to perform such labor at the time and place directed by the street superintendent, and shall not on demand pay the said money in lieu thereof, he shall be liable to and shall pay a penalty of two dollars, to be prosecuted for by the superintendent of streets, in the name of the city of Madison, in the police court of said city. The process in such case shall be a warrant, and in case judgment is rendered for the plaintiff, the defendant, in default of

Poll tax.

payment thereof and costs, shall be imprisoned in the county jail for ten days at hard labor. The penalty, when recovered, shall be paid to the street superintendent, to be expended in work upon the streets.

Street superintendent to give bond, &c.

Duties of superintendent.

SECTION 9. The superintendent of streets shall, before entering upon the duties of his office, execute to the city a bond in the penal sum of one thousand dollars, with two sufficient sureties, to be approved by the council, conditioned for the faithful performance of the duties of his office, and of such as may be required of him by the council, and for the proper expenditure of the money which may be collected or come into his hands by virtue of the foregoing section. He shall have a general supervision of all streets, and shall let all contracts for work upon the same ordered by the council. He shall personally see that every man required to perform labor upon the streets, as provided by the preceding section, performs such labor or pays the amount required in lieu thereof, before the first day of September, in each year, and shall summarily prosecute for every violation of said section. He shall expend the labor and money so realized in each ward, at such places in each ward as shall be designated by the senior alderman thereof. He shall on the first day of September, in each year, report to the council, in writing, under oath, a true and correct statement of all money received by him by virtue of this act, and from whom received, and how and where expended; also, the names of all persons who have performed one full day's labor as hereby required, the names of those who have not in any respect complied with this act, and the names of all persons who have been prosecuted for violation hereof, and the amount of penalties collected from them by virtue hereof; and the said superintendent of streets shall be held strictly responsible for the full and complete execution of this act, according to the terms thereof, and the council may at any time remove him from office for neglect of duty, and appoint a competent man in his place. The street superintendent shall receive for his services not more than two dollars per day for each day actually and necessarily occupied by him in the discharge of his duties. The chief of police shall be street superintendent in any year when the common council shall so determine, and shall receive for his services, when actually occupied in collecting and expending the poll tax, such sum per

Compensation.

Chief of police may act as superintendent.

day as the council shall determine, not more than one dollar per day, or a per centage on the amount collected, not more than ten per cent.

CHAPTER VII.

FINANCES AND TAXATION.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the certificate of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all certificates drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city. Council to manage finances.

SECTION 2. No debt shall be contracted against the city, or certificate of indebtedness drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the common council, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council; and no money shall be appropriated for any purpose whatever except such as is expressly authorized by this act. Majority of council necessary to contract debts.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of two-thirds of all the aldermen elect. Fines and forfeitures.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers that are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act: *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor, and make such rules and regulations in relation to revising, altering or per- Taxable property. Powers of assessors.

fecting such rolls, as they may from time to time deem advisable.

Fiscal year—estimate of expenses.

Limit to expenses.

Levy and collection of taxes.

SECTION 5. The fiscal year of the city of Madison shall commence on the first day of September, on which day or within twenty days thereafter, the common council shall by resolution determine what amount of money, with the estimated resources of the city not derived from direct taxation, for the year then next ensuing, will be required for general city purposes during that year. The amount determined upon shall not exceed six thousand dollars, and the council shall thereupon, by resolution, levy a tax for general city purposes, one-third greater than the amount so determined upon. The common council shall at the same time, in addition to the amount of taxes now required by law to be levied by them for other than general city purposes, also levy the amount of such other taxes returned to the county treasurer as delinquent during the year preceding, except such taxes as are by law made chargeable upon particular lots in said city. The common council shall have power to levy a tax upon the assessment roll, equal in amount to the interest for one year not otherwise provided for, upon all bonds lawfully issued by the city of Madison subsequently to the eighteenth day of February, eighteen hundred sixty-four; and shall also levy the amount of money required for the current and contingent expenses of the common schools of the city, not exceeding eight thousand dollars in any one year. The common council may also levy a special tax, not exceeding five thousand dollars in any one year, for the erection of a school house or houses, when the board of education shall require the same; and no such special tax shall be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of school or school house tax, but the same shall be paid in money, and shall be paid over by the city treasurer to the treasurer of said board upon the order of the chairman and clerk thereof.

Taxes to be lien on property.

SECTION 6. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic assessed for personal taxes, from the date of the warrant for the collection thereof,

until such taxes shall be paid; and on sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon personal property.

SECTION 7. Before the annual meeting of the board of supervisors of the county Dane, and by the time required by the laws of the state for the return of assessments from the several towns, the city clerk shall transmit a copy of the assessment roll to the clerk of the board of supervisors of said county, who shall lay the same before said board at their annual meeting.

Copy of assessment to be given clerk of board.

SECTION 8. The board of supervisors shall have the right to regard the city of Madison as a town, in equalizing the assessment rolls of the several towns in said county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

County equalization.

SECTION 9. The board of supervisors may levy a tax or taxes as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law in relation to towns or town clerks, and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

City to be taxed as a town.

SECTION 10. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several amounts of taxes levied for (the) state, county, city or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein, which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council.

City clerk to make out taxes.

SECTION 11. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court

Tax list to be evidence in courts.

of record in this state, that every act or thing required by law to be done relating to assessing or levying taxes, from the election of the officers to the completion of the tax list inclusive, has been done regularly, correctly and as required by law.

Warrant for collection of taxes.

SECTION 12. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and said clerk shall, on or before the 25th day of November of the said year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of said delivery of the tax list preserved in this office.

Treasurer to collect taxes—his fees.

SECTION 13. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions, as town treasurers, except as otherwise provided in this act. The city treasurer shall collect one per cent. fees upon all taxes paid to him before the first day of January, and three per cent. fees upon all taxes collected by him after that time, to be added to the amount of tax and collected with the same. Said fees when collected shall be paid into the city treasury, and a separate account kept thereof.

Treasurer's return.

SECTION 14. On or before the fifteenth day of February, of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Dane county a list of all land, lots and personal property upon which taxes have not been paid, and shall also settle with and pay all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of sections eighty-one to eighty-seven, inclusive, of chapter eighteen of the revised statutes, as modified by acts amendatory thereof, shall extend to and may be enforced, to collect any delinquent personal property tax of whatever year now due to said city.

Sale of delinquent lands.

SECTION 15. The county treasurer shall sell all delinquent lands and lots returned from the city of Mad-

ison, at the same time and in the same manner as other delinquent lands are sold in said county.

SECTION 16. All real estate exempt from taxation by the laws of this state, shall be subject to all special taxes for the building of sidewalks and improvements of streets in front of the same. Exempt lands subject to certain taxes.

SECTION 17. All lands lying within the city limits, used or kept for farming purposes, and not divided and laid out into lots, or lots and blocks, and all outlots not subdivided and numbered by such subdivisions, shall be assessed at a moderate cash value by the acre, and shall not be subject to any special tax. How farming lands and outlots to be taxed.

SECTION 18. All the directions hereby given for the assessing of land and the levying, collection and return of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment: *provided*, this section shall not be so construed as to dispense with the requisite two-thirds vote of all the members of the council in levying a tax. Of errors, &c. Proviso.

SECTION 19. The city treasurer shall not receive from the treasurer of the county of Dane, tax certificates in payment of any indebtedness which may become due from said county to said city. The city shall contract no debt, and the common council shall make no appropriation during any fiscal year for city purposes, greater than the amount determined upon, as provided in the foregoing section seven of this chapter, for such purpose, together with the amount of money which may at any time be in the city treasury derived from other sources than taxation; and any member of the said common council who shall knowingly vote to make any appropriation out of the city treasury, contrary to the provisions of this section, shall, on conviction thereof, be fined in a sum not less than fifty dollars nor more than five hundred dollars, and be imprisoned in the county jail of Dane county, not less than ten days nor more than three months: *provided*, that whenever the unappropriated money in the city treasury, with the amount due to the city from delinquent taxes not canceled, shall exceed, on the first day of September, of any year, the whole amount of taxes levied by the common council for general city purposes during the Tax certificates. Debt not to exceed amount determined upon. Penalty. Proviso.

preceding fiscal year, then the common council shall have power to appropriate the portion of such excess which is in money, to the payment of any city indebtedness.

Payment of appropriations.

SECTION 20. No scrip, certificate, treasury order, nor other evidence of debt, shall hereafter be issued or authorized by the common council of the city of Madison, nor by any officer of said city; but whenever the common council shall lawfully appropriate money to any party, to be paid out of the city treasury, the mayor and city clerk shall certify the fact directly to the city treasurer, in the order in which such appropriations are made, specifying in said certificate also the purpose for which such appropriation was made; and said treasurer shall pay the amount so appropriated and certified in the order in which they are so certified, out of any funds in his hands belonging to the city, taking proper receipts therefor, and filing them in his office, and the city funds shall be paid out of the treasury in no other manner whatsoever.

Payment of judgments.

SECTION 21. The common council shall have power, by a two-thirds vote of all the members thereof, to levy a tax or taxes to pay any and all judgments against the city.

Treasurer may be removed.

SECTION 22. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes, as provided by this act and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

Salary of treasurer.

SECTION 23. The salary of the city treasurer shall hereafter be eight hundred dollars per year, which shall be his full compensation for his services as such treasurer. All fees collected by him as provided by law, shall be paid into the city treasury, and the amount thereof reported by the treasurer to the city clerk on the first day of each month, and a separate account kept thereof.

Demands against city.

SECTION 24. All accounts or demands against the city, before the same shall be acted upon or paid, shall be verified by affidavit, except salaries and amounts previously fixed or determined by law; and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury. No interest shall hereafter be allowed or paid on any city order or cer-

tificate whatever. No money shall be appropriated and drawn out of the city treasury except in payment of accounts or demands previously presented to and passed upon and allowed by the common council.

CHAPTER VIII.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of Fire limits, wooden buildings, &c. guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constituted of fire proof materials, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

SECTION 2. The common council shall have power Further powers of council for safety against fire. to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; and to regulate and prevent the carrying on of any manufacturing dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scutiles in the roofs and stairs and ladders leading to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and, generally, to establish such regulations for the preservation [prevention] and extinguishment of fires as the common council may deem expedient.

SECTION 3. The common council shall have power to Fire companies and apparatus. purchase fire-engines and other fire apparatus, and to

authorize the formation of fire-engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded and their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of fifteen and fifty years, and may elect its own officers and form its own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistment. Every member of each company hereby authorized to be formed, shall be exempt from highway work, poll tax, from serving on juries, and from military duty, during the continuance of such membership.

Privileges of firemen.

Annual meetings and officers.

SECTION 4. There shall be a meeting of the members of said companies on the third Monday of March, in each year, at such place as may be designated by the mayor, when they may nominate and recommend to the common council for appointment, one chief engineer and their assistant engineers, and the common council shall thereupon confirm such nominations, and the persons so appointed shall perform such duties as the common council shall prescribe.

Fire wardens.

SECTION 5. At the same time the members of said company shall nominate, and the common council shall appoint the same, four first fire-wardens, one of whom shall reside in each ward, and who shall perform such duties as the common council shall prescribe, and they may at any time enter into or open any house, store-house or other building or inclosure for the purpose of inspecting the same, and with a view to guard against fire.

Firemen's fund.

SECTION 6. One-half of the net proceeds of all fines or penalties recovered for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid to the fire department.

Persons to be arrested for failing to obey officers at fires.

SECTION 7. When any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor or alderman at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the chief of police, constable, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner, such officers or any of them may arrest or direct the arrest and confinement of every

person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

SECTION 8. The common council shall have power to organize a sack company, which shall be known as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Madison, and are hereby vested with all the power and authority which now is or may be hereafter vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall take charge of all property which may be exposed or endangered, and shall so far as may be in their power, preserve the same from injury or destruction. Said company may from time to time adopt such by-laws and regulations as they may deem necessary, not inconsistent with this act and the laws of this state. The members of said company shall not be entitled to any pay or compensation for service rendered in their official capacity. They shall in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same. The members of said company shall severally take an oath or affirmation that they will faithfully discharge the duties of their said office, and when any member of said company shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk, who shall preserve a record of all the members of said company.

Sack company—
its powers, duties, privileges, &c.

CHAPTER IX.

POLICE JUSTICE—HIS POWERS AND DUTIES.

SECTION 1. The jurisdiction of the police justice of the city of Madison shall be coextensive with the county of Dane, and shall have exclusive jurisdiction to try all criminal cases and conduct all examinations within said

Powers, &c. of
police justice.

city, under the laws in which justices of the peace have jurisdiction, and according to this act.

Jurisdiction in
case of larceny.

SECTION 2. The said police justice shall have jurisdiction concurrently with the circuit court in all cases of larceny, where the amount alleged to have been stolen shall not exceed the sum of eighty dollars: *provided*, that nothing herein contained shall be so construed as to give said justice jurisdiction of offenses punishable by imprisonment in the state prison.

Punishment in
case of larceny.

SECTION 3. The punishment for such larceny shall be by a fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding one year, or by both fine and imprisonment, in the discretion of the court. The said police justice shall have jurisdiction concurrently with the circuit court within said county of all offenses mentioned in sections 56 and 57, chapter 165, of the revised statutes of the state of Wisconsin, where the value of the timber or wood cut, or the mineral or earth dug or carried away, shall not be alleged to exceed the value of one hundred dollars, and in such cases the punishment shall be by fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding six months.

Jurisdiction in
case of injury
to trees, &c.

SECTION 4. In all cases arising under the last two mentioned sections, if the defendant shall dispute the title of the land upon which the alleged offense was committed, he shall join with his plea of "not guilty," a statement to the [that] effect, and the court shall require him to enter into a recognizance with two sufficient sureties, who shall justify in double the amount of penalty in the recognizance, for his appearance before the next term of the circuit court, and the said justice shall then transmit the papers and all proceedings in the case to the clerk of the circuit court in said county, and the cause shall be tried in said circuit court upon the original papers filed with said justice.

Cases in which
title to land may
come in question

Assaults and
batteries.

SECTION 5. The said police justice shall have jurisdiction to hear, try and determine assaults, batteries and affrays, which said trials in such cases shall be conducted according to the provisions of chapter one hundred and twenty-one of the revised statutes of Wisconsin.

General powers,
&c.

SECTION 6. The said police justice shall have and possess all the rights, powers and privileges of justices of the peace, and all the laws of this state concerning

justices' courts, shall apply to the police court of the city of Madison, except so far as said laws conflict with the provisions of this act.

SECTION 7. The said police justice shall have jurisdiction to hear, try and determine all offenses mentioned in sections one to fourteen, inclusive, of chapter 169 of the revised statutes.

Jurisdiction of offenses against public policy.

SECTION 8. The said justice may appoint a clerk, who shall have power to administer oaths. The appointment of such clerk shall be in writing, under the hand of said justice, and filed in the clerk's office of the circuit court of Dane county.

May appoint clerk.

CHAPTER X.

BONDED INDEBTEDNESS—THE CITY OF MADISON AUTHORIZED TO COMPROMISE AND SETTLE.

SECTION 1. The common council of the city of Madison is hereby authorized to negotiate and effect a settlement and compromise of the bonded indebtedness of said city, and for that purpose are hereby fully empowered to issue new bonds of said city, payable in twenty years from the first day of April, A. D. 1864, bearing interest at a rate not exceeding seven per cent. per annum, payable annually on the first day of April, both interest and principal payable in the city of New York. Said bonds shall have coupons annexed, in the usual form, for the annual payment of interest, which, together with said bonds, shall be appropriately numbered, and shall be signed by the mayor and countersigned by the city clerk. The bonds shall be for such sums, not exceeding one thousand dollars each, as shall be found most convenient and practicable in carrying out the provisions of this act.

Council authorized to compromise indebtedness, and issue new bonds.

SECTION 2. Upon the surrender to the common council of any bond heretofore issued by said city for municipal or cemetery purposes, or to aid the Watertown and Madison railroad company, or of any interest coupons due or past due taken from any of said bonds, or upon the satisfaction and discharge of any judgment against the city rendered upon such coupons, the owner of such bond, coupons or judgments shall receive from the common council the amount per cent. which the

Terms upon which indebtedness may be compromised.

common council of said city may have agreed to pay, or shall hereafter agree to pay, for the class or kind of bonds so surrendered, in new bonds of the description authorized by the first section of this act, in full for the indebtedness so surrendered. In effecting the compromise hereby authorized, interest on said old bonds and judgments may be allowed to the first day of April succeeding such compromise and settlement, but not thereafter; and any of said new bonds delivered between September 1st and April 1st, of any year, shall have the coupons which have matured and then next maturing, cut off and destroyed before delivery.

Time certificates.

No bonds shall be issued under this act for any less sum than one hundred dollars, but to facilitate exchanges, the common council may issue time certificates for small or fractional amounts, not exceeding one hundred dollars, bearing seven per cent. per annum interest from such date, and payable at such time, not more than five years from their date, as the common council shall determine, and convertible into bonds when presented in proper amounts by one individual; or the common council may pay such small or fractional sums in money, whenever there are funds in the city treasury applicable to that purpose.

Agent to negotiate indebtedness.

SECTION 3. The common council of said city are hereby authorized, if in their judgment it shall be necessary, to employ an agent or agents to negotiate a settlement and compromise of the old indebtedness hereinbefore mentioned, and to pay such agent or agents such sum for services and expenses incurred in and about said business, as shall in their judgment be just and reasonable; and such agent or agents shall have such powers as the council, subject to the approval of the mayor, shall determine.

Cancellation of old bonds, &c.

SECTION 4. Upon the compromise and surrender of any of said old bonds or coupons, or the satisfaction of any of such judgments, the city clerk shall cause a description thereof to be entered in a record to be kept by him for that purpose; and such bonds and coupons shall then be canceled in presence of the council and deposited in the city clerk's office.

Annual tax for payment of interest.

SECTION 5. At the time fixed by law for levying the annual city tax, the common council shall levy a special tax, annually, for the amount of interest which will become due on the first day of April next thereafter,

upon such bonds and certificates issued under this act as shall have been actually delivered, and which remain unpaid; which tax shall be payable in money or in coupons, as hereinafter stated, and shall be levied and collected as other city taxes are levied and collected, and shall be kept separate from all other funds. The amount collected from such tax shall be applied by the city treasurer to the payment of the annual interest on said bonds and certificates, at the place where they are payable; and the treasurer of said city shall receive in payment of all city taxes, the coupons attached to such bonds becoming due on the first day of April next after the levy of such tax, whenever presented by any person for that purpose; and such coupons shall be sufficient vouchers in the hands of the treasurer of said city for the payment of all city taxes to the amount of such coupons so received by him. And said new bonds and coupons being proposed to be issued in compromise and settlement of bonds and coupons of said city already outstanding, with the agreement and understanding on the part of said city with the holders of said old bonds and coupons, that said new coupons shall be receivable for city taxes: now, therefore, it is declared and enacted, that the provisions herein contained that said new coupons shall be receivable for city taxes, shall be taken and construed as a part of the contract of settlement between said city and its creditors. And it is hereby made the duty of the treasurer of said city to deliver to the common council, at its first regular meeting in the month of March, in each year, all coupons so received by him for taxes, and he thereupon shall be credited with the amount of coupons so as aforesaid received by him for taxes, and said coupons shall be canceled in the presence of the common council, and deposited in the city clerk's office; and the common council shall at said meeting appropriate sufficient money from said fund to pay all coupons falling due on the first day of April next thereafter, and cause the same to be placed where said bonds and coupons are made payable, before the first day of April, in each year; and if, at said meeting, it shall be ascertained that sufficient money has not been collected from said special tax to pay all the coupons maturing on the first day of April next thereafter, the common council shall

Coupons receivable for taxes.

Construction.

Duty of treasurer and council.

appropriate sufficient to pay such deficiency from the general fund belonging to said city; and all money collected after such appropriation upon said special tax, shall be placed in the general fund belonging to said city. The common council may also, if it shall, in their judgment, be necessary or expedient, levy a further tax to pay the time certificates issued by virtue of this act.

Further tax may be levied.

Contingent expenses.

SECTION 6. The common council shall have power, and are hereby authorized, to appropriate from any money in the city treasury not raised for educational purposes, such sums as may be necessary to defray the contingent expenses and payments provided for by this act.

Portion of bonds may be sold at 25 per cent. discount

SECTION 7. In case the common council of said city shall deem it to be for the interest of said city to settle or compromise a portion of its said debt for cash, to enable it to do so, they may sell and dispose of for cash, of the issue of bonds authorized by this act, not exceeding fifty thousand dollars, at a sum not less than seventy-five per cent. of their par value.

CHAPTER XI.

MISCELLANEOUS PROVISIONS.

Village property, &c. vested in city.

SECTION 1. The city of Madison shall be and is hereby invested, as the lawful owner and successor of all real and personal property, and all the rights and privileges belonging to the corporation of the village of Madison, together with all the funds, revenues, debts and demands due and owing to the said village of Madison, as a corporate body, which by or under any former acts, ordinances, grants, donations, gifts or purchases have been acquired, vested or in any manner belonging to said corporation, and the same are hereby transferred to the corporate body created by this act, and all suits, judgments, rights, claims and demands against said village of Madison, may be continued, prosecuted, defended and completed in the same manner as if this act had not been passed.

Common schools.

SECTION 2. The common schools of the city of Madison shall be under the supervision and control of the board of education, as provided by chapter 295 of

the private and local [general] laws of 1861, and the acts amendatory thereof.

SECTION 3. All work for the city or either ward thereof, shall be let by contract to the lowest reasonable responsible bidder, and due notice shall be given of the time and place of letting such contract: *provided*, that the council by a vote of two-thirds of all the members thereof, may otherwise provide for work.

Work for city to be done by contract.

SECTION 4. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally for such penalty or forfeiture, stating the clause of this act or by-laws or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All prosecutions may be commenced by summons or by warrant, as the exigency of the case may require. In all cases where an action might be brought by the city of Madison against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any elector of said city: *provided*, that before any person other than the proper officers of said city shall prosecute any such action, the person or persons so commencing shall enter into bonds, with sufficient surety to the opposite party, to be approved by the judge or justice before whom such action shall be brought, conditioned that he or they will pay all costs that might be recovered against the city in such action. After the filing of such bond with the papers in the case, such action shall not be discontinued or defeated by the city, nor shall the city be liable for any costs on account of any such action, but such costs where the action shall fail, may be recovered against the party commencing the same, upon the bond filed as aforesaid: *provided*, that nothing herein contained shall be so construed as to prevent any peace officer from arresting, without process, any person in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before the police justice, or keeping them in confinement until such time as said justice can reasonably hear and dispose of such offender.

Actions in favor of city—how brought.

Executions to issue.

SECTION 5. Execution shall issue forthwith on the rendition of judgment, unless the same be stayed or appealed according to the laws of this state. The execution, except in cases *ex contractu*, shall require the defendant in any such action, in case no goods or chattels, lands or tenements, wherefrom the judgment can be satisfied, can be found, to be imprisoned in the jail of Dane county, for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid, or discharged by the common council.

Not incompetent.

SECTION 6. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

In case of failure to hold election.

SECTION 7. If any election by the people or common council shall not for any cause be held at the time or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election may be had on any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws of this city, to be done by any officer at any time specified, and the same are not done and performed, the common council may appoint another time at which said acts may be done or performed.

Actions against the city.

SECTION 8. Whenever any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as the ordinances or resolutions of said council may provide.

May hold property.

SECTION 9. Said city may lease, purchase or hold real or personal property sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

Repealing.

SECTION 10. No general law contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

Town and city of Madison—when dissolved.

SECTION 11. From and after the second Monday of March, A. D. 1865, the connection between the town of Madison and that part of said town included within the

city limits, for all town purposes, shall be dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Madison, shall be performed by the aldermen of all the wards, and the other officers of said city. All that part of the town of Madison lying east and northeast of said city, shall be attached to said city school district for school purposes, but shall at any time be set off into a separate school district by the board of education of said city, upon application of a majority of the legal voters resident therein.

SECTION 12. Every member of the common council of the city of Madison, who shall directly or indirectly vote to himself, or knowingly to any other person, any sum of money for any purpose whatever, in violation of the city charter, or any amendment thereto, or shall ask or receive any compensation for doing any official act, except as an inspector of elections, member of the board of registry, and as member of the city board of equalization, who shall be directly or indirectly interested in any contract made with or on behalf of the city, and any member of said council, city treasurer or person acting as treasurer, who shall directly or indirectly purchase or be interested in the purchase of any city order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or by complaint before the police justice or any justice of the peace having jurisdiction, and upon conviction thereof shall be punished by fine, not exceeding one hundred dollars nor less than twenty dollars, or by imprisonment in the county jail, not more than thirty days nor less than ten days, or both, at the discretion of the court. Penalties.

SECTION 13. The paupers of said city shall be removed to the poor house of the county of Dane by the mayor or aldermen, in like manner as they are removed from the several towns in said county. Paupers.

SECTION 14. Every license issued by the authority of this act or the ordinances of the city, shall be signed by the mayor and city clerk, and sealed with the corporate seal; but no such license shall be issued by said mayor and clerk until the person applying for the same shall have deposited with said clerk Licenses.

Bond.

the receipt of the city treasurer for the amount required to be paid therefor. Nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the applicant shall have filed his receipt, as aforesaid, together with a bond, as required by the laws of this state, which bond shall be approved by the mayor, and a sum of not less than the minimum sum nor greater than the maximum sum fixed by the laws of this state to be paid for any such license, shall be paid to the city treasurer in money; and the city treasurer shall quarterly pay fifteen dollars on each license so issued for the sale of liquors, to the treasurer of the county of Dane. Every such license shall contain a clause prohibiting the selling, vending or giving away any spirituous, vinous or malt liquors on Sunday and on general or special election days. It shall be the duty of the mayor and city clerk to report to the council at each regular meeting thereof, the licenses theretofore issued by them and not before reported, and the council shall by vote approve or disapprove of the same. If the council disapprove thereof, it shall be the duty of the city clerk forthwith to notify the person holding such license that the same has been revoked by action of the common council, and such license shall thereafter be void, and the council shall refund the license money paid therefor, except a fair proportion thereof for the time said license was in force.

Report of licenses.

Licenses may be revoked.

Liquor not to be sold on election days nor Sundays

SECTION 15. Every person having such license who shall vend, sell or give away any spirituous, vinous or malt liquors on Sunday or on any election day, shall be liable to prosecution under this act or the ordinance of the city, or may be indicted in the circuit court of Dane county, and upon conviction thereof, any such offender shall forfeit and pay a sum not exceeding two hundred dollars nor less than fifty dollars, or be imprisoned in the jail of Dane county, not more than thirty days nor less than ten days, at the discretion of the court, and the license held by such person shall be forfeited and void.

Duties of treasurer.

SECTION 16. The treasurer of the city of Madison shall perform all the duties and do all the acts required by law to be done by the treasurer of the village of Madison, in relation to the redemption and deeding of lands heretofore sold for the non-payment of taxes in

said village, and every certificate of redemption or tax deed made out and executed by the said city treasurer, shall have the same force and legal effect as if this act had not been passed, and such certificate or deed been made out and executed by said village treasurer. And the treasurer of the city of Madison is hereby authorized, in making any deed for lots or land heretofore sold by the treasurer of the village of Madison for the payment of taxes in said village, to make the same in the name of the city of Madison, and every deed so made and executed by the city treasurer, shall be received in all courts of this state as *prima facie* evidence that all the proceedings relating to or affecting the tax for which such lot or lands were sold, from the assessment to the making of such deed, inclusive, were regular, correct and performed according to law; and no other act shall be required of such city treasurer in relation to lots so sold, except the making and acknowledging such deed as aforesaid, except issuing certificates of redemption for such lots as may be redeemed.

SECTION 17. No suit or proceeding shall be commenced or prosecuted to recover title or possession of any lot, piece or parcel of lands situated within the limits of the city of Madison, held or claimed by virtue of any deed purporting upon its face to be executed on account of any sale for taxes or assessment, levied after the passage of this act, until the person commencing such proceeding shall have deposited with the court in which such proceeding is or shall be commenced, for the use of the holder or claimant under such deed, an amount of money equal to the amount of taxes, costs and charges paid in procuring such deed, and all subsequent taxes, costs and charges upon the lot or lands described in such deed, and paid by such holder or claimant, together with twenty-five per cent. interest thereon from the time of such payment to the commencement of such suit or proceeding; and in the event that such deed shall be defeated or impeached on the trial of such cause, the money so deposited shall be awarded to the holder or claimant under such deed, except in the cases where the taxes were paid before sale, or the lands redeemed according to law. In the trial of every such cause on the part of the defendant, such deed shall first be read in evidence to the jury,

No suit against city to recover title shall be commenced until a stated amount is deposited.

and shall be evidence in such suit or proceeding to the extent specified and provided in section 127 of chapter 18 of the revised statutes of 1858.

Use of jail granted to city.

SECTION 18. The use of the jail of Dane county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe-keeping and delivery the said sheriff shall be responsible, as in other cases, but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation of said city, but such expenses shall be paid by the city.

Real estate of individuals not liable for debts of city.

SECTION 19. No real or personal property of any inhabitant of said city, or any individual or corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Judgments against city.

SECTION 20. When a judgment shall be recovered against said city or any ward thereof, or against an officer of said city or of any ward thereof, in any action prosecuted by or against him, in his name of office, where the same should be paid by the city or any ward thereof, no execution shall be issued or awarded upon such judgment except as hereinafter provided, but the same, unless reversed, shall be levied and collected as other city or ward charges, and when so collected, shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of city or ward taxes, next after the rendition of such judgment, execution may be issued thereon, upon the order of the court authorized to issue such execution, on special application therefor.

Issue and sale of bonds.

SECTION 21. The mayor and common council of the city of Madison shall have no power hereafter to issue, sell or dispose of any city bonds of said city whatever, except such as are specially authorized by the act entitled "an act to authorize the city of Madison to compromise its bonded indebtedness," approved February 18, 1864, and incorporated into this act as chapter ten hereof.

SECTION 22. No member of the common council shall be elected or appointed to any office, agency or place of public trust or profit by the council, (except as provided by section 26 of this chapter.) Neither shall the common council sell or authorize the sale of any city order or certificate of indebtedness for the purpose of raising money or the payment of any debt, for less than the amount expressed upon the face thereof.

Members of council not to hold any city office.

Sale of orders.

SECTION 23. The mayor shall have power to grant pardons or commutations after conviction, for all offenses against the ordinances of the city, upon such conditions and with such restrictions as he may deem proper. He shall communicate any such action to the council at its next meeting, with the reasons therefor.

Pardons.

All fines imposed by the police court of the city of Madison for violation of this act or ordinances, by-laws or regulations made in pursuance thereof, shall be paid by the officer collecting the same into the city treasury, and a separate account made thereof; and in the months of March and September, in each year, the city clerk shall report to the council the amount so received during the preceding six months, and also the expenses attending such prosecutions in the city during the same period.

Fines.

SECTION 24. The common council shall have power, and it shall be their duty, to expel from office any ward constable for misconduct or neglect in the discharge of his official duties, or for refusing or neglecting to perform such acts as are required of him by law.

Expulsion of constables.

SECTION 25. The mayor shall annually nominate, and by and with the advice and consent of the common council, shall appoint an attorney to attend to such legal business of the city as shall be required of him by the council and mayor; but such attorney shall not receive more than three hundred dollars per year for such services, to be paid in the month of March, in each year, upon an itemized bill rendered.

City attorney.

SECTION 26. The mayor *ex officio*, and one alderman, to be elected by the council *viva voce*, shall be members of the board of education of the city of Madison. They shall hold till their official term as mayor and alderman, respectively, shall expire, and shall have the same rights and privileges as other members of the board. The board of education shall annually, on the first day of September, and oftener if

Board of education.

required, report in writing to the common council a full and detailed statement of the financial affairs and transactions of the board for the year preceding, and of its wants and requirements for the ensuing year. The common council shall have power to levy a special tax to pay all outstanding valid claims against the board of education, or such part thereof as they may deem proper; and the money arising from such tax shall be applied to no other purpose whatever. Money shall be paid from the treasury of the board, on future appropriations, only upon certificate of its president and clerk, and no order on the treasury nor other evidence of debt shall hereafter be issued upon the allowance of claims.

No salaries.

SECTION 27. No compensation or salary shall be paid out of the city treasury to the mayor or any alderman of said city for his services, except as provided in section 12 of this chapter.

Licenses not transferable.

SECTION 28. The common council shall never permit the transfer of any license from one person to another, unless the person to whom the same is transferred is to and shall pursue the business licensed, upon the same premises where the business was conducted by the party to whom the license was originally granted; and the person or persons to whom any license is transferred, shall not thereby be authorized to conduct or engage in the business licensed at any other place.

Public act.

SECTION 29. This act shall be considered a public act, and shall be construed favorably in all courts and places.

Repeal.

SECTION 30. An act entitled "an act to incorporate the city of Madison," approved March 4th, 1856, and all acts amendatory thereof, and all acts relating to the corporation of the city of Madison not retained in this act, are hereby repealed.

Approved March 23, 1865.