

hook and line, or spear or any other device for taking, catching or killing fish in the waters of the creeks known as Council House creek, Deer creek, Deep creek and Runkle & Freeman's mill pond, in the county of Monroe, for the space of three years from the passage of this act.

Penalty for violating this

SECTION 2. Any person who shall violate any of the provisions of this act shall, on conviction thereof be subject to a fine for each and every such offense of not less than twenty-five nor more than one hundred dollars, with costs of suit.

SECTION 3. Justices of the peace shall have jurisdiction to try and determine all cases arising under the provisions of this act.

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

Approved March 10, 1874.

CHAPTER 236.

[Published March 24, 1874.]

AN ACT to amend chapter 254 of the private and local laws of 1868, entitled "an act to revise, consolidate and amend the act to incorporate the city of Sheboygan, and the several acts amendatory thereof, and to repeal chapter 94 of the private and local laws of 1856, entitled an act to establish a code of procedure for the police court of the city of Sheboygan, approved March 4, 1856, and the several acts amendatory thereof.

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

Jurisdiction of justices of the peace.

SECTION 1. The justices of the peace, and each and every one of them of said city of Sheboygan, shall have like civil and criminal jurisdiction and perform all the duties of justices of the peace as provided by the general laws of this state. Said justices shall also have original jurisdiction of all causes growing out of the violation of the charter, or of any ordinance, rule, order, resolution or by-law of said city, and of all such cases wherein the city is a party, as are within the jurisdiction of a justice of the peace, and the office of police justice of said city of Sheboygan is hereby abolished.

Suits to be brought in corporate name of the city.

SECTION 2. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations, made in pursu-

ance 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 chapter and section of this act or the section of the ordinance, by law or resolution under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

SECTION 3. In all prosecutions for any violation of any of the provisions of this act or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace under the general statutes of the state for the time being. When process by summons.

SECTION 4. When the action is commenced by summons, such summons may be substantially in the following form: When by warrant.

COUNTY OF SHEBOYGAN—CITY OF SHEBOYGAN—ss. Form of summons.
The state of Wisconsin, to the sheriff or any constable of said county:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, one of the justices of the peace in and for said county, at my office in said city, on the — day of —, 18—, at — o'clock in the —noon, to answer unto the city of Sheboygan plaintiff in a plea of debt, to the damage of said plaintiff two hundred dollars, or under.

Given under my hand, at the said city, this — day of —, 18—.

C. D., *Justice of the Peace.*

SECTION 5. Such summons shall be made returnable and be served in the same manner as is now or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons, and triable before justices of the peace. How summons returnable.

SECTION 6. When the action is commenced by summons, the complaint may be substantially in the following form:

THE CITY OF SHEBOYGAN }
 against } *In Justice's Court.* Form of complaint.
 A—— B—— }
 Before C—— D——, justices of the peace.
 The plaintiff complains against the defendant, for,

that the defendant on the — day of —, 18—, at the said city, did —, etc., etc. (in violation of the — section of chapter of this act, or section — of an ordinance or by-law or regulation of said city, describing it by its title), which said — is now in force, by reason of which violation, an action has accrued to the city of Sheboygan, to recover of the defendant the sum of — dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum of — dollars, besides the costs of this action.

E— F—,
City Attorney.

SECTION 7. In all cases where oath is made for a warrant, the complaint shall be made on oath of the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF SHEBOYGAN }
against } *In Justice's Court.*
A— B— }
Before C— D—, Justice of the Peace.

COUNTY OF SHEBOYGAN—CITY OF SHEBOYGAN—SS.
— —, being duly sworn, complains on oath to C— D—, justice of the peace in and for said county, that A— B—, on the — day of —, 18—, at said city, did (state manner of violation) in violation of (state section — of chapter — of this act, or section — of an ordinance or by-law or regulation of said city, describing it by title), which said — is now in force, as this complainant verily believes, and prays that said A— B— may be arrested and held to answer to said city of Sheboygan therefor.

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

Complaint sworn to.

Said complaint may be sworn to before any officer authorized to administer oaths, and upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

COUNTY OF SHEBOYGAN—CITY OF SHEBOYGAN—SS.
The state of Wisconsin, to the sheriff or any constable of said county:

Whereas — — has this day complained to me in writing, on oath, that A. B., on the — day of —, 18—, at said city, did (here state substance of complaint) which said — is now in force as the com-

plainant believes; you are therefore commanded to arrest the body of said A— B—, and bring him before me forthwith, to answer unto the city of Sheboygan on the complaint aforesaid.

Given under my hand at the said city, this — day of —, 18—.

C. D., *Justice of the Peace.*

Upon the return of the warrant, the justice of the peace may proceed summarily with the case, unless it be adjourned by consent or for cause as in other cases provided by law. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with security, to be approved by the court, for his or her or their appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Sheboygan county. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter not embraced in the action.

Defendant may be required to recognize, with security for appearance.

SECTION 8. All ordinances, by-laws or resolutions passed by the common council and published and recorded as provided by section 4 of chapter six (6) of the act to which this act is amendatory, shall be conclusive evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of this state.

Ordinances or by-laws to be received in evidence.

SECTION 9. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Witnesses and jurors shall attend without payment of fees in advance.

SECTION 10. In city prosecutions the findings of the court or jury shall be either guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the nonpayment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon his docket the length of time the defendant shall be imprisoned, which in no case shall exceed six

If adjudged guilty defendant to pay fine and costs — If not guilty costs shall be taxed against the city.

months, and also insert such time in the execution or commitment. Such execution may be in the following form :

Form of execu- COUNTY OF SHEBOYGAN—CITY OF SHEBOYGAN—SS.

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of the common jail of said county, greeting :

Whereas, The city of Sheboygan, on the — day of —, 18—, recovered a judgment before the undersigned, justice of the peace in and for said city, against —, for the sum of — dollars, together with — dollars and — cents, costs of suit, for the violation of (section — of chapter — of this act, or section — of an ordinance or by-law or regulation of said city, describing it by its title), you are commanded to levy distress of the goods and chattels of said —, excepting such as the law exempts, and make sale thereof according to law, to the amount of said sums, together with your fees, and twenty-five cents for this writ and the same return to me in thirty days, and for want of such goods and chattels whereon to levy, to take the body of said —, and him convey and deliver to the keeper of the common jail in Sheboygan county; and the said keeper is hereby commanded to receive, keep in custody in said jail, the said —, for the term of —, unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law.

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

C. D., *Justice of the Peace.*

Form of com-
mitment.
Defendant may
appeal.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writs.

SECTION 11. Any defendant feeling aggrieved by the judgment of a justice of the peace in any action commenced under the provisions of this act, by summons or warrant, may appeal from judgment to the circuit court for the county of Sheboygan: *provided*, such defendant, within twenty-four hours, enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings, and a copy of the entries on his docket in the action, together with the recognizance, to be filed

Justice shall
make return.

in the office of the clerk of said court, and the said city may appeal from any such judgment, as in other cases before justices of the peace.

SECTION 12. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof, after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

Appeal tried by jury.

SECTION 13. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution, as in actions of tort.

If judgment be affirmed, the court shall inflict penalty provided by this act.

SECTION 14. No person shall be an incompetent judge, justice, juror or witness 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.

SECTION 15. All ordinances and regulations now in force in the city of Sheboygan, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Who may be witnesses or jurors.

SECTION 16. All actions, rights and penalties, fines and forfeitures in suits or otherwise, which have arisen or accumulated under the several acts consolidated herein shall be vested in and prosecuted by the corporation hereby created.

Ordinances now in force to remain so until amended or repealed.

SECTION 17. The general laws for the preservation of bridges, and the punishment by such laws for the willful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges erected or owned by said city over the Sheboygan river, and shall apply to any willful or malicious damage which may be done to either of them by any person or whomsoever; and the common council of said city may from time to time make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or water craft, or by the master or any person in command thereof, such vessel or water craft may be proceeded against by the said city, under the law to provide for the collection of demands against boats and vessels, which does now or may hereafter exist.

Actions now pending, to be prosecuted by the incorporation hereby created.

Injury to bridges, how punished.

Actions against the city, how process may be served.

SECTION 18. When any suit or action shall be commenced against the city, the service thereof may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk so served, forthwith to inform the common council thereof, or to take such action or proceedings as by ordinance or resolution by said common council may be in such case provided.

Salary of treasurer.

SECTION 19. The salary of the treasurer of the city of Sheboygan shall be fixed by the common council of said city, but shall not exceed the sum of eight hundred dollars in any one year, and shall be in full for all such services and duties as may be lawfully required of said treasurer by the ordinances, by-laws and regulations of the city of Sheboygan, or by the laws of this state.

Common council may select places of deposit, for city funds.

SECTION 20. In the first week of April, 1874, and as often thereafter as the common council shall think best for the safety or interest of the city, they may, either at their regular or special meeting, by a vote of a majority of all the members elect, select some bank, banks or banking associations, with which or whom all funds in the treasury of the city, or which shall be thereafter collected or received by the treasurer, shall be deposited, *provided, however,* that such bank, banks or banking associations, so selected shall, before receiving such funds, give security in the same manner as is now required of the treasurer of said city for the safe keeping and proper distribution of such funds, which security shall be approved by the common council.

Duties of city treasurer.

SECTION 21. The city treasurer shall render monthly statements to the common council of the amounts received and disbursed by him, and the balance over fifteen hundred dollars on hand in the treasury at the end of each month, shall be deposited with the bank, banks or banking associations so selected, it or they giving proper vouchers therefor. From the time of so depositing such funds, the said treasurer shall be relieved from all liability to the city arising from the failure of the bank, banks or banking associations safely to keep said funds. Such funds shall be drawn out only upon the check of the said treasurer, countersigned by the comptroller of said city.

When shall deposit city funds.

Duties of treasurer and comptroller.

SECTION 22. The treasurer and comptroller may, whenever the balance in the treasury does not amount to said fifteen hundred dollars, increase it to that amount by their check as aforesaid, in favor of the city treasurer; the true object of this being to enable the treasurer to have funds under his control with which to

pay such demands upon the treasury as he is or shall be required by law to pay.

SECTION 23. The common council shall, before selecting a depository or depositories, contract with such bank, banks or banking associations, that it or they shall pay to the city such interest upon said funds so to be deposited as they may mutually agree upon, and all interest so earned shall, at stated times to be agreed upon, be placed to the credit of the city, and a statement thereof transmitted to the city comptroller by said bank, banks or banking associations; and it shall be the duty of the city comptroller on or before the first Monday in March in each year, by circular addressed to each bank and banking house in the city of Sheboygan, to solicit proposals to become such depository, and of the rate of interest which they would allow the said city on the balances standing to the credit of the said city for the year ensuing, all of which proposals shall be laid before the common council at their first meeting in April.

Interest to be paid on deposits.

Comptroller shall solicit proposals to become such depository.

SECTION 24. Whenever any injury shall happen to persons or property in the said city of Sheboygan by reason of any defect or incumbrance of any street, sidewalk, alley or public ground, or from any other cause for which the said city would be liable, and such defect, incumbrance or other cause of such injury shall be caused or procured by the wrong, default or negligence of any person or corporation, such person or corporation so guilty of such wrong, default or negligence shall be primarily liable for all damages for such injury, and the said city shall not be liable therefor until after all legal remedies shall have been exhausted to collect such damages from such person or corporation.

In case of injury to person or property, remedy how obtained.

SECTION 25. The chief engineer of the fire department of the city of Sheboygan shall hereafter be appointed by the common council of said city at the first regular meeting thereof after the second Tuesday of April in each year, or as soon thereafter as may be.

Appointment of chief engineer.

SECTION 26. Section eleven (11) of chapter seventeen (17) of the act of which this act is amendatory, is hereby amended so as to read as follows, to-wit: Section 11. All accounts or demands against said school districts less than the sum of thirty dollars, except salaries of teachers, may be allowed and paid by said board, after first being audited by the city comptroller, by an order on the treasurer of the city, payable to the person in whose favor the same may be drawn, and which order shall specify the purpose for which it is drawn, and the same shall be signed by the

Demands against school districts, how paid.

city superintendent of schools and city clerk. All other accounts and demands shall first be audited by the common council.

SECTION 27. All acts or parts of acts contravening the provisions of this act are hereby repealed.

SECTION 28. This act shall take effect and be in force from and after its passage and publication.

Approved March 10, 1874.

CHAPTER 237.

[Published March 17, 1874.]

AN ACT to appropriate a sum of money to the state prison, for the current expenses for the year 1874.

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

Appropriated
\$25,000.

SECTION 1. There is hereby appropriated out of any money in the general fund not otherwise appropriated, the sum of twenty-five thousand dollars in full for the payment of current expenses at the state prison for the year 1874, and for the semi-fiscal year from October 1, 1874, to first day of April, 1875.

Appropriated
\$18,718.89.

SECTION 2. There is hereby appropriated out of any money in the treasury not otherwise appropriated the sum of eighteen thousand seven hundred and eighteen 89-100 dollars for the payment of the indebtedness of the state prison at Waupun now due, and that will become due, on or before the first day of April, 1874.

How may be
drawn.

SECTION 3. All moneys appropriated under the provisions of this act shall be drawn from the treasury upon the order of the board of directors of the state prison, and in no other manner.

Compensation
of employes.

SECTION 4. The overseers of machinery in the respective departments of mechanical labor in the state prison at Waupun, shall each receive the sum of sixty dollars per month; and all other overseers, keepers and guards shall each receive not exceeding the sum of forty-five dollars per month, as may be agreed upon by and between each of such overseers, keepers and guards and the warden of said prison, and to be approved by the directors thereof. So much of section nine of chapter one hundred and ninety-three of the