

cating liquors, shall be paid into the city treasury for the use and benefit of said city, except as provided in section 60 of this act.

Amendment.

SECTION 6. Section 103, of chapter 238, of the laws of 1882, entitled an act to incorporate the city of Monroe, is hereby amended so as to read as follows: Section 103. The common council of said city, shall have power to enact suitable ordinances, prohibiting the receiving or purchasing of old iron, copper, zinc, or any material commonly called junk, by any person from any minor, and provide penalties therefor.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1883.

[No. 161, S.]

[Published March 23, 1883.]

CHAPTER 134.

AN ACT to incorporate the city of Tomah.

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

Corporate name.

SECTION 1. All that district of country hereinafter described, from, and after the first Tuesday in April, A. D., 1883, shall be a city by the name of Tomah; and the people now inhabiting and those who shall hereafter inhabit the district of country hereinafter described, shall be a municipal corporation by the name of the city of Tomah, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers herein specially granted, and the authorities thereof, shall have perpetual succession; shall be capable of contracting and being contracted with; 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.

Boundaries.

SECTION 2. The south half of section thirty-three (33), township eighteen (18) north, range one (1) west, all of section four (4) and the north, half of section nine (9) in township seventeen (17) north, range one (1) west, in Monroe county, state

of Wisconsin, shall be included in, and constitute the limits and boundaries of the city of Tomah.

SECTION 3. The city of Tomah shall be divided into two wards; all that part of said city lying east of the center of Superior avenue, and the highways extending north and south, along or near the quarter line to the limits of said city, shall constitute and be known as the first ward. All that part of said city lying west of said line, shall constitute and be known as the second ward.

Ward boundaries.

SECTION 4. The corporate authority of said city 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.

Corporate powers.

SECTION 5. The elective officers of said city shall be a mayor, a treasurer, an assessor and a clerk, from the city at large, and a supervisor, a constable, two justices of the peace, and three aldermen from each ward. The mayor, treasurer, assessor and clerk shall be qualified voters and residents of said city; and the supervisors, constables, justices of the peace and aldermen, qualified voters of said city, and residents of the respective wards for which they are elected. All other officers necessary for the proper management of the affairs of said city, including those officers hereinafter mentioned, shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their offices for one year, and until their successors are elected and qualified; provided, however, that the common council shall have power to remove at pleasure, any appointive officer or agent under the city government. Justices of the peace shall hold their offices for two years, and until their successors are elected and qualified.

Elective officers.

Appointed officers.

SECTION 6. Whenever a vacancy shall occur in the office of mayor or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council, within ten days after such vacancy shall occur. Any vacancy in any other office, shall be filled by the common council. The persons elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same rights, and subject to

Vacancies in office.

the same liabilities as, the person whose office he shall be elected or appointed to fill.

Elections for all officers shall be by ballot.

SECTION 7. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. 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 the presence of the common council, and in such manner as they shall direct.

Qualified electors.

SECTION 8. All persons who are qualified electors of the state of Wisconsin, and entitled to vote at a general election, and who are actual residents of the city of Tomah, shall be entitled to vote for any officer to be elected in the ward in which they reside, and be deemed qualified electors at city elections.

Annual election when held.

SECTION 9. The qualified voters of the city of Tomah shall hold an election, on the first Tuesday of April in each year, for the election of the officers named in section 5 of this act, which election, shall be presided over by inspectors of election, appointed by the council in the manner provided by the general laws of the state of Wisconsin, now in force, governing general elections, who shall see 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 Tomah, and the other to the county clerk of the county of Monroe. The common council 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, to be served as a summons is served in justice court, 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 in the afternoon. Said election shall be conducted in accordance with this act, and with the existing laws of the state of Wisconsin, and any frauds or violation of said laws, at such election, shall be punishable in the same manner, as any violation of the election laws in any part of the state.

SECTION 10. If either of the inspectors of elections, 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, before receiving any such vote, shall require the voter offering his vote 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 are a resident of this ward, 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 wilful and corrupt 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 prosecution, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars (\$100), nor less than twenty-five dollars (\$25). It shall be the duty of the inspectors 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 shall knowingly or corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and on conviction thereof, shall severally forfeit and pay a sum, not exceeding five hundred dollars (\$500) nor less than one hundred dollars (\$100).

Illegal voting,
challenging
votes, etc.

SECTION 11. 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 com-

What is deemed a vacation in office.

mon 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.

Terms of office. SECTION 12. The term of every officer elected under this act, except justices of the peace, shall commence the third Tuesday in April, of the year for which, and in which, he was elected.

Special elections, how conducted. SECTION 13. Special elections to fill vacancies, or for any other purposes, shall be held and conducted in the same manner, and the returns thereof shall be made in the same form and manner as regular elections, and within such time as may be provided by the common council.

In case there is a failure to elect. SECTION 14. Should there be a failure to elect any officer herein required to be elected, on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being first given.

Shall take and subscribe an oath. SECTION 15. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, 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. The treasurer, clerk, marshal 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 Tomah a bond, with two sureties, to be approved by the common council, or a majority thereof; and said common council may, from time to time, require new and additional bonds, and remove from office, any officer refusing or neglecting to give the same.

Duties of mayor. SECTION 16. 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, are duly observed and enforced, and that all executive officers of the city, discharge their respective duties. The mayor shall be the chief executive officer and head of the police of the city, and in case of riot and other disturbances, or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall, in all cases, have a seat in the common council, and he shall vote in the common council, only in case of

a tie vote; he shall give the common council such information, and recommend such measures, as he may deem proper and advantageous to the city. The mayor shall have the power to veto any ordinance passed by the common council, by notifying the common council of his objection thereto, at any time within seven days after the passage of such ordinance. In case of no session of the common council on any day after the passage of the same, and before the expiration of said seven days, such notification shall be made, by filing with the city clerk, a copy of his objections, and in case the council shall not, at the next ensuing meeting, re-enact such ordinance, by a vote of two-thirds of the aldermen elect, and cause the same to be published, the same shall be null and void. The common council shall, at its regular meeting, after its election, choose one of the board of aldermen, who shall be styled, president of the board of aldermen, and who, in the absence of the mayor, shall act as such mayor, and have and possess all the rights and privileges of such officer, and be subject to all the liabilities thereof, during the absence of such mayor, and who, when so acting, shall be denominated, acting mayor.

SECTION 17. The city clerk shall perform all the Duties of clerk. duties required of him by law, and the ordinances of the city; he shall be keeper of the books, records and papers, and the corporate seal of the city, and the records and proceedings of the council, and shall possess the same powers that town clerks possess by law, to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect; he shall perform the same duties in regard to common schools in said city, that are by the general laws imposed on town clerks; he shall draw and countersign all orders on the treasurer and keep a record of the same; he shall file in his office all chattel mortgages left with him to be filed, and the renewals thereof, receiving the same fees allowed to town clerks therefor, and the said mortgages and renewals shall be as valid as when filed in the office of town clerks, and the said clerk, shall possess authority to administer oaths, and he shall receive such compensation as the common council shall provide, by ordinance or resolution.

SECTION 18. The city treasurer shall perform all

**Duties of
treasurer.**

duties required of him by law; collect all city, county and state taxes, and pay over all moneys in his hands according to law; he shall keep in a proper book an account of all moneys received, and of all moneys paid out, and the same shall at all times, be open to the inspection of the voters of the city; he shall make reports quarterly and render an itemized account to the common council of all sums received, when, and by whom the same were paid, and also of all moneys by him paid out; and all moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine or otherwise belonging to said city under the authority of this act, shall be paid into the treasury of the city, and shall not be drawn therefrom, except by an order issued by order of the common council, and signed by the mayor or acting mayor, and countersigned or attested by the city clerk. The treasurer shall have the same powers, and be subject to the same laws and liabilities, and governed by the same laws as treasurers of towns in this state; provided, that he shall receive no other fees except the compensation hereinafter provided.

**Duties of
marshal.**

SECTION 19. The marshal shall perform such duties, as shall be prescribed by the common council, for the preservation of the public peace and collection of license moneys and fines; he shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute all writs and processes 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. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove obstructions in the streets and alleys of said city, and to abate all nuisances in said city; to apprehend, with or without warrant, any person in the act of committing any offense, against any ordinance of said city, or the laws of this state, and within a reasonable time bring such person before competent authority, for examination or trial; and for such service he shall receive such fees as are allowed to constables for like services in this state, and such additional compensation as the common council shall determine. He shall have power to appoint one or more deputies,

subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the proper oath of office, which shall be filed in the office of the city clerk, and when duly qualified as aforesaid, such deputies shall possess all the powers and authority, and be subject to the liabilities with the marshal.

SECTION 20. 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, books, papers and effects belonging to said city, pertaining to the office, he shall forfeit and pay to the use of the city, one hundred dollars (§100), besides all damages caused by his neglect or refusal to deliver over the same; and such successor may recover possession of such books, papers and effects in the manner prescribed by law in this state.

Penalty for failure to deliver to successor.

SECTION 21. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any contract or job in which they or either of them may be so interested, shall be null and void; and in case any money has been paid on any such contract, the common council may sue for, and recover back the amount so paid, from the parties to such contract, and the mayor or alderman interested in the same.

No mayor or alderman shall be party to any job or contract.

SECTION 22. The mayor, or acting mayor, and each and every alderman, justice of the peace, marshal, deputy marshal, policeman and watchman, and constables of the said city, and the sheriff of Monroe county, and his deputies, shall be the officers of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior within the limits of said city; and, for such purpose, may command the assistance of all bystanders, and, if any person, bystander, or private citizen shall refuse to aid in maintaining the peace, when so required, every such person so refusing, shall forfeit and pay a fine of not less than five (5) nor more than fifty dollars (§50).

Officers of the peace.

SECTION 23. The justices of the peace elected under this act, and those justices of the peace now residing within the limits of said city of Tomah, during their unexpired term, shall have the same jurisdiction in all respects as justices of the peace

Jurisdiction of justices of the peace.

of towns, of Monroe county, and shall be subject to the same liabilities and regulations as justices of the peace under the general laws of the state of Wisconsin. The terms of office of justices of the peace, elected under this act shall commence at the same time, and they shall qualify in like manner, as justices of the peace under the general laws of the state of Wisconsin, except that their official bonds shall be approved by the common council of the city of Tomah; and all general laws, prescribing the duties, or affecting the jurisdiction of justices of the peace, shall apply to justices elected under this act, except as otherwise herein expressed; provided, that each justice shall reside, and hold his office in the ward for which he was elected.

Term of office.

Justices shall pay over all fines.

SECTION 24. The justices shall account for, and pay over to the treasurer of said city, all fines and penalties collected by him, and belonging to said city, within ten days after receiving the same, and take his receipt for the same in the docket. Said justices shall be entitled to receive, in all cases had before them in which the city is interested, the same fees as are provided by law for justices of the peace of the several towns of this state, in similar cases had before them.

Duties of assessor.

SECTION 25. The city assessor shall assess the real and personal property of said city, at the time and in the manner provided for assessing in the towns of this state, and shall perform all other duties prescribed and directed by this act for him to perform; and he shall receive a compensation therefor of fifty dollars (§50) a year.

Street commissioner and his duties.

SECTION 26. It shall be the duty of the street commissioner, within ten days after his appointment and qualification, to inspect all the streets in the city, and all sidewalks, crosswalks, ditches, gutters, sewers, culverts, bridges, and all things appertaining to the streets, and report in writing to the common council, recommending, in his opinion, what is necessary and ought to be done thereto; and the city clerk shall lay said report before the common council for information, and the common council may order said street commissioner to put in repair any such streets or sidewalk, if, in its opinion, it is a matter of necessity.

Further duties.

SECTION 27. It shall be the duty of the street commissioner to see that all ordinances of the city,

relating to the obstructions and cleaning, or closing of sidewalks, crosswalks, streets, bridges, alleys, public grounds, gutters, sewers, and waters in said city, are duly observed and kept, and shall have the general supervision over all grading, paving, graveling, planking, repairing, and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of said city may prescribe, and shall receive therefor, such compensation as the common council shall prescribe.

SECTION 28. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services, and the style of all ordinances shall be: "The common council of the city of Tomah do ordain," etc. A majority of the aldermen shall constitute a quorum, but a less number may adjourn from time to time.

What constitutes the common council.

SECTION 29. The common council shall hold its first annual meeting in each year, on the second Tuesday after the regular city election, and thereafter, meetings at such times as they shall appoint; and the mayor may call special meetings, by notice to each of the members, to be served personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members, by fines or otherwise.

Meetings of common council.

SECTION 30. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, 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 and commerce and health, as it 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 rules, ordinances and by-laws are hereby declared to be, and have the force of laws; provided, they are not repugnant to the constitution and laws of the United States or of this state. For these purposes shall have authority, by ordinance, resolution and by-law:

Powers of common council defined.

Licenses for
shows, saloons,
etc.

1. To license and regulate the exhibition of common showmen, and shows of any kind, or the exhibition of caravans, circuses, billiard tables, bagatelle tables, pigeon-hole 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 to regulate and license groceries, taverns, victualing 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 by the general laws of the state of Wisconsin, and that all licenses shall be granted to expire on the first day of May, next following in each year.

Gambling.

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

Riots, distur-
bances etc.

3. To prevent any riots, noise, disturbances 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.

Slaughter
houses, etc.

4. To direct the location and management of slaughter houses and markets, and regulate the storage, safe keeping and conveying of gunpowder, or other explosive or combustible materials.

Running of
locomotives.

5. To regulate the running of engines, locomotives and cars through said city.

Regulate and
license brewer-
ies.

6. To direct the location of, regulate and license breweries, tanneries and packing houses.

Improving
streets, etc.

7. To provide for the making, grading, improving and repairing of the streets of the city of Tomah, and to provide for the making, constructing and repairing gutters and sidewalks in said city, and to prevent the incumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substance whatever.

Racing and
immoderate
driving.

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

9. To restrain the running at large, of horses, cattle, swine, sheep, poultry and geese, and to authorize the restraining, impounding and sale of the same. Restrain cattle.

10. To prevent the running at large of dogs, and authorize the destruction of the same in a summary manner, when at large contrary to the ordinance of said city. Dogs.

11. To prevent persons from bringing, depositing or having within said city, or placing in the ponds adjacent to said city, any putrid carcass or other unwholesome or nauseous substance, and to require the removal of the same, by any person who shall have upon his premises, any such substance, putrid, or unsound beef, pork, hides or skins of any kind, or on default, to authorize the removal by some competent officer, at the expense of such person or persons. Unwholesome substances.

12. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the construction and maintenance of water works and sewers; to regulate and to license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city; and to erect lamps and to provide for lighting the streets, public grounds and public highways, with gas or otherwise. Pounds.

13. To establish and regulate boards of health, provide hospitals 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. Boards of health.

14. To establish the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Bread.

15. To prevent all persons riding or driving any horse, mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to such sidewalks. Riding or driving on sidewalks.

16. To prevent shooting off fire-arms or crackers, and to prevent the exhibition of fire-works in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to the citizens thereof. Firearms and crackers.

17. 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. Restrain drunkenness.

- Runners and solicitors.** 18. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments.
- Police.** 19. To make rules and ordinances for the regulation and government of the police of the city.
- Public markets.** 20. 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.
- Hay and fuel.** 21. 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.
- Removal of snow and dirt.** 22. 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 his 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.** 23. To regulate, prevent and control the landing of persons from cars and stages, or other vehicles, wherein are contagious and infectious diseases, or disorders, and to make such disposition of such persons, as to preserve the health of said city.
- Public auctions and vendues.** 24. To regulate the time and manner of holding public auctions and vendues, and to regulate the sale of goods, wares, and merchandise at public auction, and to grant licenses for the sale of goods, wares, merchandise and other property at public auction, and to prescribe and fix the amounts to be paid for such licenses; provided, it shall not be lawful to charge less than five dollars (\$5), nor more than five hundred dollars (\$500), for any such license for one year; and provided also, that nothing in this section shall prohibit, or affect in any manner,

sales at auction, in cases specified in section 1585 of the revised statutes.

25. To appoint watchmen and to prescribe their duties. Watchmen.

26. To provide by ordinance for a standard of weights and measures. Weights and measures.

27. To protect trees and monuments in said city. Monuments.

28. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from any incumbrance, and to protect them from injury. Highways, etc.

29. To alter or change the name of any street in the city. Change of names.

30. To consolidate or change the boundaries of school districts in said city, under the same restrictions and with the same power, as is now conferred on town boards under the general laws of this state. School districts.

31. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, necessary for the good order and government of the city, which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city, by this act, or which may be vested in any officer of said city, by any ordinance thereof. Ordinances.

32. To provide for the prosecution, or defense of all actions or proceedings, in which the city is interested, and employ council therefor. Actions against city.

33. To purchase real estate, and provide for the erection of a city hall and engine house. Real estate and engine house.

34. To call special election for the purpose of raising a tax, where in its opinion the amount which they are authorized to raise by the provisions of this act, is insufficient to meet the requirements. Special election to raise tax.

35. To establish grades of any, or all streets in the city; to cause sidewalks, gutters and pavements to be constructed, and when a grade shall be established, it shall have such gradients as shall be sufficient to carry off all surface water, or other waters from whatever source coming on the street or streets; and when a grade is so established, they shall cause an accurate profile to be made thereof, and filed with the city clerk; and all such grades shall be worked in exact accordance with Grades of sidewalks, etc.

such profile, and the ordinance establishing the same.

Fire department and its requirements.

36. To establish a fire department, and to provide for the due and proper support and regulation of the same, and to appoint or direct the election of such officers for such department, as it shall see fit, and to define their powers and duties; to provide protection from fire by the purchase of fire engines, and all necessary apparatus for the extinguishing of fires, and by the erection of pumps and construction of water mains, reservoirs or other water works; to erect engine houses, to compel the inhabitants of the city, to aid in the extinguishing of fires, and to pull down and raze such buildings in the vicinity of fires, as shall be directed by them, or any two of them who may be present at the fire, for the purpose of preventing its spreading to other buildings; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the construction and cleaning of chimneys; to prevent bonfires and the use of fire-works and fire-arms in the city, or any part thereof; to authorize fire wardens, at all reasonable times, to enter into, and examine all dwellings, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous, to be put in a safe condition; and generally to establish such necessary measures, for the prevention or extinguishing of fires as may be necessary and proper; and to declare by ordinance the punishment for violation of any such ordinance or regulation. The fire company now and heretofore existing, in the territory of said city, and heretofore known as the fire department of the village of Tomah, and their constitution, laws and by-laws, regulations and officers, shall continue in full force in said city of Tomah, and be supported by said city, until the common council shall establish a fire department under the provisions of this act, and the proper officers of the department now existing shall, in the months of May and October in each year, make a report to the common council, showing an estimate of what will be necessary and required for the maintenance of said department; and also a correct statement, showing for what purpose

moneys have been expended, which may have been paid to said department by the city.

37. To regulate and control, or prohibit the erection of awnings and awning posts, and to provide for and control the erection and maintenance of hitching posts for teams. Awnings, hitching posts, etc.

38. To regulate and control the setting out of ornamental or shade trees in the streets of said city, and to require by ordinance, the owners of lots or grounds, to set out and plant shade trees, in the streets adjacent to their grounds, and to prescribe the kind and size of such shade trees, with power to levy special taxes upon the adjacent lots or grounds, to defray the expense thereof by the city, in case of default by the lot owner. Shade trees.

39. The common council, for the purpose of guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other material, 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 constructed of fire-proof materials, and to prohibit the repairing of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty (50) per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. Fire limits.

SECTION 31. All laws, ordinances, regulations, and by-laws, shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor; and shall be published in a newspaper published in the city of Tomah before taking effect, and within fifteen days thereafter, they shall be recorded by the city clerk in books provided for the purpose; but before any such by-laws, ordinances or regulations shall be recorded, the publication thereof, respectively, within the same time, shall be proven by the affidavit of the foreman or publisher of the newspaper in which the same shall be published, and the said affidavit shall be recorded therewith, and at all times such record or a duly certified copy thereof, shall be deemed and taken, as sufficient evidence of the time and manner of the publication. Laws and ordinances, how passed.

SECTION 32. The power conferred upon said council, to provide for the abatement or removal of nuisances, shall not bar nor hinder suits, prose- Shall not bar or hinder suits.

cutions 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 one hundred pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed nuisances.

Council shall examine, audit and adjust accounts.

SECTION 33. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and other officers or agents of the city, at such time as they may deem proper, also at the end of each year, and before the time 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 officers shall refuse to comply with the orders or requirements of the council, in the discharge of their duties, in pursuance of this section, or shall neglect or refuse to render their accounts, or present their books and vouchers to said council, to declare the office of such person vacant; and the common council shall order suits and proceedings at law, against any officer or person 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 the common council shall have power, upon an affirmative vote of two-thirds of its members, upon reasonable notice, to remove from office, any officer of the city, elected or appointed by the common council.

Funds shall be under control of council.

SECTION 34. All funds in the 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, and clerk, duly authorized by a vote of the council, and all orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable out of any fund in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city.

SECTION 35. All forfeitures and penalties accruing to the city, for a violation of this act, or any of the ordinances, by-laws, rules, resolutions 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. All orders shall be payable to the person, or order of the person, in whose favor they may be drawn.

Penalties to be paid into city treasury.

SECTION 36. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of the city, a tax sufficient to defray the same; provided, said common council shall not levy a tax for general purposes, exceeding two per cent. upon the assessed valuation of said city, in any one year, unless authorized to raise a greater sum, by the majority of the electors of said city, at a general or special election.

Annual tax levy.

SECTION 37. No account of any person shall be allowed by the common council, unless the same is properly verified by the oath of the owner thereof, or some person in his or her behalf, except it be for street work or hire, under the supervision of the street commissioner, duly certified by him.

Accounts shall be verified.

SECTION 38. When the claim of any person against the said city shall be disallowed in whole or in part, by the common council, the determination of the common council disallowing the same, in whole or in part, shall be final and conclusive, and a perpetual bar to any action in any court founded on such a claim, unless an action to recover the same, shall be commenced within sixty days after such disallowance by the common council of said city.

Determination of council shall be final.

SECTION 39. No action shall be maintained by any person against the city of Tomah, upon any claim or demand, until such person shall first have presented his claim or demand, to the common council for allowance.

Claims must first be presented before action is commenced.

SECTION 40. The paupers of said city shall be cared for and supported, in the same manner as the poor from the several towns of Monroe county, are cared for.

Poor and paupers.

SECTION 41. The common council shall annually, on Tuesday next preceding the annual election, make a report, showing in detail all the receipts and disbursements of said city for the past fiscal year, and cause the same to be published before the annual election.

Date of annual report.

Power to lay
out streets, etc.

SECTION 42. The common council shall have power to lay out streets and alleys and widen the same as follows: Whenever ten or more freeholders, residing in said city, shall, by petition, represent to the common council that it was necessary to take certain lands within the city for the public use for the purpose of laying out public streets or alleys or enlarging 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 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 on the owners or occupants of such lands, if any there be, or if any portion of said 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 a newspaper in said city four weeks successively, at least once each week.

What notice
shall state.

SECTION 43. Such notice shall state, that upon a day therein named, not less than ten days from the service of such notice, or expiration of such publication, as the case may be, application will be made to a court commissioner of said county of Monroe, for the appointment of twelve jurors to view said premises and to determine whether it will be necessary and proper to take the same, for the purposes specified in said petition.

Proceedings to
condemn land.

SECTION 44. Upon the presentation of such application, and upon proof of the publication, or service, of the notice hereinbefore required, the said court commissioner, shall appoint twelve resident freeholders, residents of said city, but not interested in the result of such application. The said court commissioner shall, thereupon, issue his precept, directed to said jurors, requiring them, within ten days, to view the 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 and proper to take said premises, for the purposes specified in such application; and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully and impartially to discharge their duties as such jurors, in the premises, which oath may be administered by any

person authorized to administer oaths, which shall be filed in the office of the city clerk.

SECTION 45. The city marshal shall serve the said precept immediately, on the jurors therein named, by reading the same, to each one that can be found, and immediately after such service, he shall return the said precept to the court commissioner, who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the court commissioner shall appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept.

City marshal shall serve precept.

SECTION 46. The said jurors, at such times as shall be designated in said precept, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing; and either of the jurors shall be authorized to administer oaths to the witnesses. After viewing the premises in question, and hearing the testimony, if offered, the jurors shall make a report of their proceedings, which shall be signed by them, and which shall state, whether, in their judgment, it is necessary to take the premises in question, for public use; which said report, testimony and precept, shall be returned to the common council. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings, confirming said report, and directing the same jurors, within twenty days thereafter, to again view the premises to ascertain the amount of damages to be paid the owner, or owners, of the property proposed to be taken, and to assess and return, within the twenty days, such damages to the common council, who shall enter an order confirming the same.

Duties of jurors.

SECTION 47. If there should be any building in whole or in part, upon said lands to be taken, the jurors shall first estimate the 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; secondly, the value of such building to him, to remove.

In case there is a building.

SECTION 48. At least ten days' notice of such determination shall be given to the owner, or his agent, if known, and a resident of the city; if not

Notice of determination shall be given.

known, or a non-resident, notice to all persons interested, shall be given by publication in a newspaper of said city, for three successive weeks. Such notice shall specify the buildings and the award of the jurors, and it shall require the parties interested, to appear by a day named therein, and give notice of their election to the common council, either to accept the award of the jurors and allow such buildings to be taken with the land appropriated, or their intention to remove such building, and he shall have such time to remove such building, as the common council may allow.

If the owner shall refuse to take the building.

SECTION 49. If the owner shall refuse to take the building at the value assessed by the jurors 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 buildings at public auction, for cash, giving ten days notice of such sale; the proceeds shall be paid to the owner or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgages, or if there be any estate in them less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded them by the jurors.

Award of jurors shall be signed.

SECTION 50. The award of said jurors shall be signed by them and returned, together with the testimony taken and the precept to the common council, within the time limited in such precept. Any person whose property is taken, or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from such assessment of damages to the circuit court of Monroe county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond to said city, conditioned for the faithful prosecuting of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety to be approved by the clerk of said city, or county judge, or court commissioner.

Land shall not be taken until damages are paid.

SECTION 51. The lands required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owners thereof, or party entitled, shall be paid or tendered to the owner, or party entitled

thereto, or his agent, or if the owner or party entitled thereto, or his agent, shall refuse to accept such tender, or cannot be found, or is unknown, deposit it to his credit in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes 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, opened or laid out. The damages assessed shall be paid within one year, or tendered, or deposited, as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

SECTION 52. All property, real or personal, within the city, excepting such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, schools, and the payment of debts and liabilities, and the same shall be assessed in the manner hereinafter provided, and the assessor elected under this act shall have and possess the same powers that are, or may be conferred upon township assessors, except so far as they may be altered by this act; provided, that the common council may prescribe the form of assessment roll, and make such rules and regulations in relation to revising, altering or adding to such rolls, as it may, from time to time, deem advisable. When the assessment roll shall be completed, the assessor shall return said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from and otherwise revise and correct the same. If it shall appear to the assessor, that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years, that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force as it would have had, if made the year when the same was omitted; should the tax or assessment upon any parcel of land be set aside, or declared void, by reason of any defect or informality in assess-

All property
subject to
taxation.

ing, levying, selling or conveying the same, but not affecting the justice and equity of the tax itself, the common council shall cause the tax or assessment so set aside, or declared void, to be relieved in such manner as it shall direct by ordinance.

Board of equalization.

SECTION 53. The common council shall constitute the city board of equalization and shall meet on the first Monday of July in each year, at nine o'clock in the forenoon, and shall proceed in all respects, as town boards are by law required to proceed, as far as the same are applicable, revising, correcting and equalizing the assessment roll of the city; the mayor shall be president of the board, and the city clerk, clerk thereof. When the assessment roll shall have been completed, revised and corrected, it shall be filed with the clerk, and all changes of the assessment roll by the board of equalization, shall be recorded by the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, specifying the purposes for which the same are levied. All taxes and 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 on all personal property of any person or corporation assessed for personal tax, from the delivery of the warrant, for collection thereof, until paid.

Duty of clerk in regard to tax roll.

SECTION 54. It shall be the duty of the city clerk, immediately on receipt of the corrected assessment roll and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with the city and other local taxes, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent where less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before the second Monday in December in each year, and to each assessment roll so delivered, a warrant under the hand of the clerk and the corporate seal of

said city, shall be annexed substantially in the following form:

The state of Wisconsin, to the city treasurer of the city of Tomah, in the county of Monroe: Form of warrant.

You are hereby commanded to collect from each one of the persons or corporations named in the annexed assessment roll and of the owners of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, after deducting your fees, you are first to pay to the treasurer of the county of Monroe, on or before the last Monday in January next, the sum of ——— for state taxes, and the further sum of ——— for county taxes, and the balance of said money you are required to retain and pay out according to law; in case said tax and assessment shall not be paid by the fourth Monday of February next, you are required to return the same, to the county treasurer of the said county of Monroe.

Given under my hand and the corporate seal of the city of Tomah, this ——— day of ———, 18—.

City Clerk.

The assessment roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein named, were subject to taxation, and that the assessment was just and equal.

SECTION 55. All the general laws of this state which are now, or may hereafter, be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided; and the city treasurer shall proceed to collect the taxes and all assessments of said city in the same manner, as is required by law of town treasurers to collect taxes, except as herein provided. General laws of state shall govern.

SECTION 56. Upon the receipt of the tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list has been delivered to him for collec- Notice to be published in official paper.

tion, and that he will receive payment for taxes at his office, for the term of thirty days ensuing the date of said notice. If the taxes are not paid in that time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written or printed notices, in as many public places in the city.

Treasurer's fees

SECTION 57. The treasurer shall collect as fees for the collection of taxes, one and one-half per cent. on all taxes collected by, or paid to him, prior to the second Monday of January in each year, and three per cent. upon all taxes or assessments paid to, or collected by him, after the second Monday of January, and in case of distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed constables on sale of goods upon execution.

Payment of state tax.

SECTION 58. The treasurer shall, on or before the last Monday of January in each year, pay to the county treasurer, the state tax assessed upon the property of said city.

In case taxes cannot be collected by treasurer.

SECTION 59. In case the city treasurer is unable to collect any tax assessed upon any personal property and payable by any person named in the tax list, he shall proceed in all things as are prescribed by the laws of this state, and any act that may hereafter be passed amendatory of said acts in addition thereto.

Regarding the borrowing of money.

SECTION 60. The common council shall have no power or authority, and it is hereby prohibited from borrowing any money, or from authorizing any city officer to borrow any money for the use of the city, nor shall it have authority to issue any bonds, or to contract any debt for any purpose whatever, unless there is money in the treasury for the payment of the same, except for such work on the streets as shall be paid for by special tax or assessment on the property benefited thereby, and except as hereinafter expressly provided; and no order or other certificate of indebtedness, shall be 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.

SECTION 61. The common schools of the city of Tomah, shall be under the control and supervision of the school district board of each district, in the same manner as if this act had not passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties, and until otherwise provided, by the common council of said city. The territory embraced within said city limits, and the inhabitants thereof, shall constitute one school district, to be known as school district number one, of the city of Tomah. The officers of school district number one, of the town of Tomah, shall be the officers of said school district number one, of the city of Tomah, during their unexpired term, and until their successors are elected and qualified, in accordance with the laws of the state of Wisconsin, regulating school districts; and all real estate and personal property belonging to school district number one, of the town of Tomah, is hereby vested in school district number one, of the city of Tomah.

School district board

SECTION 62. The town treasurer of the town of Tomah, shall pay over to the school district treasurer, of school district number one, of the city of Tomah, all moneys, which, by present apportionments, or by those hereafter to be made, for the the year 1883, belong to school district number one, of the town of Tomah, taking his receipt therefor.

School funds.

SECTION 63. For all future apportionments of county and state school fund, the city of Tomah shall be considered as a town, and apportionments made accordingly.

City to be considered as a town.

SECTION 64. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper, or in a pamphlet, or book form, purporting to be published by the authority of the common council, as certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Printed copy to be evidence.

SECTION 65. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without payment of fees in advance,

Witnesses and jurors shall attend without prepayment of fees.

or a tender thereof, upon a process duly served, and in default thereof, their attendance may be compelled by attachment.

Actions shall
be brought in
corporate
name.

SECTION 66. All actions brought to recover any penalty or forfeiture under this act, or under the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and the summons or warrant, pleadings and proceedings therein, shall be the same as in civil actions. In such actions it shall be sufficient to allege in the complaint, that the defendant is indebted to the plaintiff in the amount of the penalty, or forfeiture claimed according to the provisions of this act, or the by-law, ordinance, rule or regulation which imposes it, specifying the section and chapter; and when such section imposes a forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action was brought, with a demand for judgment for the amount of such penalty or forfeiture. In case the defendant is a non-resident of the state, an attachment may be issued in such action in like manner, as may be done in ordinary civil actions against non-residents; any such action may be brought for, and the judgment therein may include as many forfeitures, as the defendant may have incurred under the same section, prior to the commencement of such action. In all cases, when an action might be brought by the city of Tomah against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any resident 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 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 filing 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 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, nothing herein contained shall be so con-

strued 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 a justice of the peace of said city, or keeping them in confinement until such time as the court can reasonably hear and dispose of a complaint against such offender.

SECTION 67. When a penalty or forfeiture is imposed by this act, or by any ordinance, by-law, rule or regulation made in pursuance thereof, not exceeding a specified sum, or when it is not less than one sum, or more than another, the action may be brought for the highest sum specified, and judgment may be rendered for such sum as the court or jury shall assess or determine to be proportionate to the offense. Respecting penalties,

SECTION 68. In all cases when judgment is recovered in any such action, it shall also include the costs of the action, and it shall direct that if the same is not paid, the defendant shall be committed to the jail of the city of Tomah, or to the county jail of Monroe county, there to be imprisoned for a specified time, not exceeding three months, which period shall be fixed by the court in view of all the circumstances of the case, or until otherwise discharged pursuant to law. In such cases a commitment shall issue as in ordinary criminal actions, and such defendant shall not be entitled to the liberties of the jail. This section shall not prevent the issue of an execution to collect such judgment at any time within one year from its rendition. Judgment shall include costs of action.

SECTION 69. Any party feeling aggrieved by the judgment in any action commenced under the provisions of this act, may appeal to the circuit court of Monroe county, in the time and in the manner provided by law for appeals from justices' courts. Appeal.

SECTION 70. No person shall be an incompetent witness, judge, justice 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. Shall not work incompetency.

SECTION 71. The general laws for the preservation of bridges and the punishment provided by such laws for wilful and malicious injuries done Preservation of bridges.

thereto, are hereby extended to, and shall include all bridges now erected or hereafter to be erected over any stream, by, or in the city of Tomah, and shall apply to any wilful or malicious damage which may be done to them; and the common council of said city may, from time to time, make such by-laws and ordinances as it may deem necessary for the preservation of said bridges, and enforce the same by adequate penalties.

Street ordinances.

SECTION 72. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving any street at the expense, in whole or in part, of the owners of the lots, or parcels of land, abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than two weeks after the introduction of such ordinance, resolution or by-law, nor until one week's notice of the introduction of such resolution shall have been published in a newspaper published in said city; provided, that when said ordinance is introduced on petition of all the lot owners subject to the special assessment by such ordinance, no notice by publication or otherwise, shall be necessary.

Sidewalks shall be constructed on established grade.

SECTION 73. Sidewalks shall be constructed, reconstructed or repaired 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 resolution, ordinance 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 for one week in a newspaper published in said city, of the time, place and manner of receiving 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, no such contract shall be let until thirty days after notice shall have been given to such owner or owners, either personally, or by publication for one week in a newspaper published in said city.

SECTION 74. The common council shall have power, by a vote of two-thirds of all the members of the council, to order the building, construction, reconstruction or repair of sidewalks in the city of Tomah, in such manner as it may deem proper, and no petition, by the owners of the lots fronting or abutting on any such sidewalk, shall be necessary to authorize the common council to order such building, construction, reconstruction, or repair of any sidewalk in said city. The proceedings for ordering the repair of sidewalks, and the levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided in case of building a new sidewalk, except as otherwise provided in this section. Whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in the opinion of the street commissioner, it will not cost to exceed the amount of five dollars (\$5) in front of any one lot to repair, he shall be authorized, and it is hereby made his duty, to cause the same to be immediately repaired, and when the same is completed, he shall make out an itemized bill of the cost of such repairs, specifying the lot, block, or piece, or parcel of land, in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall, forthwith, present the same to the owner of such lot, piece, or parcel of land, if a resident of the city of Tomah, for payment, and if such owner shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the common council shall, thereupon, levy a special tax upon said lot, piece, or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece, or parcel of land, does not reside in the city of Tomah, the said street commissioner shall return said account to the common council, with his certificate, stating that fact, and the common council shall, thereupon, levy a special

May order
repair of
sidewalks.

tax to pay the same, in the manner in this section provided.

Poll tax.

SECTION 75. Every male inhabitant of the city of Tomah, over twenty-one years of age and under fifty, except active members of the fire department of said city, and except those otherwise exempt by the law, shall pay into the city treasury annually the sum of one dollar (\$1), as a poll tax. The assessor shall, at the time of making his annual assessment, make duplicate lists of the persons liable to pay such tax, and deliver one of said lists to the city clerk and one to the city treasurer, at the time he returns to the city clerk, his assessment roll of real and personal property of the city of Tomah. The said assessor shall designate the ward in which each person resides, and the city treasurer shall collect the same at the time of collecting the annual taxes, and all such taxes shall be paid to the city treasurer, on or before the first day of February, next after the delivery of the said lists to him, and the same proceedings may be had to collect such poll tax, as is provided for the other taxes to be collected by such treasurer; the treasurer shall credit each ward with the amount so collected from the inhabitants of such ward. The money so collected shall be kept as a distinct fund, and shall be expended by the street commissioner, under the direction of the aldermen of the ward in which such moneys were collected, in the improvement of the streets of such ward.

Costs of surveying streets to be charged to city.

SECTION 76. The cost and expense of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to, and payable by the city. The cost and expense of opening, grading, graveling, planking, paving or repairing streets and alleys, shall be chargeable to, and payable wholly, or in part, by the lots or land fronting on such street or alley, so that each lot or parcel of land, shall pay for work between the front of each lot or parcel of land, and the center of such street or alley, or such proportion thereof, as the council shall determine, or out of the general fund; sewers and gutters may be ordered by the common council, and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which said sewer or gutter shall be constructed; provided, that all such

improvements, or work of any kind upon the streets or sidewalks across streets, alleys and public grounds, shall be paid for by the city.

SECTION 77. When any action or suit, shall be commenced against said city, the service of process may be made by leaving a copy of the summons with the mayor and clerk of said city, and it shall be the duty of said clerk to take such proceedings, as by ordinance or resolution directed, if any there be.

Service of process against city.

SECTION 78. No real or personal estate, or property of any inhabitant or corporation of said city, shall be levied on or sold to satisfy any contract, debt or obligation of said city, or any judgment against said city of Tomah.

Property of citizens.

SECTION 79. All contracts for work ordered by the common council, shall be let by contract or job as the common council may direct and order.

Let by contract or job.

SECTION 80. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a two-thirds vote of all the aldermen.

Remission of penalties.

SECTION 81. The said city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same while owned or held by said city, shall be exempt from taxation.

City may hold and purchase real estate.

SECTION 82. When the city of Tomah deeds or leases any real estate or any interest therein, owned by said city, the party of the first part shall be the city of Tomah, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds.

SECTION 83. Deeds or leases executed by the city, shall be signed by the mayor and countersigned by the clerk, and the clerk shall attach to said deed or lease, a true copy of an ordinance or resolution authorizing the same, by the common council, under the corporate seal of the city, which said corporate seal shall also be attached to, and accompany the signature of the mayor, and such deed or lease, and a certified copy of such ordinance or resolution, when so attached to such deed or lease, shall be recorded with such lease or deed, by the register of deeds, and such copy, when so attached, and the record thereof, shall, in all courts of this state be *prima facie* evidence of the authority of the mayor to execute such deeds or leases.

Deeds and leases, how executed.

SECTION 84. If any election by the people, or

Failure to hold election at proper time, shall not abolish corporation.

common council, shall, for any cause, not be held at the time or in the manner prescribed, or if the council should fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization, may be had at any subsequent day, by order of the mayor, and if any of the duties enjoined by this act, or the ordinances, by-laws, or regulations of said city, to be done by any officer in a specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

Does not repeal.

SECTION 85. No general law of this state contravening the provisions of this act, shall be considered as repealing, modifying or amending the same, unless such purpose be expressly set forth in such law, as an amendment of this charter.

City regarded as a town for equalizing purposes.

SECTION 86. The county board of the county of Monroe, shall regard the city of Tomah in the aggregate, without regard to its division into wards, as a town, in equalizing the assessment rolls of the several towns in said county as provided by law, and shall receive the supervisors elected from the wards of said city, as members of the county board; the said county board may levy taxes as is, or may hereafter be provided by law in relation to towns, 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.

Copy of assessment roll to be made by clerk.

SECTION 87. Before the annual meeting of the county board of the county of Monroe, and by the time required by law for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll, or such statement as is required by law to be made by towns, to the county clerk of said county, who shall lay the same before the county board at its annual meeting.

Sale of delinquent lands.

SECTION 88. The county treasurer of Monroe county, shall sell all delinquent lands and lots returned from the city of Tomah, as other delinquent lands are sold in the county, and shall pay over to the treasury of the city of Tomah, on demand, all money collected or received by him, belonging to such city, but he may retain in the county treasury all amounts due from said city to the county of Monroe.

SECTION 89. The first election of said city of Tomah, for the election of city and ward officers, shall be held on the first Tuesday in April, 1883, at the engine house in said city of Tomah. The election for the first ward of said city, shall be held in the engine room on the ground floor of said engine house; the election for the second ward, shall be held in the council chamber on the second floor of said engine house; at each ward polling place, the qualified electors of such ward shall choose *viva voce*, from the qualified electors of such ward present, three inspectors of election and two clerks of election, and the persons so chosen as inspectors and clerks, shall, before entering upon the duties of their offices, take and subscribe the oath required of inspectors and clerks of general elections, under the laws of the state of Wisconsin. Six days previous notice of said first election shall be given by the sheriff of the county of Monroe, stating the time and place of holding such election, and the officers to be elected in such city and in the respective wards, which notice shall be posted in three public places in each ward of said city. The provisions of this charter shall govern all questions not provided for in this section, arising at such first election.

First charter election.

SECTION 90. Only one justice of the peace, for each ward in this city, shall be elected at such first election, and one justice of the peace shall be elected annually, thereafter, in each ward.

Justices of the peace to be elected.

SECTION 91. The city of Tomah 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 Tomah, together with all the funds, revenues, debts and demands, due and owing to the said village of Tomah, as a corporate body, which by, or under 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 this corporate body, created by this act.

Connection between town and city shall cease.

SECTION 92. Every license issued under the charter or 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 by the

Licenses, by whom signed.

ordinances, by-laws, or resolutions of said city, to be paid therefor, nor shall any license be issued for dealing in, selling, or vending spirituous, vinous, fermented or malt liquors, unless 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 shall be approved by the common council.

Use of county jail.

SECTION 93. The use of the jail of Monroe county, until otherwise provided by the common council, shall be granted to said city for the confinement of offenders committed thereto, and when such offenders shall be committed to such jail, as provided in this act, the sheriff of Monroe county shall be responsible for the custody and safe keeping of such offender, as in cases under chapter 142, of the revised statutes, of the state of Wisconsin.

Property subject to taxation.

SECTION 94. Real estate exempted from taxation by the laws of this state, shall be subject to special taxes or assessments which become, or shall be chargeable against particular property as provided by this act.

Compensation of city officers.

SECTION 95. The city officers to be first elected or appointed, under the provisions of this act, whose compensation is not fixed or limited thereby, shall receive, as compensation for their services, such sum as the common council shall determine, and the common council shall, in the month of March thereafter, determine by resolution, the salary to be paid to the different officers for the next ensuing year, which compensation shall not be increased or diminished during the term of office of said officers, and in case of a neglect to determine said compensation, the said officers, and each of them, shall receive the same compensation as their immediate predecessor.

May call a jury.

SECTION 96. In city prosecutions for the violation of any ordinance, by-law or regulation of said city, either party may call a jury as prescribed for justices' courts in this state, and the trial shall proceed in the same manner, and be governed by the same rules, as in the trial of cases in justice court under the general laws of this state.

General law.

SECTION 97. This act is hereby declared to be a general law, and shall be favorably construed in all courts and places.

SECTION 98. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1883.

[No. 425, A.]

[Published April 4, 1883.]

CHAPTER 149.

AN ACT to amend chapter 231, of the laws of 1876, relating to the city of Eau Claire.

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

SECTION 1. Section 1, of chapter 231, of the laws of 1876, is hereby amended so as to read as follows: Section 1. The city of Eau Claire is hereby authorized and empowered to construct water-works, for the purpose of supplying said city and the inhabitants thereof, with water, and for that purpose is authorized to construct and maintain a dam, not to exceed eighteen feet in height above low water mark, across the Chippewa river, at such place, within the limits of said city, as the common council thereof may determine, and may open and construct drains, sewers, aqueducts, mains, and may construct or purchase water wheels, pumps and machinery for elevating and forcing water through mains and pipes, and all other works and appendages necessary or proper to the successful construction and operation of water works, to supply said city and the inhabitants thereof, with water, and to establish water rates and provide for the collection thereof. And the common council of said city, in addition to the powers herein specifically granted to them, shall have power to pass and adopt all such ordinances, resolutions and orders, as may be necessary or proper, to construct, maintain, operate and regulate such water works. And it shall be the duty of said city to complete said water works, prior to the first day of June, A. D. 1888, so that the same shall be capable for operation. And for the purpose of operating the same, to apply such portion of the water power created by said dam, as may be necessary.

City authorized
to construct
water works.

SECTION 2. This act shall not be so construed