

Appeals to be taken only on authority of district attorney.

on behalf of the state in such actions, either to the circuit or county court, or from such circuit or county court, to the supreme court from any judgment rendered against the state in such actions, except upon the authority of the district attorney, and upon the giving of such bond as is required of private parties upon similar appeals.

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

Approved March 7, 1877.

[Published March 14, 1877.]

CHAPTER 193.

AN ACT to incorporate the city of Plymouth.

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

City bound-
ries.

SECTION 1. That from and after the first Tuesday in April, 1877, all that district situate in the county of Sheboygan, state of Wisconsin, and described as follows: S. E. $\frac{1}{4}$ and the south 28 acres of S. E. N. E. $\frac{1}{4}$ section twenty-one (21), S. W. $\frac{1}{4}$, and the south 28 acres of S. W. $\frac{1}{4}$, N. W. $\frac{1}{4}$ and W. $\frac{1}{4}$ S. E. $\frac{1}{4}$ section twenty-two (22), W. $\frac{1}{4}$ N. E. $\frac{1}{4}$ and N. $\frac{1}{4}$ of N. W. $\frac{1}{4}$ section twenty-seven (27), N. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ section twenty-eight (28), town fifteen (15) north, range twenty-one (21) east, shall be known and designated as the city of Plymouth, and by that name shall be capable of contracting, and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, with powers of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall be competent to exercise all the rights and privileges, and be subject to all the duties and obligations pertaining to a municipal corporation.

General corpo-
rate powers.

Ward bound-
ries.

SECTION 2. The said city shall be divided into two wards, the boundaries of which shall be as follows: All of that territory [within the boundaries of the city of Plymouth, lying north of a line commencing at the S. W. corner of S. E. $\frac{1}{4}$ section (21), running thence

east on section line to the point of intersection with Fond du Lac street, thence along the center of said street to the point of intersection, with the south line of lot (1), block (17), thence east on said line to the west line of lot (7) block (16), south on the west line of lot (7) block (16) to the south west corner of said lot, thence east on the south line of lots 7 and 15 block (16), lots 7 and 15 block (15), lots 7 and 15 block 14, lots 7 and 15 block 13, lot 7 block (12,) to the southeast corner of said lot, thence north, on the east line of said lot, to the northeast corner of same; thence east on the north line of lot 15, block 12, thence east on the north line of lots 7 and 15, block 11, thence east across Stafford street, thence east on the north line of lots 5, 6, 7, 8, block 10, thence across Division street to the dividing line of block 3, thence east on said line to North street, thence easterly across North street to northwest corner of lot 8, block 6, thence east across the mill pond to the northwest corner of Mrs. Weeks' homestead, thence east to the highway on the east side of said homestead, thence easterly across the highway to the northwest corner of G. W. Barnard's lot, then east to the east line of the corporation, shall constitute the first ward, and all territory within the boundaries of the city of Plymouth lying south of the above described line shall constitute the second ward.

SECTION 3. The corporate authority of said city shall be vested in one municipal officer, styled the mayor, in one board of aldermen consisting of two 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.

In whom corporate authority vested.

SECTION 4. The elective officers of said city shall be a mayor, a city clerk, a treasurer, one assessor, a marshal, one police justice for the city at large, two aldermen and one justice of the peace for each ward, which said officers shall hold their respective offices as follows: the mayor, assessor, treasurer, marshal, and city clerk for one year; the aldermen, police justice and justices of the peace for two years; the term of office shall commence on the first Monday after their election. 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 by this or as may be prescribed by this act and acts amendatory thereto, or as may be prescribed by any ordinance of said city not

Officers—Election and terms of.

inconsistent with this act, or which may not be incompatible with their respective offices.

First election.

SECTION 5. On the third day of April, A. D. 1877, the qualified electors of said city shall elect one mayor, one treasurer, one assessor, one police justice, one marshal and one city clerk, and which said officers shall be qualified voters, residents in such city; and on the same day and at the same place of holding said election, the said qualified electors shall also elect two aldermen, one supervisor and one justice of the peace for each ward. The aforesaid officers shall be residents of the respective wards of which they are elected. At the first election of said city the election shall be held in the first ward at the engine house in said ward, in the second ward at Brooks' block. The voters present shall have power to proceed by nomination and viva voce election to elect three inspectors and two clerks, whose duties shall be (after being sworn by an officer competent to administer an oath by the law of this state) to see that said election shall be conducted in accordance with the laws of the state of Wisconsin, and any frauds or violation of said laws at said election shall be punishable the same as any violation of the election laws of this state, and at every subsequent first Tuesday in April thereafter, elections shall be held in the same wards in said city for the officers above designated; and said election 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 the state; they shall appoint two clerks, who shall severally take and subscribe the oath of office, 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 said returns to the clerk of the city council, and the other to the clerk of the county of Sheboygan. 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 the election, meet at the common council chamber and canvass such returns; and after the aforesaid returns have been canvassed by

When election to be held, and how conducted.

Annual elections.

said board, the mayor shall notify, by a certificate, the persons elected to the respective offices. The returns of the first election shall be made to the town clerk of the town of Plymouth, who, with the chairman of said town, shall certify to and notify the officers elected. The polls shall be kept open from nine o'clock A. M. until six o'clock P. M.

SECTION 6. 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 vacancies in the other offices shall be filled by the common council; the person appointed or elected to fill a vacancy shall hold the office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as persons whose office he may be elected or appointed to fill. Vacancies.

SECTION 7. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election; all elections by the common council shall 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 casting lots, in presence of the common council, at such time and in such manner as they may direct. All persons entitled to vote for state or county officers, and who shall have been a resident for ten days preceding the election, within the ward where they offer to vote, shall be entitled to vote for an officer to be elected under the law, and having six months' residence within the said city, to hold an office hereby created. Elections.
Qualification of electors.

SECTION 8. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, or inspector, as provided by this act, and returns thereof shall be made at the same time and in the same manner as of general or annual elections. Special elections.

SECTION 9. 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; the alderman having the highest number of votes in each ward at the first election, shall be the alderman for two years. Election of aldermen.

SECTION 10. Any officer removing from the city, and any officer removing from the ward of which he was elected, and any officer who shall neglect or refuse to When office deemed vacant.

qualify within twenty days after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

OFFICERS—THEIR POWERS AND DUTIES.

Officers to take oath of office and give bonds.

SECTION 11. Every person elected or appointed to an office 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, marshal, police justice, and justice 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 Plymouth a bond, in such sum and with 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.

Duties of mayor.

SECTION 12. 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 said city discharge their respective duties. He shall appoint the police force in such numbers as the common council shall direct; and in case of a riot or disturbance of the peace, shall appoint a temporary police; he shall communicate to the common council in writing, once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

President. How chosen and duties of.

SECTION 13. 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 as 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 duties of mayor. In case the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall perform 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 him shall have the same force and validity as if performed by the mayor.

SECTION 14. The city clerk shall keep the corporate seal and all the papers and records of the city; he shall attend the meetings and keep a record of the proceedings of the common council. The record of the proceedings 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 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.

Duties of city clerk.

SECTION 15. The treasurer shall receive all moneys 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, shall make a full and detailed account of all the receipts and expenditures after the date of the last annual reports, and also the state of the treasury, which statement shall be filed with the clerk.

Duties of city treasurer.

SECTION 16. The marshal shall also be the collector of the taxes, and for this service, except as herein otherwise provided, he shall have the same powers and be subject to the same liabilities, be governed by the same laws, and receive the same compensation as treasurers of towns. He shall perform such duties as shall be prescribed by the council for the preservation of public peace and the collection of license money and fines, which moneys so received he shall immediately pay to the city treasurer. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and process to him directed, and when necessary in criminal cases or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of the state of Wisconsin.

Duties of city marshal.

sin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city or any law of the state, and forthwith to bring such person before competent authorities for examination, and for such services he shall receive such fees as are allowed to constables for such services. He shall have power to appoint one or more deputies whose appointment shall be approved by the common council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of his duties.

Printing and publication.

SECTION 17. The common council shall annually provide that all printing authorized and required by them to be done for their use or for the use of 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 newspaper, printed and published in the city of Plymouth, unless the bids of such publishers shall be higher than the legal rates of advertising as fixed by law, and higher than the common council shall approve of, or unless such publisher or publishers shall fail to bid. All ordinances and other proceedings required by this act or by the by-laws or 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 affidavit of the length of time said ordinance, by-law or proceeding had been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, proceeding or by law.

Penalty for refusal to deliver books, papers, etc.

SECTION 18. 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, money, books and papers, and all 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 to deliver, and such successor may recover the possession of such books, papers, and effects in the manner prescribed by the law of this state.

Officers of the peace.

SECTION 19. The mayor, each and every alderman, justice of the peace, marshal and watchman shall be officers of the peace, and shall 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.

SECTION 20. 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 in which the city shall be a party, and shall have the same power and authority in cases of contempt as in a court of record; *provided*, that nothing herein contained shall be deemed to divest the judges of the circuit or county courts of the authority as conservators of the public peace, nor to affect in any manner the powers of jurisdiction of the circuit or county courts of the county of Sheboygan. The police justice shall be entitled to receive for his services the same compensation in fee 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 fee, except such as shall accrue in prosecution for the violation of the charter or ordinance of the city wherein the offender shall have been discharged from imprisonment or custody by the authority of the common council. In case of absence, sickness or other disability 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 be thereupon the duty of the mayor to inform the marshal 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 the police justice, appeals and writs of *certiorari* may be taken from the police justice in the same manner as from justices of the peace.

Powers and duties of police justice.

Fee.

When police justice unable to serve.

SECTION 21. 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

Police justice to report to council.

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 violation of any law of this state.

City surveyor.

SECTION 22. The common council may elect a city surveyor, and by the by-laws of said city may prescribe his powers and duties.

How council constituted.

SECTION 23. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be "the common council of the city of Plymouth do ordain," etc. 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.

Meetings of council.

SECTION 24. 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 place of abode. The common council shall determine the rule of its proceedings, and be the judge of the election and qualification of its members, and have power to compel the attendance of absent members.

General powers of council.

SECTION 25. The common council shall have the control and management of finances and all property belonging in the city, and shall likewise, in addition to the power herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, amend, modify 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 enforcing 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, to license and regulate the exhibition of common shows, or shows of any kind, or the exhibitions of caravans, circuses, theatrical performances, billiard tables or bowling saloons; and to provide for the abatement and removal of all nuisances under the ordinances or at common law; and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate groceries, taverns, victualling houses, and all persons

To grant licenses.

vending or dealing in spirituous, vinous or fermented liquors, and to repeal 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: and *provided*, *further*, that no person thus licensed shall sell or give away spirituous, fermented or vinous liquors on election days, to restrain and prohibit all descriptions of gaming 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, vinous or fermented liquors, unless duly licensed by said common council; 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; to compel the owners or occupants 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 or convenience of the inhabitants of said city; and the said common council shall have power at any regular meeting to enact or ordain, publish and provide for necessary and suitable by-laws, which said by-laws so provided for, enacted and ordained, shall be the law, rule and regulation, until the same shall be abrogated and repealed by the said board in the following cases: to regulate the location of slaughter houses; to prevent the obstruction of streets; to prevent horse racing, fast riding or driving in the streets, and to regulate the places of bathing or swimming; to restrain horses and other domestic animals from running at large, and to provide rules for impounding and sale of the same; to prevent the running at large of dogs and geese; to establish public pounds, pumps, wells, cisterns and reservoirs; to regulate and license hacks, cabs, drays, carts, and the charges of hackmen, draymen and cartmen; to erect lamps, and to provide for lighting streets, public grounds and public buildings; to authorize the building and protecting of sidewalks in the city; to restrain drunkards and immoderate drinking, or obscenity, in the streets or public places; to compel the owner or occupants of grounds or buildings where the same are occupied, to remove

To prohibit
gambling.

To abate
nuisances.

To impound
animals.

all obstruction from the sidewalk; to regulate auctions; to appoint watchmen and prescribe their duties.

Council to examine accounts of officers.

SECTION 26. The common council shall examine, audit and adjust the accounts of the city clerk, street commissioner, treasurer and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before their term of office expires.

Power of council to lay out and repair streets, alleys, etc.

SECTION 27. The city council within the city limits shall have full power and authority to lay out, alter or discontinue any highway, street, lane, alley or public walk therein, or to grade, pave or otherwise improve the same, as they may deem necessary or advisable; *provided*, that no street, lane or alley shall be laid out by said council through any outlot containing more than five acres, unless the consent of the owner or owners thereof be first obtained in writing.

When improvement to be made.

SECTION 28. No highway, street, lane, alley or public walk shall be laid out or altered unless a petition, signed by at least six freeholders, resident of the city, shall be presented to the common council asking therefor, describing the same with reasonable certainty, and if the same requires the taking of private property for public use, against the consent of the owners, not until the necessity thereof shall be first established by the verdict of a jury.

When private property required to be taken.

SECTION 29. On presenting such petition, if it shall appear that private property is required to be taken, against the consent of the owners, the city council shall cause a notice of such application to be published for two weeks in one or more newspapers of said city, stating that on a certain day therein to be named, a jury will be summoned by the city marshal to hear and decide upon such application, and the necessity of taking such property.

Summoning of jury to view premises.

SECTION 30. On or before the day named in said notices, the mayor of the city, or in his absence the acting mayor thereof, shall issue a venire, directed to said marshal of said city, requiring him to summon a jury of six disinterested freeholders thereof, who have no interest in the property to be taken, and are of no wise of kin to any person who has an interest therein, whose duty it shall be to view the property proposed to be taken, and to hear such proofs as may be offered by any person interested in the same. Such witness may be sworn by the city marshal.

Verdict of jury.

SECTION 31. If such jury shall agree, and if not new venires may be issued and new jurors summoned until

they do agree, they shall make out and deliver their verdict in writing, signed by them, to the city marshal, who shall deliver the same to the city clerk to be filed and delivered by him to the city council at their first meeting thereafter.

SECTION 32. If the jury shall have returned a verdict that it is necessary to take private property for public use, as required by said petition, the city council may thereupon cause said highway, street, lane, alley or public walk to be laid out or altered, if they shall deem it for the interest of the city; and thereupon shall cause the same to be carefully surveyed and recorded, and an order to be entered among their proceedings confirming said verdict.

When council to cause improvement to be made.

SECTION 33. The city council shall thereupon by an order entered in their proceedings, appoint three disinterested persons, freeholders of the city, commissioners, whose duty it shall be to view and examine the proposed highway, street, lane, alley, public walk or alteration thereof, and ascertain and appraise the just value of the property of the individuals necessary to be taken therefor. They shall also ascertain and appraise the necessary cost, expense and damage for laying out, opening or altering the same, and make report thereof under oath to the city council, within such time as may be limited by said order.

Commissioners to be appointed to appraise cost of work.

SECTION 34. The commissioners shall also view, ascertain, assess, determine and report to the city council what property, lots and parcels of land are or will be benefited by the laying out, opening or altering of any such highway, street, lane, alley or public walk, and assess, designate, apportion and determine the costs and expenses and damages of laying out, taking, opening or altering the same, on the property, lots and parcels of land so benefited, and in just proportion, making out a list thereof as they shall assess and apportion the same.

Further duties of commissioners.

SECTION 35. The commissioners in all cases where property, lots or parts of lots shall be taken, shall assess the benefits thereof to the other parts of said property or lots, and make out a list thereof, and shall strike the balances between the damages and benefits and make out a list of the same, and report the same to the common council.

Estimate of damages and benefits.

SECTION 36. The commissioners shall immediately after their appointment, and before proceeding to discharge their duties as aforesaid, give notice, in one or more newspapers of the city, or at least one week, of

Notice of meeting of commissioners to be given.

the time and place in which they will meet to hear any proof or allegation of any person interested therein, and at the time and place so mentioned they shall meet for that purpose, and may adjourn from time to time as they may regard reasonable, but not beyond the time limited in the order for making their report; and either of said commissicners shall have power to administer an oath to any witness offered.

Persons ag-
grieved may de-
mand rehearing

SECTION 37. If any witness shall deem himself ag-grieved by such assessment or apportionment, he may at any time within ten days after the filing of the same appeal therefrom by notice in writing to the city council, and ask for a review and rehearing thereof, and the city council shall thereupon appoint a day and place for such review and rehearing, at which day and place they shall proceed to hear and review the same, and shall hear such proofs and witnesses as may be offered to be sworn by the mayor or acting mayor, and may alter or modify said assessment or apportionment as they shall deem just and right.

Report of com-
missioners to
be confirmed.

SECTION 38. If no appeal shall be taken, or if taken whether modified or not, the city council may, if they deem it just and for the interest of the city, enter an order in their proceedings that the same be confirmed.

Damages to be
paid before
work done.

SECTION 39. No such highway, street, lane, alley, public walk or alteration thereof, shall be laid out, opened or made, until an order shall be entered directed to the city treasurer to pay the owners of property, which has been taken against their consent, the amount or balance so assessed or awarded in their favor.

Sum assessed
to be lien on
property.

SECTION 40. All sums so assessed and confirmed shall be a lien upon property so assessed and appor-tioned, and for the payment of which such property, lots or parcels of land shall be liable, and the same shall be collected with, and as other taxes are col-lected in the city.

Laying out and
altering of
streets, etc.

SECTION 41. In all other cases, the city council may lay out, alter, or discontinue any highway, street, lane, alley, or public walk, whenever they may deem the same proper or advisable, by an order entered in their proceedings, specifying and describing the same; *pro-vided*, the same is applied for, by petition as herein-before mentioned, and two weeks' notice of the same shall have been previously published, in one or more newspapers of the city.

What deemed
public walks.

SECTION 42. The words "public walks" shall be construed to mean any public ground or square which

may be regarded necessary or desirable for the health or convenience of the city, and the words "alter or alteration," to mean any widening, extending or other change of any highway, street, lane, alley or public walk, which may be regarded useful, convenient or necessary to make.

SECTION 43. The city council shall have full power and authority within the limits of the city, to drain or cause to be drained, and to direct the manner of draining all marsh and wet lands therein, in such way and manner as they shall deem necessary and advisable.

Drainage of wet land.

SECTION 44. No such authority shall be exercised, except upon the like application or petition as in laying out or altering highways, streets, lanes, alleys, or public walks, and if such application requires that private property shall be taken for public use, against the consent of the owners, not until the necessity thereof shall be first established as therein required; and whenever any ordinance for that purpose shall be passed, the same proceedings shall thereupon be had, with the same force and effect in all respects as in laying out or altering highways, streets, lanes, alleys or public walks.

Drainage to be made in manner prescribed for improvement of streets.

SECTION 45. The common council shall have power to appoint a street commissioner, and may by laws define his powers and duties, and for that purpose may make and enact such by-laws as they may from time to time deem proper for the surveying and grading of streets, and for the payment of damages for the construction of sidewalks. Such by-laws shall not conflict with any provisions or ordinances, herein mentioned, or with the laws of the state of Wisconsin.

Street commissioner—His powers and duties.

SECTION 46. 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 order of the mayor countersigned by the clerk duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasury 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; and all such orders shall be received in payment of any debt or demand due to, or tax or assessment levied by authority of the city, except tax levied for school purposes.

Funds to be under control of council.

SECTION 47. No orders shall be drawn upon the treasury of the city, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and

Orders upon treasury to be authorized by council.

noes upon the journal of the council, and no money shall be appropriated for any purposes whatever, except such as is expressly authorized by this act.

Penalties to be paid into city treasury.

SECTION 48. All forfeitures and penalties accruing to the city, for a violation of this act, or of any of the ordinances, rules, by-laws and regulations of the city, and all moneys received for licenses shall be paid into the city treasury, and become a 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 the aldermen elect.

Property liable to assessment.

SECTION 49. All property, real and personal, within the city, except such as may be exempt by the law of this 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 be hereafter 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 perfecting such rolls, as they may from time to time deem advisable.

Council may prescribe assessment rolls.

Duties of assessor.

SECTION 50. On or before the first Monday in July of each year, the assessor shall make out an accurate and complete assessment roll, which shall contain, as near as may be, a description of all lands, lots or parcels of lands within the city, sufficient to identify the same, and also of all persons or bodies politic, liable to pay taxes on personal property, and opposite to each lot or parcel of land, shall be affixed the value thereof, and opposite to the name of each person and body politic, shall be affixed the value of personal property, assessed to each; when there are buildings on any lot or tract of land, the value of the same shall be set forth separately, when so desired by the owner thereof. The assessor may assess any lot or tract of land, to the owner or occupant, in such parcels or subdivisions as the owner may deem proper, but it shall be necessary to enter the name of the owner opposite to any tract or parcel of land. The assessment roll shall be certified to by the assessor; the assessment roll shall be made out by wards and show the taxable property, both real and personal, of each ward separately.

SECTION 51. On the first and second Mondays of July, and at such other time and times as he may appoint, the assessor shall appear at the common council chamber for the purpose of hearing any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessor shall make such alterations or revisions as justice or equity may require.

Objections may be made by parties aggrieved.

SECTION 52. On or before the third Monday of July in each year, the assessor shall return the assessment roll of the city to the common council, by depositing the same with the clerk. The common council may supply omissions in said roll, and for the purpose of equalizing the same may alter, add to, take from, and otherwise revise and correct the same, but shall not have power to increase the amount of said assessment except by the value of such real and personal property as may have been omitted by the assessor.

Revision and correction of assessment roll

SECTION 53. When the assessment roll shall have been revised and corrected by the common council, the same shall be filed with the clerk and an order approving the same shall be entered in the proceedings of the common council. On the first Monday of August of each year, or within ten days thereafter, the common council shall determine the amount of taxes to be levied for general city purposes, and also the amount of money necessary to be levied for school purposes, and shall, by resolution, levy the same; but no such resolution shall be adopted, except by a vote of two-thirds of the members elect, which vote shall appear in the proceedings of the common council.

Council to apportion taxes.

SECTION 54. 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 may be collected of the owners or occupants 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 no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to a person taxed may be taken and sold for the payment of taxes upon real or personal property.

Taxes to be lien against property.

SECTION 55. Before the annual meeting of the board of supervisors of the county of Shebogan, and by the time required by the laws of the state for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll or such

City clerk to transmit copy of roll to county clerk.

statement as is required by law to be made by towns to the clerk of the board of supervisors of said county, who shall lay the same before the said board at their annual meeting.

Status of city in equalizing assessment roll.

SECTION 56. The board of supervisors shall have the right to regard the city of Plymouth 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 the city of Plymouth as an entire roll, and shall not change the relative valuation of the different wards.

Taxes levied by county board to be certified to city clerk.

SECTION 57. The said 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 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 of Plymouth shall be regarded as a town, except as herein otherwise provided.

Clerk to make statement of taxes.

SECTION 58. 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 taxes levied for the state, county, city or other purposes, and all delinquent taxes, if any, of the previous year, and all special taxes levied by the common council.

Tax list to be evidence.

SECTION 59. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state that any act or thing required by law to be done relating to the assessment or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law.

Duplicate copy of roll to be made and delivered to city marshal.

SECTION 60. Immediately after making out the tax list, as 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 by 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 the said clerk shall, on or before the 25th day of December of said year, or as soon thereafter as practicable, deliver the same to the city marshal for collection and make a record of said delivery of the tax list aforesaid in his office.

SECTION 61. The city marshal upon receipt of said 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 marshal shall receive 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 after that time to be added to the amount of taxes and collected with the same.

Duty of city marshal in collecting taxes.

SECTION 62. On or before the 15th day of February of each year the said marshal shall make out and return to the treasurer of Sheboygan county a list of all lands and lots upon which the taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers, and shall also at the same time pay over to the city treasurer all other moneys in his possession belonging to the city of Plymouth. The said marshal shall also by the same time make out and deliver to the city clerk a list of all delinquent personal property tax for the same year. The county treasurer shall add the same interest, penalties or fees to such delinquent returns as are allowed or required by law upon delinquent returns for the several towns.

Return of delinquent lands.

SECTION 63. The county treasurer shall sell all delinquent lands and lots returned from the city of Plymouth, at the same time and in the same manner as other delinquent lands are sold in said county.

Delinquent lands to be sold.

SECTION 64. 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 improvement of streets in front of same.

All property subject to special tax.

SECTION 65. All lands lying within the city limits, used or kept for farming, and not divided or laid out into lots and blocks, shall be assessed at a moderate cash value by the acre, and shall not be subject to any special tax, nor shall the same be subject to be taxed in any manner for city purposes, at a higher or greater rate than three mills on the dollar, according to the assessed valuation thereof during any one year.

Assessment of farming lands within city limits.

SECTION 66. All the directions hereby given for the assessing of lands, and the levying, collection and return of taxes and assessments, shall be deemed only directing, 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

Informalities not to affect validity of tax.

vitiate, or in anywise affect the validity of the tax or assessment.

Duty of county treasurer.

SECTION 67. It shall be the duty of the county treasurer of the county of Sheboygan, and he is hereby required, where lots, tracts, pieces or parcels of land have been returned by said city treasurer as delinquent for any general tax of this state, or for any tax authorized under this act, immediately after the sale of said delinquent lots, tracts, pieces or parcels of land by him, to pay said city treasurer the amount which may have been returned delinquent, belonging to the city, either in cash or certificates of sale of said lots, tracts, pieces or parcels of land so returned as delinquent.

Precautions against fire.

SECTION 68. The common council, for the purpose of guarding against the calamity of fire, shall have power to enact all suitable by-laws for the organization, maintenance and government of fire companies in said city, and may in their by-laws enact such regulations as the majority of said board may deem expedient for the safety of the property of the citizens of said city from accident or losses by fire.

Work to be let by contract to lowest bidder.

SECTION 69. All work for the city or either ward thereof shall be let by contract to the lowest responsible bidder, at the option of the common council, and due notice shall be given of the time and place of letting such contract. Every person to whom a contract shall be awarded shall execute to the city a bond for the faithful performance of such contract, said bond to be approved by the common council, and filed with the city clerk.

Actions to be brought in corporate name of city.

SECTION 70. All actions brought to recover any property 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 in debt for such penalty or forfeiture, stating the clause of this act, or by-law 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 a warrant, as the exigencies of the case may seem to require; *provided*, that nothing herein contained shall be so construed as to prevent any peace officer from arresting without process any person found 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 con-

finement until such time as said justice can hear and dispose of such offenders.

SECTION 71. Execution shall issue forthwith on the rendition of judgment, unless the same be stayed or appealed according to the laws of this state. The executive, except in cases *ex contractu*, shall require the defendants in any such action, in case no goods or chattels, lands or tenements, whereof the judgment can be found, to be imprisoned in the jail of Sheboygan 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. Executions.

SECTION 72. 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. Residence not to disqualify as witness or juror.

SECTION 73. 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, or if the common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization 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 the 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. When election not held at prescribed time.

SECTION 74. 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. Service of process.

SECTION 75. The said city may lease, purchase or hold real or personal property for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation. City may hold property.

SECTION 76. All taxes apportioned, levied or assessed in or against the town of Plymouth previous to the organization of the city of Plymouth, shall in all respects be collected in the same manner as though this act had not passed, and to carry out these provisions the officers of said town and of the county of Sheboy- Act not to affect collection of taxes.

gan shall have the same rights, powers and duties, as though this act were not passed.

City officers not to be interested in contract with city.

SECTION 77. No compensation or salary shall be paid out of the city treasury to the mayor or any alderman of the city for his services, and are hereby prohibited from being in any manner interested in any contract made by the authority of said city.

How licenses to be issued.

SECTION 78. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the city clerk, and sealed with the corporate seal, but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk 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 same shall have been authorized by the common council and 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 either by the mayor or common council, and the minimum sum fixed by the law of this state to be paid for any such license, shall be paid to the city treasurer in money. Every such license shall contain a clause prohibiting the selling, vending, or giving away of any spirituous or malt liquors on general or special election days.

Penalty for sale of liquor on election day.

SECTION 79. Every person having such license, who shall vend, sell or give away any spirituous, vinous or malt liquors, on any election day, shall be liable to prosecution under this act, or the ordinances of the city, or may be indicted or informed against, in the circuit court of Sheboygan 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 Sheboygan 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.

Suits for recovery of lands sold for taxes.

SECTION 80. No suit or proceeding shall be commenced or prosecuted to recover title or possession of any lot, piece or parcel of land situated within the limits of the city of Plymouth, 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 land described in such deeds, 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 moneys so deposited shall be awarded to the holder or claimant under such deed except in such 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 be first read in evidence to the jury, and shall be evidence to the jury, and shall be evidence in such suit or proceeding to the extent specified, and provided in section 109, chapter 15, title 5, of the revised statutes.

SECTION 81. The use of the jail of Sheboygan 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.

City to use county jail.

SECTION 82. 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. The same provisions of statute that apply to towns in regard to paupers shall apply to said city.

Private property not liable for city debt.

SECTION 83. The city of Plymouth shall be represented in the board of supervisors of the county of Sheboygan by the mayor.

Representation in county board.

SECTION 84. Any justice of the peace of the town of Plymouth, whose term of office shall not have expired at the time this act shall take effect, may hold and exercise the duties of his office for the residue of his term of office, in the same manner as though this act had not passed.

Justices to hold for residue of term.

SECTION 85. From and after the second day of April, A. D. 1877, the connection between the town of Plymouth and that part of said town included within the city limits, for all town purposes, shall be dissolved. The duties now and hereafter imposed on supervisors and other town officers, so far as they relate to the city of Plymouth, shall be performed by the aldermen of the several wards and the other officers of said city.

When connection between town of Plymouth and city to cease.

All that part of the town of Plymouth not included within the city limits, shall constitute the town of Plymouth; and the first town meeting shall be held at such place as the chairman of the board of supervisors of said town shall appoint.

Grades of streets.

SECTION 86. All grades for streets when once established and ratified by the common council, shall be recorded by the city clerk, and no change shall thereafter be made in the grade of any street after such adoption and ratification by the common council.

How charter may be amended.

SECTION 87. This charter shall not be altered or amended unless such proposed alteration or amendment be first submitted to a vote of the qualified electors of said city at a general or special election, and shall receive a majority of all votes cast at such election in favor of such proposed amendment, and if such proposed amendment requires the raising or expenditure of moneys or effects in any manner whatever the assessment of taxes, such amendment shall not be adopted unless two-thirds of all the votes cast at such election shall be in favor thereof.

Definition of act.

SECTION 88. This act shall be considered a public one, and shall be construed favorably in all courts and places.

SECTION 89. This act shall take effect and be in force from and after its passage.

Approved March 7, 1877.

[Published March 21, 1877.]

CHAPTER 194.

AN ACT relating to distraining of cattle doing damage, and amendatory of section one of chapter fifty-one of the revised statutes.

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

Amended.

SECTION 1. Section one of chapter fifty-one of the revised statutes is hereby amended by omitting the words "within his enclosure," and inserting in lieu thereof the words "on his premises" so as to read as follows: Section 1. It shall be lawful for the owner or occupant of lands to distrain all beasts doing damages on his premises, and when any distress shall be made of any beasts doing damage, the person distraining shall

Lawful to distrain cattle doing damage.