

after said proclamation, file with the secretary of state a resolution of its board of directors accepting said grant upon the terms and conditions of said acts of congress and of this act, and shall deposit with the state treasurer security, to be approved by the governor, to construct said road in accordance with the provisions of said acts of congress and of this act, shall succeed to the rights and privileges herein conditionally granted to said Chicago and Northern Pacific Air Line Railway Company, as fully as though this act had in the first instance applied to said company.

SECTION 14. Any person who, prior to the first day of January, 1874, may have settled upon any quarter, or a subdivision less than a quarter section of said lands and improved the same as a farm, and who has since continued to reside thereon and occupy the same as his home, may on proving such settlement, improvement and continued residence, acquire the title to the same by paying to the state treasurer of Wisconsin, for the use of said North Wisconsin Railway Company, the sum of two dollars and fifty cents per acre for such land, such proof and payment to be made within one year from the passage of this act.

Protection to settlers.

SECTION 15. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1874.

CHAPTER 127.

[Published March 11, 1874.]

AN ACT to incorporate the city of Menasha.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All that section of country situated in the county of Winnebago and embraced within the following described limits and boundaries, to wit: Lots three (3) and four (4), in section thirteen (13), all of section fourteen (14), all of section fifteen (15), all of section sixteen (16), east of low water mark on the west shore of lake Butte des Morts, all of the north half of section twenty-one (21), east of low water mark

City boundaries.

Corporate
name.

on the west shore of lake Butte des Morts, all of the north half of section twenty-two (22), and all of the north half of section twenty-three (23), all in township twenty (20) of range number seventeen (17) east, shall be a city by the name of Menasha, and all the people inhabiting the said described section of country and those who shall hereafter inhabit the same shall be a municipal corporation by the name of the city of Menasha, and shall have generally all the powers belonging to municipal corporations at common law, and shall also have and possess all the rights and powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all the courts of law and equity, and shall have a common seal, and may alter the same at pleasure.

Number of
wards.

Ward bounda-
ries.

SECTION 2. The said city of Menasha shall be divided into four wards, as follows: The first ward shall include all that territory in said city north of Fox river and included between the following line on the east side of said ward, to-wit: on the section line between sections fourteen and fifteen running north from Fox river to Rounds' addition, thence fifty feet west to the line between Rounds' and Reed's additions, thence along the line between said Rounds' and Reed's additions north to the north line of the corporation limits, and the following line on the west side of said ward, to-wit: commencing on the north line of said city at the center of Milwaukee street, thence along the center line of said Milwaukee street to the south line of Darling's addition, thence along the south line of Darling's addition to the line between lots twelve, (12) and thirteen (13), in block thirty-five (35), thence south on the line between lots twelve (12) and thirteen (13), and between twenty-one (21) and twenty-two (22), in blocks thirty-five (35), thirty-two (32), and sixteen (16), on the line between lots seven (7) and eight (8), and lots twenty-nine (29) and thirty (30), in block eight (8), on the line between lots thirty-two (32) and thirty-three (33), and lots thirteen (13) and fourteen (14), in block seven (7), thence along the center line of Clay street, between blocks two (2) and three (3) to the canal, and on the line between lots twenty (20) and twenty-one (21), in block one (1), to the Fox river. The second ward shall comprise all that territory in said city west of the above described west line of the first ward. The third ward shall comprise all the territory in said city on Doty's Island, and all south of the north branch of Fox

river. The fourth ward shall comprise all the territory in said city north of Fox river and east of the above described east line of the first ward.

SECTION 3. The corporate authority of said city shall be vested in one principal officer, styled a mayor; in one board of aldermen, consisting of two members from each ward, who, with the mayor shall be denominated the common council; together with such other officers as are hereinafter mentioned or may be created under this act. City officers.

CHAPTER II

OFFICERS, THEIR ELECTION AND APPOINTMENT.

SECTION 1. The municipal government of the city shall consist of a common council, composed of the mayor and two aldermen from each ward. The other officers shall consist of a city clerk, city treasurer, city surveyor, city marshal, two justices of the peace, and two constables for the city at large, one assessor for each ward, sealer of weights and measures for the city at large and such other officers for the several wards and city as may be created by this act or be deemed necessary by the common council for the proper management of the affairs of the city. Municipal government.

SECTION 2. The mayor, two aldermen for each ward, city treasurer, one justice of the peace and two constables for the city at large, and one assessor and one supervisor for each ward shall be elected by the people at each annual election for city and ward officers. All the other officers shall be appointed by the common council at the first regular meeting thereof on or after the second Tuesday in April in each year or as soon thereafter as may be. Officers at large

SECTION 3. The justices of the peace shall hold their offices for two years and until their successors are elected and qualified, and all the other officers, either elected or appointed, shall hold their offices for one year, and until their successors are elected and qualified subject to removal as in this act made and provided. Justices term.

SECTION 4. In case of a vacancy in the office of mayor, aldermen or justices of the peace by death, removal or other disability, the vacancy shall be filled by a new election, which shall be ordered by the common council within ten days thereafter and shall give five days notice thereof. Any vacancy occurring in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy Vacancies.

shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Term shall commence.

SECTION 5. The term of office of every person elected under the provisions of this law, shall, after the first election, commence on the second Tuesday of April, and shall continue for one year, and until their successors are elected and qualified.

Eligibility.

SECTION 6. No person shall be eligible to hold any office mentioned in this act unless he shall be a qualified elector of the state of Wisconsin, and shall have been a resident elector of said city for ten days previous to the election or appointment; nor shall any person be eligible to any ward office unless he shall have been a resident elector of such ward for ten days previous to the election or appointment.

Removing.

SECTION 7. Any officer removing from the city or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as heretofore provided.

CHAPTER III.

ELECTIONS.

Elections.

SECTION 1. The annual election of city and ward officers shall after the first election be held on the first Tuesday of April, of each year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until sundown, and ten day's previous notice shall be given by the common council of the time and place of holding such election, after the first election, and of the city and ward officers to be elected by publishing the same in some newspaper published in the said city, or by posting at least two copies of such notice in two public and conspicuous places in each ward. But the inspectors of election may adjourn the polls at twelve o'clock noon for one hour.

Votes and voting.

SECTION 2. 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 the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

SECTION 3. All persons entitled to vote for county Who may vote. or state officers and who shall have resided for ten days within the ward where they offer to vote shall be entitled to vote for any officer entitled to be elected under this law and hold any office hereby created.

SECTION 4. If either of the inspectors of election or Challenges. aldermen suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector or alderman, before receiving any such vote shall require the voter offering his vote to take the following oath: "You do solemnly swear (or Swearing in votes. affirm, as the case may be), that you are twenty-one years of age, and that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably to the laws of the United States on the subject of naturalization); that you have resided within the state of Wisconsin one year next preceding this election, and that you have resided in the city of Menasha, and within this ward ten days next preceding this election, that you have not voted at this election, and that you have made no bet or wager, depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received; and if such person shall take such oath falsely, he shall be deemed guilty of a willful and corrupt perjury, and upon conviction thereof upon prosecution shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election or if any person duly qualified shall vote in any other ward than the one in which he resides or shall vote more than once at any one election, he shall be liable to prosecution, and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of List of challenged voters the names of all persons whose votes may be challenged as aforesaid, and [who] shall swear in their votes, and if any inspector or alderman shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect counts and tallies of votes, each and every inspector and clerk shall be liable to prosecution and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such prosecutions

shall be tried in the circuit court for the county of Winnebago.

Special elections.

SECTION 5. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the alderman and assessor of each ward as inspectors, as provided by this act, and returns thereof shall be made in the same time, manner and form as of general or annual elections.

Failure to elect.

SECTION 6. Should there be a failure by the people 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 of holding the election first being given, and said election shall be conducted in all respects, so far as practicable, in the same manner as annual elections are herein provided for.

First election.

SECTION 7. The first election under the provisions of this act shall be held on the last Tuesday of March, A. D. 1874, and the term of office of every person then elected shall commence on the first Tuesday of April, A. D. 1874, and continue until the second Tuesday of April, A. D. 1875, and until their successors are elected and qualified. The term of office of all appointed officers shall commence immediately upon their appointment and qualification. At the first election there shall be elected a mayor, two aldermen for each ward, city treasurer, two constables for the city at large, one assessor for each ward, and two justices of the peace for the city at large, one of whom shall be elected for two years and one for one year, and the one having the highest number of votes shall be deemed elected for two years, and the one having the next highest number of votes shall be deemed elected for one year, and in case of a tie, the term of office shall be determined by casting lots in the presence of the common council at such place and time as the common council shall determine; and any justice of the peace of the town of Menasha now residing in the section of country by this act created a city by the name of Menasha, shall hold their offices and be justices of the peace within the said city of Menasha until their terms of office shall expire, in addition to any justices of the peace that may be elected under this act, and shall have the same authority they would have had if this act had not been passed, and also all authority given by this act to justices.

Places of holding election.

SECTION 8. The first election under this act shall be held at the following places in each ward, to wit: In ward one, at the Vaughn House; in ward two, at En-

gine House No. 2; in ward three, at Potter and Duchman's office; in ward four, at the district school house; and the following named persons shall be the inspectors of election for the several wards, to wit:

In ward one—W. H. Lull, F. Schuellen and A. E. Bates.

In ward two—J. W. Ladd, Charles Koch and Patrick O'Malley.

In ward three—Abel Keyes, John Harbeck and B. G. Mathewson.

In ward four—Melancthon Burroughs, George Stein and Wm. Freeman.

And the aforesaid inspectors in each ward shall appoint one or more suitable persons as clerks of election. In case of the absence of any of the above named inspectors at the time for opening the polls, the voters present shall viva voce elect some person or persons to act in their place as inspectors, and said inspectors and clerks shall, before they enter upon their duties, take the usual oaths or affirmations as prescribed by the general laws of this state to be taken by the judges of election and the clerks. The town clerk of the town of Menasha shall give notice of such first election in said city, and the places where it is to be held, the officers to be elected and the names of the persons herein appointed as inspectors, at least eight days previous to such election by publishing the same in some newspaper printed within the city, or by posting copies of the notices in at least two public and conspicuous places in each ward.

SECTION 9. The inspectors appointed by the preceding section or elected as therein provided and the clerks, shall have all the rights and powers and shall perform the duties given to inspectors of election by this act and the general laws of the state, and shall be subject to the same liabilities. The first election shall be held at the same time of the day, and be conducted in the same manner as other annual elections provided for by this act, so far as practicable, and when said first election shall be closed, the number of votes for each candidate or person voted for shall be counted and ascertained by said inspectors, who, on the day following the election, shall make returns to the county clerk of Winnebago county of each and every person voted for, and the number of votes cast for each person for each and every office, and they shall also make a like return of the election to the town clerk of the town of Menasha, who shall deliver the same to the city clerk of the city of Menasha upon

Canvassers.

his qualification within three days after the said return is made to the county clerk of Winnebago county, the county board of canvassers of said county shall meet and canvass the said returns, and determine who shall have been properly elected officers of said city and ward, and shall forthwith notify by certificate each of the officers of his election to his respective office, and shall also cause their determination to be published in a newspaper published in the said city of Menasha, and the persons so elected shall hold their respective offices until the second Tuesday of April, A. D. 1875, and until their successors are elected and qualified.

SECTION 10. The votes for all city and ward officers shall be on one ballot and shall be deposited in the same ballot-box.

CHAPTER IV.

OFFICERS—THEIR POWERS AND DUTIES.

Official bonds.

SECTION 1. 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 officers taking the same, with the clerk of the city; and the treasurer, clerk, marshal, constables, 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 Menasha a bond, with at least two sureties, who shall swear that they are worth in the aggregate, the penalty specified in said bond, over and above all debts, exemptions and liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may, from time to time, require new additional bonds, and remove from office any officer refusing or neglecting to give the same.

Duties of Mayor.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be chief executive officer and head of the police of the city, and in case of a riot or other disturbance, or apparent necessity, he may appoint as many special or temporary constables as he may deem

necessary. The mayor shall have a vote only in case of a tie. The mayor shall have power to veto any ordinance or resolution 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 or resolution. In case of no session of the council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections; and in case the council shall not, within one week after the receipt of such objection, or such filing with the clerk, re-enact such ordinance, or pass such resolution, by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same, unless sooner approved in writing by the mayor or acting mayor for the time being.

SECTION 3. At the first meeting of the common council in each year, they shall proceed to elect by ballot, one of their number president, and in the absence of the mayor, the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent at any meeting of the common council, they shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor, except the signing of city bonds. The president, or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or either of them, shall have the same force and validity as if performed by the mayor, excepting the signing of city orders; and the said common council shall also, at their first meeting in each year, elect a clerk and a marshal for the city who shall hold their respective offices for the term of one year, and until others are elected and qualified.

SECTION 4. The clerk shall keep the corporate seal and all the records and papers of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office and transcripts from the records of the common council, certified by him to have been compared by him with the original, and to be

Duties of the office.

a correct transcript therefrom, under the corporate seal, shall be evidence in all courts in like manner as if the original was produced. He shall draw and countersign all orders on the treasury, in pursuance of an order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose. He shall file in his office all chattel mortgages presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation as clerks of towns, and all chattel mortgages so filed, and the renewals thereof, shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths or affirmations.

Jurisdiction of justices.

SECTION 5. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws of this state, except that the official bonds shall be approved by a majority of the common council; and in addition thereto, they shall have jurisdiction in all cases arising under this act, and the ordinances, resolutions and by-laws passed by said city council unless therein otherwise provided. All constables elected by virtue of this act shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

City treasurer.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. All moneys raised, received, recovered or collected by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which may belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except by an order issued by order of the common council and signed by the mayor and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom the amount of the several sums was received, which book shall, at all reasonable times, be open to the inspection of any person. He shall, every three months, and as often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the ex-

Duties of the office.

piration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for his services receive the same compensation as herein otherwise provided, and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurers of towns: *provided*, that he shall receive no other fees except the compensation herein-after provided.

SECTION 7. The marshal shall attend all the meetings of the common council, and 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 fees. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and retain [return] 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 this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys in said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such person before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties.

SECTION 8. The common council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers elected or appointed by them.

SECTION 9. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hun-

City marshal.

His powers and duties.

Extra duties may be required

Delivering property to successors.

dred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner provided by the laws of this state.

Aldermen shall not be interested in contracts. SECTION 10. No alderman shall be a party to, or be interested in any job or contract with the city or any of the wards; and any contract in which any alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract and the aldermen interested in the same.

Who may command the peace. SECTION 11. The mayor or acting mayor, sheriff of Winnebago county, and each alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Winnebago county, constables, policemen and watchmen, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purpose may command the assistance of all by-standers, and if need be of all citizens and military companies. And if any person, by-stander, military officer or private citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case when the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section shall direct the proceedings.

City surveyor. SECTION 12. There may be elected by the common council, a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested, and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office, to his successor or the common council. He shall hold his office during the pleasure of the common council.

CHAPTER V.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

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

Style of ordinances.

SECTION 2. The common council shall hold their first annual meeting in each year on the second Tuesday of April, and thereafter, stated meetings at such times as they shall appoint. 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 be judge of the election and qualification of its own members, and have power to compel the attendance of absent members.

Annual meetings.

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

Control of finances.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances, under the ordinances of said

Licenses.

- city, the laws of the state, or at common law, and may grant licenses for and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same: *provided*, that the license for so dealing in or vending spirituous, vinous or fermented liquors shall not be less than twenty-five dollars or more than three hundred dollars, and that all such licenses hereafter granted shall run from the first day of May in each year; *provided, however*, that when any such license may be applied for after that date, the same may be granted, to expire on the first day of May of each year, on the applicant paying *pro rata* therefor, but no license shall be granted for a longer period than one year.
- Cost of license.**
- Gambling.** 2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council, and to license, regulate and suppress hawkers and peddlers.
- Riots.** 3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. No person shall be incapacitated or excused from testifying touching any offense committed against any the provisions of this act, or any ordinance of the city of Mehasha, by reason of him or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witnesses.
- Nuisances.** 4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.
- Slaughter houses.** 5th. To direct the location and management of slaughter houses and markets, and to establish rates and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.
- Horse racing.** 6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomo-

tives, engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

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

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

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

10th. To prevent any person from bringing, depositing or having within said city, any putrid carcasses, or other unwholesome substances, 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, fish, hides, skins or substances of any kind, and on default to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Unwholesome
meat.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and to regulate license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen, and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and buildings, with gas or otherwise.

Pounds, wells,
etc.

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

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

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

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

Firearms.

- Drunkenness.** 16th. To restrain drunkenness 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.
- 17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses and other establishments, and to establish and regulate the police of the city.
- Markets.** 18th. 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 restrain all persons from interrupting or interfering with the due observance of such rules and regulations.
- 19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.
- Wood and hay.** 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same, and to appoint a lumber and shingle inspector.
- Cleaning sidewalks.** 21st. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys 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 thereof by some officer of the city, at the expense of such owner or occupant.
- 22d. To procure the necessary blank books and stationery as may be required for city purposes.
- 23d. To regulate, control and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.
- 24th. To regulate the time, place and manner of holding public auctions or vendues.
- 25th. To appoint watchmen and prescribe their duties.
- 26th. To provide by ordinance for a standard of weights and measures, and for punishment of the use of false weights and measures.
- 27th. To protect trees and monuments in said city.
- 28th. To prescribe and regulate the construction of sewers within said city.
- Opening streets** 29th. To lay out, make, open, keep in repair, alter

or discontinue any highways, streets, lanes and alleys, and to keep them free from incumbrances and to protect them from injury, and to alter or change the name of any street in the city.

30th. The common council shall have the power to require the owner of any lot or ground in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof to cause the same to be done and to levy a special tax upon such lot or grounds to pay the expense of the same.

31st. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and 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.

SECTION 32. 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, within ten days after their passage, respectively, be published in some newspaper in said city, once before the same shall be in force, or shall be posted up in at least three public places in said city, one week before the same shall be in force, and within ten days thereafter, they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, as the same may be published in, or by the certificate of the city clerk or marshal that copies have been posted as herein required, and such affidavit or certificate shall be recorded therewith, and at all times these shall be deemed and taken as sufficient evidence of the time and manner of such publication or posting, and such record of such law, ordinance, regulation or by-law, and the proof of such record certified by the clerk, under seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication or posting of such law, ordinance, regulation or by-law. No appropriation shall be made without an affirmative vote of a majority of all members of the common council.

Ordinances
how passed.

Publication
thereof.

SECTION 33. The powers conferred upon the said

Storing of gun-
powder.

council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gun powder are deposited, stored or kept at any one time, gambling houses, houses of ill fame, disorderly taverns and houses and places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Auditing officers accounts.

SECTION 34. The common council shall examine, audit, and adjust the accounts of the clerk, treasurer, and street commissioners of each ward, marshal, and all other officers and agents of the city, at such time as they may deem proper, and also at the end of each year, and before the proper time for which the officers of the 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, unds and moneys, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account or present his books, funds, moneys and vouchers to said common council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Waters of the city.

SECTION 35. The common council shall have jurisdiction over all the entire waters within the city, so as to prevent any deterioration of the waters, or any nuisance being cast therein, by which the health of the inhabitants of the city or the purity of the water shall be impaired, or for any other purpose authorized in this act.

CHAPTER VI.

FINANCE AND TAXATION.

City funds.

SECTION 1. All the funds in the city treasury, except school, state and county funds, shall be drawn out upon the certificate of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all certificates drawn

upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city.

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

Contracting
debt

SECTION 3. All forfeitures and penalties accruing the city for a violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses shall be paid into the city treasury and become part of the general fund except as otherwise provided by this act.

Disposition of
fines etc.

SECTION 4. The fiscal year of the city of Menasha shall commence on the first Monday of September, on which day, or within twenty days thereafter, the common council shall, by resolution, determine what amount of money, including the estimated resources of the city not derived from direct taxation for the year then next ensuing, will be required for general city purposes during that year; and the council shall thereupon be empowered to levy, and shall, by resolution, levy upon the taxable property of the city to defray the current expenses of said city a tax not exceeding one-half of one per cent. of the assessed value of the real and personal property of said city for that year and for all other purposes, except for schools, bridges, highways and the payment of principal and interest of any outstanding bonds, debts or obligations of said city, a tax not exceeding one-half of one per cent. upon all taxable property of said city for that year, the common council shall have power at the same time, in addition to taxes now required by law to be levied by them, to levy a tax for the purpose of paying the interest or principal of any outstanding bonds or obligations of indebtedness of said city or of such part of principal and interest of any bonded indebtedness of the town of Menasha, and which said city may be liable or bound to pay by the provisions of this act, or which may hereafter be issued by said city, by authority of law, which may be now due or may be due at the time of levying such tax, or may become due before the time for collecting such tax, and they shall also levy the amount required to be raised for the support of

Levying taxes.

schools of said city, or for the erection of school houses, when required by a vote of the city or any department of the city authorized to order the same; and to levy a special tax to build or repair bridges, when the same may be necessary, not exceeding two thousand dollars in any one year, which shall be collected at the same time as other city taxes are collected. No city order of any kind shall be received in payment of school or school house tax, but the same shall be paid in money, and all such moneys shall be used for school purposes only. All resolutions for the purpose of levying a tax shall require for their passage a majority of all the members of the common council.

Errors shall not invalidate taxes.

SECTION 5. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate or vitiate or anywise affect the validity of the assessment or tax: *provided*, that this section shall not be so construed as to dispense with the requisite majority vote of all the members of the common council in the levying of a tax.

SECTION 6. The city treasurer shall not receive from the treasurer of Winnebago county, tax certificates in payment of any indebtedness which may become due from said county to said city, the city shall contract no debt and the common council shall make no appropriation during any fiscal year for city purposes greater than the amount determined upon as provided in the foregoing section four of this chapter for such purposes, together with the amount of money which may at any time be in the city treasury derived from other sources than taxation.

City scrip and orders.

SECTION 7. All scrip, certificates, treasury orders or other evidence of debt shall hereafter be issued or authorized by the common council of the city of Menasha and whenever the common council shall lawfully appropriate money to any party, to be paid out of the city treasury, the mayor and city clerk shall issue an order in the order in which such appropriations are made, specifying in said order the purpose for which such appropriation was made, and said treasurer shall pay the amount so appropriated and certified in the order in which they are so certified out of the proper funds in his hands belonging to the city, taking up such orders and filing them in his office, and the city funds shall be paid out of the treasury in no other manner whatever.

SECTION 8. The common council shall have power

to levy a tax or taxes to pay any or all judgments against the city.

SECTION 9. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes as provided by this act, and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office and appoint a suitable person to fill the vacancy. Treasurer may be removed.

SECTION 10. All accounts or demands against the city, before the same shall be allowed, shall be verified by affidavit, except salaries, and amounts previously fixed or determined by law; and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury.

SECTION 11. No money shall be appropriated or drawn out of the city treasury except in payment of accounts or demands allowed by the common council; and no interest shall be allowed or paid on any city order or certificate whatever; *provided*, however, that when the city being duly authorized thereto shall borrow money, certificates of appropriations therefor may be issued payable at such time or times as the council may determine and such certificates may be drawn to bear interest at a rate not exceeding ten per cent. per annum, and when so drawn and signed by the mayor and clerk, interest shall be paid thereon as therein expressed. Appropriations.

SECTION 12. No action shall be maintained by any person against the city of Menasha, upon any claim or demand, until such person shall have first presented his claim or demand to the common council for allowance.

SECTION 13. In case any person shall present his claim or demand to the common council and the said council shall disallow the said claim, in whole or in part, the said council shall not thereafter entertain such claim again, and such claimant, if he desires, may prosecute his said claim by appeal to the circuit court by causing a written notice of such appeal to be served on the clerk of said city within twenty days after the making of such decision, and executing a bond to said city with sufficient surety, to be approved by the said clerk, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the applicant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceeding had in the case before the council with its decision thereon, and shall transmit Claims and appeals.

the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Winnebago county, and thereupon such appeal shall be entered, tried and determined in the same manner as cases originally commenced in the circuit court, and costs shall be awarded thereupon in like manner. The clerk, upon such appeal being taken, shall forthwith give notice thereof to the mayor, and shall also report the same to the council at its first meeting thereafter.

CHAPTER VII.

ASSESSING, LEVYING AND COLLECTING TAXES.

Assessments.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessors 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, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor, and make such rules and regulations in relation to revising, altering or adding to such rolls as they may deem from time to time advisable,

Correction of assessments.

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where he will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessor shall make such alterations or reductions as justice in [or] equity shall require: *provided*, the time of hearing of such objections shall not be more than one week from the expiration of such notice.

Return of assessment.

SECTION 3. Within one week after the time limited for the hearing of such objections, the assessor shall return the 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.

Omissions.

SECTION 4. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years, and that the same was then liable to taxation, he shall, in addi-

tion 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 first value thereof, noting the year when such omission occurred, and such assessment shall have the force and effect as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying of the same, but not affecting the equity and justice 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 they shall by ordinance direct: *provided*, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed shall be and continue a lien upon such lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Relieving tax-
es.

SECTION 5. The mayor and aldermen shall constitute the city board of equalization, and shall meet at the office of the common council on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed, so far as the same is applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city. The mayor shall be president of the board of equalization and the clerk the clerk thereof.

Board of equal-
ization.

SECTION 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk, who shall deliver the same to the clerk of the county board of supervisors, before the time appointed for the meeting of the county board of equalization. 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, particularly specifying the purposes for which the same are levied. All changes of assessment rolls by the board of equalization shall be duly recorded by the city clerk.

Assessment
roll to be filed
with city clerk.

Taxes and assessments a lien on property

SECTION 7. 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, from the time of the confirmation of such assessment roll, and no sale or transfer of such real estate shall affect said lien; any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon real or personal property.

SECTION 8. All the real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and the improvement of streets in front of the same.

SECTION 9. Before the annual meeting of the board of supervisors of the county of Winnebago it shall be the duty of the city clerk to cause a copy of the assessment roll of said city for such year to be transmitted to the clerk of the said board of supervisors, who shall lay the same before the said board at their annual meeting.

Supervisors may equalize assessments.

SECTION 10. The county board of supervisors shall have the right of equalizing the assessment rolls of said city, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Supervisors may levy taxes.

SECTION 11. The board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law, in relation to towns or town clerks, and [in] all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Proceedings thereunder.

SECTION 12. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll in a column left for that purpose, or upon a copy thereof, a complete statement of the several amounts of taxes levied for the state, county, city or other purposes, and all delinquent taxes, if any of previous years, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein; which statement shall be preserved by said clerk as a record in his office, and shall have the same legal force

and effect as the records of the common council. The said city clerk may calculate the state, county, school and city taxes together and carry the amount thereof into one column, but in such case he shall specify the per centum upon one dollar of valuation of state tax, county tax, school tax and city tax separately in his warrant to the treasurer for the collection of such taxes, and in calculating such taxes he shall reject the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent.

SECTION 13. Immediately after the making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant, signed by the mayor and clerk and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and said clerk [shall,] on or before the second Monday of December of each year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of said delivery on the tax list preserved in his office.

Commanding
treasurer to
collect taxes.

SECTION 14. To each assessment roll so delivered, a warrant, under the hand of the city clerk and the corporate seal of said city shall be annexed, substantially in the following form:

Form of war-
rant.

THE STATE OF WISCONSIN—

To the city treasurer of the city of Menasha, in the county of Winnebago:

You are hereby commanded to collect from each of the persons and 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 their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom any such sum or tax is imposed shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the 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 said county, on or before the last Monday of 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; and in case any of said taxes and assessments shall not be paid before the fifteenth day

of February next, you are required to make return of the same to the county treasurer as hereinafter provided, and to make due return of this warrant to the common council of said city on or before the fourth Tuesday of March next.

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

Evidence.

SECTION 15. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record of this state, that every act or thing required by law to be done relating to assessing or levying taxes from the election of the officers to the completion of the tax list inclusive, has been done regularly, correctly and as required by law.

Laws governing assessment and collection of taxes.

SECTION 16. 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 the town treasurers to collect taxes, except as herein provided.

SECTION 17. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act.

SECTION 18. Each and every lot or lots or any other piece of land upon which the taxes, interest and charges shall not be paid by the fifteenth day of February next after the levying and assessing the same shall be subject to sale as hereinafter provided.

Extension.

SECTION 19. On or before the fifteenth day of February of each year, unless the time be extended as provided by law of this state, the city treasurer shall make out and return to the treasurer of Winnebago county a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers.

SECTION 20. The county treasurer shall sell all delinquent lands and lots returned from the city of Menasha, at the same time and in the same manner as other delinquent lands are sold in said county.

Time for redemption.

SECTION 21. Any lot or tract of land which shall be sold for taxes under this act or any portion thereof, may be redeemed within three years from the day of

sale, and at any time before the deed is executed, by the owner or any person interested therein, paying to the treasurer the amount for which the same was sold, together with the interest, at the rate of twenty-five per cent. per annum, and the legal charges thereon. If the estate of an infant or lunatic be sold, the same may be redeemed upon like terms, at any time within one year after such disability shall be removed.

SECTION 22. Any tract or lot of land sold in pursuance of this act, or any part thereof, which shall not be redeemed within three years from the day of sale, shall be conveyed by the treasurer to the purchaser or his assigns, as herein provided.

SECTION 23. The assignee of any tax certificate, by endorsement thereon, of any premises sold for taxes by virtue of this act, shall be entitled to receive a deed of such premises in his own name, and with the same effect as though he had been the original purchaser.

SECTION 24. If at any sale of real or personal estate for taxes or assessments, no bid shall be made for any parcel of land, or any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in its corporate name, a certificate of the sale thereof, and shall be vested with the same rights as other purchasers are. If the city shall become the purchaser of any personal property, by virtue of this act, the city treasurer shall have the power to sell the same at public sale; and in case the city shall become the purchaser of any real estate, at any tax sale, the city treasurer is authorized to sell certificates issued therefor, for the amount sold, and interest, and to endorse and transfer such certificates to the purchaser.

When city may become purchaser.

SECTION 25. All deeds purporting on their face to be executed on account of sale for taxes or assessments under this act, shall be in all cases *prima facie* evidence of the validity of such tax, and if the title conveyed by such deed shall come in question, shall be *prima facie* evidence of all facts recited in such deed, so far as they affect the validity of the title conveyed by such deed.

Tax deeds.

SECTION 26. The county treasurer shall receive all moneys that may be legally tendered him for the redemption of lands sold for taxes. He shall execute to the person so redeeming, a certificate specifying therein the name of the purchaser of the land redeemed, and the amount of redemption money paid, and shall also enter on the sale list kept by him the name of the person redeeming, the sum paid therefor by him, and the time when paid. Said certificate shall be evidence

Certificate of redemption.

of such redemption, and he shall keep an account thereof, and pay the same over on demand to the person entitled to receive the same. He shall cancel all certificates so redeemed, and preserve the same in his office. He shall deliver over to his successor all redemption moneys in his hands, with a statement of the amount so received.

Fees for collection.

SECTION 27. The city treasurer shall be entitled to receive and collect as fees for the collection of taxes, one per cent. upon 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 said second Monday in January; and in case of a distress and sale made by him of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution; *provided, however,* that the common council may at their first meeting in each year, by resolution fix the salary or compensation of such treasurer, and the same when so fixed shall be in lieu of all fees provided in this section, in case the salary shall be fixed. The city treasurer shall collect the fees hereinbefore prescribed, and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any source whatever, and when the amount thereof shall reach the sum prescribed by such resolution, all sums by him received over and above that amount shall be paid by him into the general fund of said city, for the benefit of the city, and such books shall at all times be open for inspection by the mayor or common council or to any committee appointed by the common council, [and he] shall make a report under oath of all the fees by him received as such city treasurer.

Disposition of collection fees.

SECTION 28. 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 lots and tracts of land and personal property in said city.

SECTION 29. All the directions hereby given for the assessing of lands and the levying and collecting of taxes and assessments shall be deemed only directory, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Proceedings to set aside taxes.

SECTION 30. No person shall be permitted to institute any proceedings to set aside any assessment or

special tax hereafter levied or assessed upon any lot or tract of land, or to set aside, or to set up or interpose any objections to the title derived by virtue of any deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such persons shall first pay or tender to the proper party, or deposit for his use with the county treasurer, the amount of all state, county and city taxes, that may remain unpaid upon such lot or tract, together with the interest and charges thereon.

SECTION 31. 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 according to chapter eighteen of the revised statutes of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are provided by said chapter eighteen, and as are prescribed by chapter one hundred and ninety-eight of the general laws of 1860, and any act that may be hereafter passed amendatory of said acts, or in addition thereto.

Proceedings
against delin-
quents.

CHAPTER VIII.

STREET IMPROVEMENTS.

SECTION 1. The construction and repairing of any sidewalk, the grading, graveling, planking, improving and paving of streets and alleys to the center thereof shall be chargeable to and payable by the lots fronting on or opposite such street or alley; providing that in all cases when improvements of any kind are chargeable by virtue of this section upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for out of the proper fund of the city.

Chargeable to
lots.

SECTION 2. No street or alley shall be graded, gravelled, planked, improved or paved at the expense of the lots fronting on such street or alley, except upon the petition of the resident owners of a majority of the lots owned by said resident owners fronting on said street or alley, or the common council shall order the same by an affirmative vote of three fourths of all its members.

Petitions for
street work.

SECTION 3. Whenever the city council shall deem it necessary to construct or repair any sidewalk within said city, it may, by a majority vote, require the owner or occupant of any lots adjoining such sidewalk to construct or repair the same at his own proper cost and

Notice of re-
pairs.

charge, personal notice in writing of such requirement, signed by the mayor and clerk, shall be given to said owners or occupants, (and if the owners of said land or any portion thereof, shall not reside within the city, and the same shall not be occupied, said notice shall be posted in three of the most public places in said city), requiring said owners or occupants to construct or repair said sidewalk within a period of time to be stated in said notice. Said notice shall also specify particularly the manner in which the sidewalk is to be constructed or the particular repairs required, and the time within which the construction or repair shall be completed. If said work is not done in the manner, and within the time prescribed, the city council shall cause the same to be done at the expense of the lots adjoining such sidewalk.

Order for street improvement.

SECTION 4. Whenever the resident owners of a majority of the lots or any part thereof so owned by the resident owners fronting on any street or alley shall petition the city council that the said street or alley or said part thereof be graded, graveled, planked or improved, the said council shall order the same to be done at the expense of the lots fronting on said street or alley, or the portion thereof for the improvement of which petition has been made. Said order shall be in writing, signed by the mayor and clerk, specifying the character of the improvement to be made and the manner thereof (or that the same may be done under the direction and control of the street commissioners) and shall be personally served on the said owners if residents of said city by delivering to each of them a copy thereof or leaving the same at their usual places of abode; or the same order, in case any of said owners are non-residents may be served by the publication thereof in any paper published in the county of Winnebago for two weeks successively. In case of the publication of said order, no personal notice shall be necessary. Said order shall also state the time within which such improvements shall be commenced and completed; and if the said work shall not be done within the time prescribed by said order, the city council shall procure the same to be done, and charge the expense thereof to the lots fronting on said street so graveled, graded, planked or improved.

Shade trees.

SECTION 5. The city council shall have power to cause suitable shade trees to be set out along both sides of any street or any part of any street in said city without any petition asking for the same by any portion of the residents thereof. The expense of furnish-

ing and setting said trees shall be chargeable to the lots opposite to which said trees are set, and if not paid by the owners of any lot at the time of the annual levy of taxes, the amount due upon any lot shall be levied thereon and collected the same as any other taxes for that year.

SECTION 6. The common council shall have power Vacating plats. to vacate any plat or part of a plat upon petition of all the property holders interested therein; *provided*, that notice of application for vacating said plat or part of plat shall have been published for three successive weeks prior thereto in a newspaper published in said city or posting notices in three public places in said city.

SECTION 7. After the completion and performance Certificate for work done. of any contract entered into by the city council for the work chargeable to the lots or lands by virtue of this act, the clerk shall as soon as practicable thereafter make out and file in his office a statement in writing signed by the clerk and mayor of said city stating therein the amount of work done chargeable to said lots and lands, the nature thereof and the description of land upon which the same is chargeable and if the amount thereof shall not be paid before the levying of the taxes for the current year, the same shall be levied and collected of the said lots or parcels of land respectively as other taxes on real estate are collected, and if the notice to do the work required shall have been given as herein provided no informality or error in the proceedings shall vitiate the proceedings.

SECTION 8. There shall be levied annually by the Road tax. city council upon the taxable property of said city, a road tax, not exceeding one per cent. of the assessed valuation of the taxable property of said city; said tax to be collected by the city treasurer at the time other taxes are collected, and shall be expended by the city council in opening, improving or repairing any public highway leading into said city at such place or places as the said council shall deem most conducive to the general good, whether within or without the city limits. To this end a road commissioner Road commissioner. shall be appointed by the said council, who shall hold his office during the pleasure of said council, shall give bonds to the city for the faithful performance of the duties of his office, in such sum and with such sureties as the said council shall direct. Said road commissioner shall disburse and expend the said road tax at such places as the council shall decide, and shall in all respects be subject to the order of said council. He

shall also perform such other duties as shall be prescribed by said council, and his compensation shall be regulated by said council.

Poll tax.

SECTION 9. Every male inhabitant of the city of Menasha, over twenty-one years of age and under fifty, except active members of the fire department, shall pay into the city treasury, annually, the sum of one dollar and fifty cents each, as a poll tax. It shall be the duty of the assessor of the city of Menasha, during the month of May, 1874, to make out duplicate lists of all persons liable to said tax, and said assessors shall, on the first Monday of June, 1874, deliver one of said lists to the city clerk, and one to the treasurer of the city of Menasha. The said treasurer shall thereupon immediately proceed to collect the same, and all persons liable to pay such tax, who shall not have paid the same after demand, either by personal or written notice left at their usual place of abode, on or before the first day of July, 1874, shall be liable to and shall pay a penalty of two dollars, together with the costs of prosecution, to be prosecuted for by said treasurer in the name of the city of Menasha. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail not to exceed ten days. The assessors shall also, at the time of assessing the annual taxes in each year after the year 1874, make out such duplicate lists of persons liable to pay such tax as aforesaid, and deliver one of the 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 Menasha, and the city treasurer shall collect the same in the same manner as hereinbefore in this section provided, and in case said taxes are not paid to said treasurer, he shall prosecute for them in the manner hereinbefore provided. The said assessor, in making such list, shall designate the ward in which such person on said list resides, and the treasurer shall credit each ward of the city with the amount thus collected from the inhabitants of such ward. The moneys collected as above shall be kept as a distinct fund, and shall be expended under the direction and supervision of the superintendent of streets, on the repairs and improvements of streets of the respective wards in which said tax is paid, and to be drawn out on itemized accounts of the street commissioner, certified to by the alderman of the ward in which said work is

Collection of
poll tax.

Disposition of
poll tax.

done, and audited by the common council. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said tax as he does for collecting taxes assessed upon real and personal property: *provided*, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city in the ward in which he resides, under the direction of the superintendent of streets, and at such time as he shall direct, within the said month of July, of each year, and the certificate of the superintendent of streets that such person has performed one full day's labor shall be received by the city treasurer in full discharge of such tax.

Fees for collecting.

CHAPTER IX.

OPENING OF STREETS AND ALLEYS.

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

Opening streets.

Notice to be given.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or at the expiration of such publication, as the case may be, application will be made to

Contents of notice.

the county judge or court commissioner for the county of Winnebago, for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take the same for the purpose specified in said petition.

Jury to view premises.

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint six reputable householders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or 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 return under their hands to the common council whether, in their judgment, it is necessary 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.

Notice to jurors

SECTION 4. The city marshal shall serve his precept immediately on the jurors therein named, by reading the same to every one of them that can be found; and immediately after such service, he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

SECTION 5. If any of the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner shall appoint others in their places and a memorandum of such substitution shall be endorsed on the precept.

Jurors to be sworn

SECTION 6. The said judge or court commissioner, or any justice of the peace, shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Jurors shall view premises.

SECTION 7. The said jurors shall, at such time as they shall agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors;

and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use, which said report, testimony precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among the proceedings confirming such report, and directing the same jurors, within twenty-one days thereafter or such future time as shall be necessary to again view said premises for the purpose of ascertaining and determining the amount of the damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return, within the time limited, such damages to the common council. And after the jurors shall have made their report as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors, in the place of any who shall neglect or refuse to serve, in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer, that they are freeholders of said city, and are not interested in the premises to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Report of jury.

SECTION 8. If there should be any building in whole or in part, upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine 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, and, secondly, the value of such building to him to remove.

Buildings to be appraised.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested shall be given by publication in some newspaper to be designated by said council and published in Winnebago county for three successive weeks. Such notice shall specify the build-

Notice to owners.

ing and the award of the jurors. It shall require the parties interested to appeal by a day therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken with the land appropriated, or of their intention to remove such building. He shall have such time for this purpose as the common council may allow.

Building may
be sold.

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

Award of jur-
ors.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After having heard such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners, the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, which shall be awarded to such owners respectively as damages. In the estimates of the damages to the land, the jurors shall include the value of the building or buildings (if the property of the owner of such lands), as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case, they shall only include the difference between such value and the whole estimated value of such building or buildings, according to section eight of this chapter.

SECTION 12. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

SECTION 13. 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.

Appeals.

SECTION 14. Any person whose property is taken or against whom assessment is made may, within ten days from the return of the jurors to the common

council, appeal from said assessment of damages to the circuit court of Winnebago county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section six of chapter five of this act, and such appeal shall be tried by the court and jury as in ordinary cases. The common council shall also have the right to appeal, by filing with the clerk a notice thereof within ten days, as aforesaid.

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

Damages to be paid before land is taken.

SECTION 16. The damages assessed shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered or deposited, all the proceedings in any such case shall be void.

SECTION 17: The city may pay or tender or deposit as herein required at any time within one year from the confirmation of such assessment, and report the damages assessed in any such case; and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among their proceedings, to take and appropriate such lands for the purposes required.

Time for ment of damages.

SECTION 18. When the whole of any tract or lot or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

SECTION 19. When only part of a lot or tract of land or other premises so under lease or other contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable, and to

Covenants ended on land taken.

be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for [or] in respect to the same.

Infant owners. SECTION 20. When any known owner of lands or tenements affected by any proceedings under this act shall be an infant, or labor under any legal disability, the judge of the circuit court of Winnebago county, or, in his absence, the judge of any court of record in said county, may upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

SECTION 21. Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER X.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

Power of common council for prevention of fires.

SECTION 2. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed or placed in a safe condition, when considered dangerous to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures, dangerous in causing or promoting fire; to regulate and prevent the use of fire works and fire arms; to

compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

SECTION 3. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and forty years, and may elect their own officers, and form their own by-laws, not inconsistent with the laws of this state, or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company hereby authorized to be formed shall be exempt from poll tax, and from serving on juries and from military duty, except in case of war, insurrection or invasion, during the continuance of such membership; and any person having served for the term of ten years in either of such companies, shall be forever thereafter exempt from poll tax, and military and jury duty, except as in cases before mentioned.

Fire companies and engines.

Fireman exempt from poll tax.

SECTION 4. There shall be a meeting of the members of said companies on the third Monday of April in each year, at such place as may be designated by the chief engineer, when they may nominate and recommend to the common council for appointment, one chief engineer and one assistant engineer, one clerk, and one treasurer, and the common council shall thereupon confirm or reject said nominations; and the person so appointed shall perform such duties as the common council shall prescribe. In case the common council shall reject such nominees, the said members shall, at a meeting held one week after such rejection, nominate other persons to hold such offices, which nomination shall also be subject to the approval of said council.

Election by fire companies.

SECTION 5. The mayor shall appoint two fire ward-

Fire wardens.

ens for each ward, subject to confirmation by the common council, who shall perform such duties as the common council may prescribe, and they may at any time enter into any building, house, store, barn or inclosure for the purpose of inspecting the same.

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

Penalty for refusing to assist at fires.

SECTION 7. When any person shall refuse to obey the lawful order of any engineer, fire warden or alderman of the city, the mayor or the city marshal at any fire, it shall be lawful for the officer giving such order to arrest or direct orally the marshal, constable, or watchman or any citizen, to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers or any of them may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack companies, their duties and privileges.

SECTION 8. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as they may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the to the control of the engineers. The members of said company, either collectively or individually are hereby authorized and empowered to act as a special police in and for the city of Menasha, and are are here by vested with all the power and authority which now is or may hereafter be vested in any other police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty. At fires, they shall take charge of all property which may be exposed or endangered, and shall as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they deem necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or other disturbances of

the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

SECTION 9. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as shall be required, and with sureties, to be approved by the common council. Such moneys shall only be paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department. Treasurer of fire department.

SECTION 10. There shall be elected by the members of each company aforesaid, annually, at their annual meetings, a clerk or secretary who shall, on or before the first Monday of May in each year, return to the city clerk a list containing the name of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk. Secretary.

SECTION 11. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries, as above provided; and no person shall be exempt from jury duty unless the name is entered on such list. In case any person shall for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the county clerk of the county of Winnebago, a list of all persons who are members of either or all of said companies exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed for the annual meetings of the said board and said board shall not place the names of such persons on the jury list for the ensuing year. Record of members of fire department.

CHAPTER XI.

OF PROSECUTIONS AND FINES.

SECTION 1. Justices of the peace elected under this act in addition to the powers, duties and jurisdiction vested in and required of them by the statutes and laws of the state of Wisconsin shall have power to hear and determine all charges for offenses against any provision of this act or any act amendatory thereof, and all charges for the violation of any ordinance, by- Powers of justices.

law, police or health regulations made in pursuance of and by authority herein conferred.

Form of complaint for violating city ordinances.

SECTION 2. The city of Menasha in its corporate name may sue for and recover any and all fines, penalties and forfeitures under said city charter and the acts amendatory thereof, or under the ordinances, by-laws or police or health regulations made in pursuance thereof, any general law of the state to the contrary notwithstanding; and such action shall be commenced by complaint substantially in the following form:

STATE OF WISCONSIN—WINNEBAGO COUNTY—CITY OF MENASHA—SS.

—, being duly sworn, complains on oath, to —, justice of the peace of said city, that — did on the — day of —, 18—, violate the — section of an ordinance (by-law or resolution, describing it by its title), which said — is now in force, as this complainant verily believes; and prays that said — may be arrested and held to answer to the said city of Menasha therefor.

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

Form of warrant.

SECTION 3. It shall be sufficient to give the number of the section or sections and the title of the ordinance, by-laws, regulation or resolutions, or of the law violated in such complaint, and said complaint may be sworn to before any officer authorized to administer oaths in the courts of this state. Upon the filing of such complaint in the office of any justice of the peace of said city, he shall issue a warrant thereon substantially as follows:

STATE OF WISCONSIN—WINNEBAGO COUNTY—CITY OF MENASHA—SS.

To the sheriff or any constable of said county, and to the marshal of the city of Menasha, greeting:

Whereas, —, has this day complained to me in writing, on oath, that — did on the — day of — 18—, violate the — section or sections of an ordinance (by-law, regulation or law, describing it by its title), which said — is now in force and effect as said complainant verily believes, Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of the said —, and him forthwith bring before me, a justice of the peace of the said city, to answer to said city of Menasha, on the complaint aforesaid.

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

Justice of the Peace.

SECTION 4. Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with security, for his 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 city lock up of said city. The complaint made aforesaid shall stand in lieu of a declaration, and the plea of not guilty shall put at issue all subject matter which pertains to the defense of the action.

SECTION 5. A printed copy of an ordinance, by-law or resolution passed by the city council and published in a newspaper or in pamphlet or book form, shall be prima facie evidence of its due passage and publication, and may be received in evidence. After issue joined and before trial in all cases cognizable before the justice of the peace the defendant may demand a jury of not more than twelve nor less than six men, and shall designate the number at the time of the demand. The proper officer whom the justice may direct shall thereupon make a list of twice the number of jurors demanded, who may be qualified to serve as jurors in courts of record of Winnebago county, and the parties shall then alternately strike therefrom, the defendant commencing, so many names as will leave remaining the number demanded. The court shall thereupon issue a venire commanding the officer to summon those so remaining to appear before him at such a time as he may direct to make a jury for the trial of the said action and the court may compel their attendance by attachment. Either party may challenge any juror for cause and deficiencies occasioned thereby or by any other cause shall be supplied by a talisman to be selected and summoned by the officer. If the defendant shall not demand a jury the city or city or state may demand a like jury as is above provided; and if no jury be demanded it shall be deemed a waiver of a jury trial. If either party decline to strike from the list the names which he is entitled to strike, the court shall strike the same for such party. Each juror shall receive for his services fifty cents.

SECTION 6. Witnesses and jurors shall attend before the justice court in all city and criminal prosecution, without the payment of fees in advance or a tender thereof, upon the process of the court duly served, and in default thereof their attendance may be enforced by attachment. In case the jury after being

Evidence of
passage of ordi-
nance.

Jury challen-
ges.

Witnesses and
jurors.

kept a reasonable time shall fail to agree, they shall be discharged without the payment of fees, and th reupon the court [shall adjourn] the cause to a day certain, and issue a new venire as aforesaid. In city prosecutions the finding 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 contained in the ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit; but if not guilty, the costs shall be taxed against the city. Executions issued upon judgment obtained for violation or non-observance of ordinances or by-laws of the city may contain a clause directing the imprisonment of the defendant in the county jail or city lock-up, for such a time as shall have been provided by the ordinance under which the judgment shall be rendered, in case of the non-payment thereof by the defendant, and all fines, penalties and forfeitures, when collected, shall be paid into the city treasury for the use of the city. Such execution may be in the following form :

Form of execution. STATE OF WISCONSIN—WINNEBAGO COUNTY—CITY OF MENASHA—SS.

To the sheriff or any constable of the county of Winnebago, the city marshal and the keeper of the common jail in said county :

WHEREAS, The city of Menasha, on the — day of —, 18—, recovered a judgment before the justice court of said city, against — —, for the sum of — dollars, together with — dollars, costs of suit, for the violation of (here insert the number of section and title of the ordinance as set forth in the complaint.) These are therefore in the name of the state of Wisconsin to command you to levy distress on the goods and chattels of said — —, (excepting such as the law exempts), and make sale thereof according to law in such case made and provided, to the amount of said sum, 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, take body of said — —, and him convey and deliver to the keeper of the common jail in Winnebago county; and the said [keeper] is hereby commanded to receive, and keep in custody in said jail, the said — — for the term of —, unless said judgment, together with all costs and jail fees are sooner paid, or he be discharged by due course of law.

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

Justice of the Peace.

SECTION 7. The form of the commitment may be substantially the same as that of the execution, leaving out all that relates to the levy and sale and return of writs. The defendant in all city prosecutions may appeal to the circuit court of Winnebago county by filing an affidavit and bond, and complying with all the requirements of appeal in civil cases from judgments rendered by justices of the peace: *provided, however,* that such appeal shall be taken and perfected within twenty-four hours from the time that judgment is rendered in the suit. Upon any appeal being taken and allowed the justices of the peace shall stay all further proceedings in the case and the defendant if in custody, shall be discharged; and the justice of the peace shall within twenty days thereafter transmit the papers in the case so appealed with a transcript of his docket to the clerk of the circuit court.

Form of commitment.

SECTION 8. The jail fees and officers' fees for commitments in prosecutions in behalf of the city, shall be audited and allowed by the city council when the same cannot be collected of the defendant before his discharge and said city council may by resolution direct the justice of the peace to discharge from the jail any person confined for a judgment due said city, but such discharge shall not operate as a release of the judgment unless said city council shall so direct in their resolution.

Fees.

SECTION 9. Upon filing a certified copy of such resolution attested by the clerk of the city council, the justice of the peace shall order such defendant discharged from custody, and make an entry of such discharge upon his docket, an execution may issue or be renewed by indorsements from time to time before or after the return day thereof and before or after the commitment of the defendant until the judgment is satisfied or released, but after the defendant shall have been committed no execution shall be issued against the body of the defendant, nor, if previously issued, shall authorize the taking of the body of the defendant thereon. It shall be the duty of the marshal, deputy marshal and constables of the city of Menasha, and they are hereby authorized and required, to summarily arrest and take before any justice of the peace of said city any person who shall be found within the corporate limits of said city in a state of intoxication, or who shall be guilty of any boisterous revelry or ob-

Drunkness.

Punishment.

May commit without process.

Limitations of penalties.

scenity or any breach of the peace, by making any improper noise or disturbance or indecent exposure of his person, or by firing guns or fighting or threatening to fight, or in any other manner shall be engaged in violating any ordinance of said city, made for the preservation of the peace and good order thereof; and said justice shall have power to hear, try and determine all such offenses. And any such person convicted of any offense specified in this act where no other punishment is specified by law or by any ordinance of said city, shall be punished by fines of not less than three dollars nor more than fifty dollars, or by imprisonment in the county jail or city lock up, not less than three days nor more than fifty days in the discretion of the justice; and in all cases the justice shall impose the payment of the costs of prosecution upon the person so convicted as a part of the punishment, and in default of payment of any such fine or costs, the justice shall commit the defendant to such county jail or lock up for such number of days not exceeding thirty nor less than five, as he may think proper. But in case any person shall be committed for non-payment of any such fine, or costs, he shall be discharged upon payment of the same, together with the costs and expense of his imprisonment, to the sheriff or other officer having charge of such jail or lock up. Any officer making any arrest under the provisions of this act may, if necessary, commit the person arrested to such jail or lock-up without process, and such person shall be delivered up to such officer by the keeper of such jail or lock-up on demand and without process: *provided*, that if such officer does not demand the person so committed within twenty-four hours (Sundays excepted) after such committal, the officer having charge of such prison shall discharge the person so arrested from confinement. All of the general provisions of law concerning the trial of criminal offenses, the fees of officers and proceedings [in] which upon trial the justice finds he has not final jurisdiction of the case, shall govern trials under this act unless otherwise provided in this act: *provided*, that in all convictions under this act, where a punishment for the offense is prescribed in the general statutes of this state or in any ordinance of said city, the penalty as prescribed by such statute or ordinances shall be imposed upon the person so convicted. In all cases in which by the provisions of this act the city council have power to pass ordinances or by-laws, they may pass any penalty for the violation thereof not exceeding fifty dollars for any one offense, and may also

provide that in default of payment of any judgment rendered for such violation or omission, the defendant may be imprisoned not exceeding forty days in the lock-up of said city.

CHAPTER XII.

SECTION 1. The school districts and parts of districts within the corporate limits of the city of Menasha are hereby consolidated and shall hereafter constitute one district, for the better regulation and management of the public schools of said city. School districts

SECTION 2. There shall be elected by ballot by the common council at its first regular meeting after this charter shall go into effect or as soon thereafter as may be and every alternate year thereafter one superintendent of schools for the city at large, who shall be a voter and resident of said city and who shall hold his office for two years and until his successor is elected and qualified. School superintende

SECTION 3. There shall be elected by ballot by the common council at its first regular meeting after this charter shall go into effect, one commissioner of common schools from each ward, who shall be a voter and resident of said ward, two of whom shall hold office for one year and two for two years, the commissioners elected for one year to be determined by the common council and also the commissioners to be elected for two years. School commissioners.

SECTION 4. The said superintendent of schools and the said commissioners of common schools shall hold their office until their successors are elected and qualified.

SECTION 5. There shall be annually elected after the first election, two commissioners of common schools to fill the places of those commissioners whose terms of office then expire.

SECTION 6. The said superintendent of schools and the said commissioners of common schools so elected as aforesaid, shall, within ten days after election, take the oath of office prescribed by the constitution of the state, and file the same with the city clerk.

SECTION 7. Any commissioner of common schools in said city may be removed from office for official misconduct by the city council thereof, by a vote of two-thirds of the members thereof, but said commissioner shall be granted a full and fair hearing before removal.

SECTION 8. The commissioners of common schools in said city, together with the superintendent of schools, shall constitute a board, to be styled the board Board of education.

of education of the city of Menasha, which shall be a corporate body in relation to all the powers and duties conferred on them by virtue of this act. The superintendent of schools shall be president of said board, and whenever he shall be absent, a president pro tempore may be appointed; but such president shall have only a casting vote. A majority of the board shall form a quorum. They shall appoint a clerk from their own body and fix his compensation, and he shall hold his office during the pleasure of the board. The said commissioners shall receive no compensation for their services.

Record of proceedings.

SECTION 9. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record or a transcript thereof, certified by the superintendent and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books and accounts of said board shall at all times be subject to the inspection of the city council and of any committee thereof.

Powers of council in relation to schools.

SECTION 10. The city council of the said city shall have the power and it shall be their duty to raise from time to time, by tax upon the real and personal estate in said city which shall be liable to taxation in addition to the amount of school moneys now or hereafter appropriated or provided by law for the common schools in said city, such sums as may be determined and certified by said board of education to be necessary or proper for any or all the following purposes:

1st. To purchase, lease or improve sites for school houses.

2d. To build, purchase, lease, enlarge, alter, improve and repair school houses and their out-houses and appurtenances.

3d. To purchase, exchange, improve and repair school apparatus, books, furniture, and appendages; but the power herein granted shall be denied to the furnishing of class or text books for any scholar whose parents or guardian shall be able to furnish the same.

4th. To procure fuel and defray the contingent expenses of the district library of said city.

Limit of annual school tax.

5th. To pay the wages of teachers due after the application of the public moneys, which may by law be appropriated and provided for that purpose; *provided, nevertheless*, that no tax shall be levied for such purposes oftener than once in each year; *and provided, also*, that the amount to be raised for teachers wages, and for contingent expenses in any one year, shall in no

case exceed four dollars for each person that draws public money, nor less than three dollars, that the amount to be raised in any one year for repairing school houses and the appurtenances shall not exceed one thousand dollars, and for buying sites and erecting new school houses, shall not exceed three thousand dollars, and all sums certified to the common council by the board of education, for repairs to school houses above one hundred dollars for any one school house, and all sums certified for building new school houses and all sums certified for purchasing, changing, improving and repairing school apparatus and furniture and appendages exceeding one hundred dollars, shall be approved by a vote of a majority of the whole number of aldermen before any tax shall be levied for said repairs or for building said new school house or purchasing said apparatus or furniture.

SECTION 11. The city council shall cause the tax How collected. or taxes herein provided for to be levied and collected annually on all such real and personal property or capital of any kind within said city as is subject to taxation by the laws for levying taxes for the state for the time being, said taxes to be levied and collected in the same manner as annual taxes are levied and collected in said city.

SECTION 12. All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to or provided for said city, shall be paid to the treasurer of said city, who, together with the sureties of his official bond, shall be accountable therefor in the same manner as for other moneys of said city. The said treasurer shall also be liable to the same penalties for any official misconduct in relation to the other moneys of said city.

SECTION 13. The treasurer of said city shall not How paid out. pay out any moneys in his hands, received by said city either as school moneys, or collected or received by virtue of any of the provisions of this act, excepting upon an order drawn upon him and signed by the superintendent and clerk of said board of education, and no such order shall be drawn except by virtue of a resolution of the said board.

SECTION 14. The said board may cause a suit or suits to be prosecuted, in the name of the city of Menasha, upon the official bond of the treasurer or of any collector of said city, for any default, delinquency or official misconduct in relation to the collection, safe keeping or payment of any moneys in this section mentioned.

Powers of
board of edu-
cation.

SECTION 15. The said board shall have power, and it shall be their duty :

1st. To establish and organize such and so many schools in the several wards of the city (including the common schools now existing therein) as they shall deem requisite and expedient, and to alter and discontinue the same.

2d. To purchase or hire school houses and rooms, and lots and sites for school houses and to fence and improve them, as they may deem proper : *provided*, the amount necessary has been appropriated by the common council of the city.

3d. Upon such lots and upon any site now owned by said city, to build, enlarge, alter, improve, and repair school houses as they may deem advisable.

4th. To purchase, exchange, improve and repair school apparatus, furniture and appendages, and to provide fuel for the schools, and to pay their contingent expenses and the expenses of the district library.

5th. To have the custody and safe keeping of the school houses, out houses, books, furniture and appendages, and to see that the ordinances of the city council in relation thereto are observed.

6th. To contract with and employ all teachers in the common schools, and the high schools, who shall have been licensed by the superintendent, and at their pleasure to remove them.

7th. To pay the wages of such teachers out of the school moneys, which shall be appropriated and provided in said city so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by section nine of this chapter, by tax upon the city.

8th. To defray the necessary contingent expenses of the board, including the salary of the clerk : *provided*, that the account of such expenses shall be first audited and allowed by the city council.

9th. To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction for the reception of pupils, and their transfer from one school to another and generally for their good order, prosperity and public utility.

10th. Whenever in the opinion of the board, it may be deemed advisable to sell any of the school houses, lots or sites, or any of the school property now or

hereafter belonging to the city, to report the same to the city council.

11th. To prepare and report to the city council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots and sites and appurtenances and all other property belonging to the city, connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually to determine and to certify to said city council the sums in their opinion necessary or proper to be raised under the ninth section of this chapter, specifying the sums required for each of the purposes therein mentioned, and the reason therefor.

12th. To provide for the payment of any adjoining school district the proper amount to which it may be entitled on account of such district, in whole or in part, having been connected with the territory now included in said city.

13th. The said board shall adopt, and at their discretion modify or repeal by-laws, rules and regulations for their government, and for the organization, discipline and management of the public schools of said city, and generally adopt all such measures as shall promote the good order and public utility of said schools: *provided*, that such by-laws, rules and regulations shall not conflict with the constitution and laws of this state.

SECTION 16. It shall be the duty of said board in all their expenditures and contracts to have reference to the amount of money that shall be subject to their order during the then current year, for the particular expenditure in question, and not to exceed such amount.

SECTION 17. The said board of education shall be the trustees of the district library in said city, and all the provisions of law which now are or may hereafter be passed relating to district school libraries, shall apply to the said board in the same manner as if they were trustees of any ordinary school district; they shall also be vested with the discretion as to the disposition of the moneys appropriated by any law of the state, for the purchase of libraries, which is therein conferred upon the inhabitants of school districts. It shall be their duty to provide library room and the necessary furniture therefor, and to appoint a librarian; to make all purchases of books for the said library and from time to time to exchange or cause to be repaired the damaged books belonging thereto.

Trustees of
district library.

Board of education shall report.

SECTION 18. It shall be the duty of the said board at least fifteen days before the annual election for city officers in each year, to prepare and report to the city council true and correct statements of the receipts and disbursements of moneys under and in pursuance of this act, during the preceding year, in which account shall be stated, under appropriate heads:

1st. The money received by the city council under the ninth section of this chapter.

2nd. The school moneys received by the treasurer of the city from the county treasurer.

3rd. Moneys received by direct tax.

4th. All other moneys received by the treasurer subject to the order of the board, specifying the sources.

5th. The manner in which sums of money shall have [been] expended, specifying the amount paid under each head of expenditures; and the the city council shall, ten days before such election, cause the same to be published in at least one of the newspapers published in said city, if there be one.

SECTION 19. The said board shall be subject, from time to time, to the rules and regulations made by the state superintendent of common schools, so far as the same may be applicable to them, and not inconsistent with the provisions of this act.

Duties of superintendent.

SECTION 20. The superintendent shall be the executive officer of the board of education shall examine all teachers making application for schools, (examinations to be public and in the presence of the board), shall grant certificates to such persons so examined, as shall be deemed by him and a majority of the board suitably qualified, and shall carry into effect the ordinances of the city council, and the rules and regulations of the board, in reference to the common school's; he shall also be especially charged with the care and custody of the several school houses of the city, and, under the direction of the board, shall superintend the building, enlarging, improving, furnishing and repairing of all of the school houses ordered to be erected by them, and the making of all repairs and improvements on and around the same. In addition to the foregoing duties, he shall visit the common schools of the city at least twice during each term and report their condition to the board, with such such suggestions for their improvement as he may deem proper; he shall also perform such other duties with respect to such schools as the board may assign him. The amount of his compensa-

tion shall be determined by the city council and the manner of its payment.

SECTION 21. It shall be the duty of the superintendent, between the first and fifteenth days of October in each year, to make and transmit to the clerk of the board of supervisors of the county a report, in writing, bearing date on the first day of October in the year of its transmission, stating:

1st. The number of schools taught within the city, and the length of time they have been taught by qualified teachers.

2d. The total amount of public money received for the use and benefit of such schools.

3d. The number of children taught in the common schools of the city and the number of children residing in the city over the age of four and under the age of twenty years.

4th. The manner in which the public moneys have been expended, and whether any and what part remains unexpended, and for what cause.

5th. The amount of money raised in the city and paid for teachers' wages in addition to the public money raised therefor, the amount of taxes raised for the purchasing, repairing and insuring of school houses, for the purchase of school house sites, for building, hiring, for fuel, for district libraries or for any purposes allowed by law in said city since the date of the last preceding reports, with such other information as the state superintendent may from time to time require.

SECTION 22. The said board shall allow the children of the residents of school district No. 1, of the present town of Menasha not included in the limits of said city, to attend any of the schools of said city, and may in their discretion allow the children of all other non-residents to attend any of the schools of said city upon such terms as said board by resolution shall prescribe, fixing the tuition therefor.

SECTION 23. For the purpose of amicably adjusting and settling all claims that may be made against the city by any portion of any school district or school districts outside of the city limits, by reason of any interest which such portion of said district or districts may have or may have had in the school property, which is now in the city and all claims that the city may have against any portion of any school district or school districts outside of the city limits by reason of any interest which said city may have or may have had in any school property which is outside of the city limits the judge of the circuit court of Winnebago county,

Settlement between school districts.

shall have the power, when applied to by the common council, or any person in said school district outside of the city limits interested in the same, to appoint three commissioners, who shall not be residents either of the city or any portion of said district outside the city limits, which commissioners after being duly sworn faithfully and impartially to perform the trusts and duties reposed in them, shall at a time and place fixed by them, and after two weeks' public notice of the same, proceed to hear all parties interested; and they shall examine and adjust all such claims equitably and fairly within six months from the date of their appointment, and shall report thereon, in writing, to the judge of the circuit court of said county for confirmation. If such report shall be confirmed, and if it shall appear that any such portion of said district outside the city limits is entitled to any remuneration for any interest in any school property in the city, the amounts set forth in said report shall be paid from the school fund in the treasury of the city of Menasha by orders drawn by the mayor and city clerk in the same manner as other claims are paid, and if it shall appear that said city is entitled to any remuneration for any interest in any school property outside the city limits, the amounts set forth in said report shall be paid said city, by said school district or school districts where school property is so outside of said city, and if said district or districts shall fail to raise, collect and pay to said city said sum so reported, said city may recover the said sums so reported by any proper action brought against said school district or school districts.

CHAPTER XIII.

MISCELLANEOUS PROVISIONS

SECTION 1. From and after the first Monday of April, A. D. 1874, the connection between the city of Menasha and the town of Menasha for town purposes shall be dissolved, and the duties now or heretofore imposed upon the supervisors and other officers of the town, so far as they relate to the city of Menasha shall be imposed on the officers of the city of Menasha, and so much of the town of Menasha, as is not inclosed in the limits of the city of Menasha, shall constitute the town of Menasha, for the purposes of town and county government.

Annual town
meetings.

SECTION 2. The town of Menasha shall hold its next annual town meeting at such place within the limits of the present town of Menasha as the present

board of supervisors shall appoint, and thereafter the place of meeting shall be decided by a vote at their annual town meeting. The present board of supervisors shall appoint inspectors and clerk for the annual town meeting for 1874.

SECTION 3. The city of Menasha 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 Menasha, together with all the funds, reversions, debts, credits and demands due and owing to the said village of Menasha as a corporate body, which by or under any former acts, ordinances, grants, donations, gifts, construction, or purchases, have been acquired, vested in, or in any manner belonging to said corporation of the village of Menasha, and said city shall settle and pay all the outstanding and existing indebtedness of said village. City of Menasha succession.

SECTION 4. The city of Menasha shall also be and is hereby, invested as the lawful owner and successor of such part of all the real property, rights and privileges belonging to the town of Menasha as is or may be contained in such portions of said town as is or may be included in said city limits, including all highways, roads, streets, bridges and all things appurtenant thereto included in the limits of said city, and the said town of Menasha is likewise invested with such part of all the real property, rights and privileges of the present town of Menasha as is included in the said town of Menasha and not within the limits of the said city save and except the cemeteries and grounds used for the burial of the dead belonging to said town, and also grounds purchased for said purpose, whether so used or not: *provided*, that all such grounds shall be, and are hereby, invested in said city and said town, in like proportions as the debts of said town are to be paid, and shall be under the joint control and supervision of the common council of said city and the board of supervisors of said town, and all the costs and expenses necessary to keep the said grounds and the fences inclosing the same in good condition, and repair shall be paid by said city and said town in like proportion; *and provided further*, if either said city or said town shall pay and expend for the purpose aforesaid a greater sum than its *pro rata* share as aforesaid, the said corporation so paying said excess shall be entitled to recover the same from the said corporation, not so paying its just proportion in any proper action.

SECTION 5. The indebtedness outstanding and ex- Apportionment

of city and town
indebtedness.

isting against said town of Menasha upon all bonds or coupons heretofore issued by said town, and all other indebtedness against said town shall be apportioned between said town and city, and the *pro rata* share of such indebtedness to be paid by said town and city, shall be one-fourth of all such indebtedness paid by said town and three-fourths of said indebtedness by said city, and the said town and city of Menasha shall respectively provide for the payment of and pay their and each of their *pro rata* shares of such indebtedness as aforesaid, at all times when the same or any portion of the same shall become due and payable, and each one of said corporations shall be liable to the other for all costs and damages incurred by either one of said corporations in consequence of the failure of the other corporation to provide for and pay its *pro rata* share of indebtedness as aforesaid.

Separate suits.

SECTION 6. If said town of Menasha shall fail to provide for and pay its *pro rata* share of any alleged indebtedness, whether bonded or other indebtedness, on the ground that such claim of indebtedness is not a legal debt against said town, or for any other reason, and the said city of Menasha shall provide for and be ready and willing to pay its *pro rata* share of such indebtedness, the said town of Menasha shall alone bear the whole costs and expenses that may be incurred by said town in consequence of any and all suits, actions and proceedings that may be instituted against said town to enforce the payment of any and all such claims, and said town shall have no claim against said city for any part or portion of said costs and expenses so incurred, and the said town of Menasha shall be liable to said city of Menasha for all costs and damages which it may sustain by reason of any action, suit or proceeding that may be instituted by any such claimant, whose claim is denied by said town and admitted by said city, against said city, either as sole defendant or jointly with said town or otherwise to enforce said payment.

SECTION 7. If said city of Menasha shall fail to provide for and pay its *pro rata* share of any alleged indebtedness, whether bonded or other indebtedness, and the said town of Menasha shall provide for and be ready and willing to pay its *pro rata* share of such indebtedness, the said city of Menasha shall alone bear the entire costs and expenses that may be incurred by said town in consequence of any and all suits, actions and proceedings that may be instituted against said town to enforce the payment of any and all such

claims, and said city shall have no claim against said town for any part or portion of such costs and expenses so incurred, and the said city of Menasha shall be liable to the said town of Menasha for all costs and damages which it may sustain by reason of any action, suit or proceeding that may be instituted by any such claimant, when claim is denied by said city and admitted by said town, either against said town as sole defendant or jointly with said city, or otherwise, to enforce said payment.

SECTION 8. If any action, actions or proceedings instituted against said town or city, or jointly against both, shall be prosecuted to final judgment, and the judgment or decree of the court in which said actions or proceedings are prosecuted, shall be finally rendered in favor of the said town or city, or both, upon the merits, being a court of competent jurisdiction to determine the validity of said indebtedness, and said judgment determining that question, then the cost and expenses incurred by said town and city in defending said suit or suits shall be paid in *pro rata* shares as aforesaid: *provided*, that if the validity of any claim against the said town of Menasha for the payment of which, if valid, the said town and city are liable, shall be admitted and paid by either one of said corporations without the consent of the other, and the validity of which is denied by the other corporation, such admission and payment shall not bind the corporation so denying the validity of such claim, unless the corporation so admitting the validity of such claim shall first tender to the corporation so denying the validity of such claim, the defense of any and all suits, actions and proceedings that may be instituted to enforce payment thereof, and the corporation so denying the validity of such claim shall refuse or neglect to defend the said action or proceeding.

SECTION 9. If any alleged indebtedness of said town for the payment of which if valid said town and city are liable under the provisions of this charter shall not be paid at maturity the holder of same may institute and maintain any joint action, suit or proceeding against said town or city, to enforce payment thereof and each shall be liable for its *pro rata* share of the costs and expenses incurred therein, and in case any action shall now be pending or shall hereafter be commenced on any present indebtedness against said town alone, the court shall on application of said town direct that said city be made a party defendant jointly with said town and any judgment rendered in any action

Expense of suits, how paid

Joint action may be maintained.

upon any present indebtedness of said town shall be rendered jointly against said town and city of Menasha. Any judgment so rendered, shall, so far as practicable and just, be enforced according to the respective rights of the parties as herein defined, *provided*, if said town shall deny the validity of said indebtedness and make no provisions through its proper officers to levy and collect the necessary taxes to pay its pro rata share of the same, and [said] city shall admit the validity of said indebtedness and take the necessary steps, by its proper officers to levy and collect the necessary taxes to pay its pro rata share, then in that case no such action, suit or proceeding shall be instituted or maintained against said city and said town, but shall be commenced and prosecuted against said town as sole defendant, and said town shall bear the entire costs and expenses incurred therein, and said city shall not be liable to said town for any part or portion of the same.

Highway not
to be changed

SECTION 10. Neither the town of Menasha nor any town or corporation to which said town may be annexed, shall have the power to vacate or change the location of the highway or any part thereof leading from the west end of the town bridge built across lake Butte des Morts, to the highway running north and south near the western shore of said lake, without the consent of said city. And said town of Menasha shall hereafter keep said highway, and the whole of the same so lying between the west end of said bridge and said highway running north and south, in good repair and condition at all times, when the city of Menasha shall keep and maintain in good order for travel the bridge across said lake. And if said town shall fail to keep said highway in good repair, said city shall have the right and power to repair and keep in good condition and repair said highway, and charge the costs of the same to said town, and may recover in any proper action brought against said town, said costs and expenses.

SECTION 11. All costs and expenses incurred by said town in defending a certain action now pending in the United States circuit court for the eastern district of Wisconsin, brought against said town to enforce the payment of certain interest coupons on bonds heretofore issued by said town to the Wisconsin Central Railroad Company, shall be paid in like pro rata shares by said town and said city as hereinbefore provided for the payment of the debts of said town: *provided*, either one of said corporations by its proper officers being, on the

part of the city the common council, and on the part of the town the board of supervisors, may serve upon the other corporation written notice to the effect that it does not desire further to defend said action, and if said corporation upon which said notice shall be so served, shall desire still to defend said action, it shall alone be liable for all costs incurred by it after the service of said notice, if judgment shall finally be for plaintiffs; and if both town and city shall desire to defend said action, the defense shall be conducted jointly, and each corporation may employ counsel to conduct said defense; and in case of final judgment upon the merits for defendants, both corporations shall be liable for all costs incurred in defending said action in pro rata shares as aforesaid.

SECTION 12. Either said city or said town so desiring, may purchase or take up any part of the bonded indebtedness of said town at any time in advance of the time when the same shall become due, and hold the same, and the other corporation shall be liable to pay the said corporation so purchasing in taking up said indebtedness, its pro rata share of the same, to the same extent, and in the same manner as it would be liable to pay the said share had the same remained in the hands of any other party: *provided*, that such purchase shall be no evidence of the validity of such bonds, coupons or other indebtedness so bought up or purchased.

May purchase bonded indebtedness.

SECTION 13. All funds, revenues, debts and demands and property of whatever nature not otherwise provided for belonging to said town, shall be vested in the said city of Menasha and the town of Menasha jointly in like proportion as the debts of the town are to be paid.

SECTION 14. The village treasurer and village clerk of the village of Menasha and town treasurer and town clerk of the town of Menasha and each and all of them shall within ten days after the first election held under this charter deliver over to the city treasurer of the city of Menasha, all the moneys, books, papers and property of every nature whatsoever in their hands belonging to each of said organizations of which he is the treasurer or clerk, and thereupon the said city treasurer shall give to each of the said treasurers and clerks of said organizations his receipt therefor for the money and articles so delivered.

Shall deliver property to successors.

SECTION 15. In case any treasurer or clerk of either of said organizations shall fail, neglect or refuse to deliver over to the said city treasurer and said city clerk any money, books, papers or property pertaining to each of

Penalty for refusal or neglect

their several offices at the time as required by this section, then the officers so failing, neglecting or refusing, shall forfeit and pay to the use of the city fifty dollars besides all damages caused by his neglect or refusal to deliver the same and the aforesaid city officers may recover the possession of such moneys, books and papers or other property of said organization in the manner prescribed by the laws of this state; such books and papers as aforesaid shall be retained by said respective city officers for the term of six months and no longer, for the purpose of making an abstract of so much of such records and papers as pertain to that portion of said town included in said city and a full and complete settlement between that portion of the town of Menasha which is in part included in the limits of said city of Menasha and that portion of said organization which is outside of said city limits, and upon the completion of said abstracts and said settlement said books and papers shall be delivered over to the proper officers of said town as they may at that time exist, except such papers as pertain to the said city, and all moneys and property that may be found upon said settlement due and owing said town on account of the proportionate value of any moneys or property which may have been owned in common at the time of the organization of said city shall be immediately paid to the proper officer or officers. All officers of said new town shall, at all reasonable times, have access to and inspection of, and right to take transcript from all the records, books and papers whatever of said town of Menasha, so delivered to said city officers, without charge.

Town and city
settlement. and

SECTION 16. The common council of said city and the board of supervisors of said town of Menasha shall, as soon as may be and within a reasonable time after the organization of said city, meet at the office of the common council or such other place as may be agreed upon, and settle all matters existing between said town and city, the bases of said settlement to be according to the terms of division of said town and city as provided in the charter.

SECTION 17. All work for the city or either of the wards, including all printing and publishing, shall be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contract.

SECTION 18. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

SECTION 19. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a majority of the aldermen elect.

SECTION 20. The common council may at any time ^{Surveys.} cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of the county of Winnebago.

SECTION 21. The survey and land marks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks in all cases in which they shall be drawn into controversy in all courts in this state.

SECTION 22. The common council may, at such ^{Establishing grades.} time as they may deem proper, establish the grades of all streets, alleys and sidewalks in said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of the county of Winnebago; and should the grade so established be at any time thereafter altered, all damages, costs and charges arising therefrom shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; *provided, however,* that nothing in this section contained shall be so construed as to prevent the street commissioners of the several wards of the said city from ordering or causing to be done the grading of any street within their ward to a temporary grade, to be established by such commissioners.

SECTION 23. 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, occupied or held by said city shall be exempt from taxation.

SECTION 24. Real estate exempt from taxation by the laws of this state shall be subject to special taxation as other real estate under this act.

SECTION 25. Every individual or company of in- ^{Platting lands.}dividuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Manasha, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the

same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city adjacent to said lot or tracts so platted; and before making such plat as required by law, it shall be the duty of such person or persons, or corporations making such plats, to submit the same to the common council of said city for approval; and if said plat shall be approved by the common council, said person or persons, or corporations, may cause said plat or plats, to be recorded according to law; but except such plat be approved by a resolution adopted by said council, a copy of which, duly certified by said clerk, shall be affixed to or entered on such plat, it shall not be lawful for the register of deeds of the county of Winnebago to receive such plat for record, or to record the same; and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred nor more than one thousand dollars, and the register of deeds who shall record such plat without a copy of the resolution aforesaid approving the same being entered on or affixed thereto, shall forfeit a sum not less than fifty nor more than one hundred dollars.

Penalty for violation.

SECTION 26. When the city of Menasha 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 Menasha, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds and leases.

SECTION 27. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed under and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided by law for the execution of deeds and conveyances.

Certified copies

SECTION 28. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with the said deed or lease; and such copy so attached, and the record thereof shall be in all courts of this state *prima facie* evi-

dence of the authority of the mayor to make and execute such deed or lease.

SECTION 29. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be held at any subsequent day by order of the common council; and if any of the duties enjoined by this act, or the ordinances or by-laws or regulations of said city, to be done by any officer, at any specified time, and the same are not then done or performed, the common council may appoint another time at which said act may be done and performed.

SECTION 30. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same, unless such purposes be expressly set forth in such law as an amendment to this charter.

SECTION 31. No compensation or salary shall be paid out of the city treasury to the mayor or any alderman of said city for his services, except as an inspector of election and as a member of the board of equalization, and they are hereby prohibited from being in any manner interested in any contract made by the authority of said city.

No salaries to be paid city officers.

SECTION 32. The compensation for assessors shall be two dollars per day, but in no case to exceed twenty-five dollars to each assessor.

SECTION 33. The compensation to be paid the school superintendent shall not exceed the sum of one hundred and fifty dollars.

SECTION 34. The city clerk shall receive for his services a sum to be fixed by the common council, not exceeding two hundred dollars per annum, to be in full for all services required of him under the provisions of this charter, or by any ordinance, resolution or by-law passed by the common council, including the making of the annual assessment roll of said city and highway lists, and the clerk of the board of education shall receive a sum, to be fixed by the common council, not to exceed twenty-five dollars per annum for his services. The marshal and street commissioners shall receive for all services which they are required to perform in discharging the duties of their offices and for the payment of which services no other provision is made in this charter, they shall receive a sum not to exceed two dollars per day for each day actually em-

Salary of city clerk.

ployed, to be paid by said city, and the sum to be fixed by the common council.

Contracting
debts prohib-
ed.

SECTION 35. No officer of the city or any other person shall have power, and each and every person is prohibited from making any purchase or contracting any debt on the part of the city unless specially authorized by the common council so to do, and no account, claim or demand shall be audited, allowed or paid by the common council unless the same was duly authorized by a vote thereof. In case any alderman shall purposely vote for any appropriation or for the payment or expenditure of any money not authorized by this act, every such alderman shall be liable to a penalty of one hundred dollars to be sued for and recovered in the same manner as other penalties are sued for and recovered, and the city shall not be liable in any such unauthorized appropriation or expenditure.

Imprisonment
for penalties
costs of suit
etc..

SECTION 36. In all cases of conviction in actions brought or prosecuted to recover a penalty under any of the provisions of this act, or to recover a penalty or forfeiture for the violation of any city ordinance or regulation, the court shall enter judgment against the defendant and for the fine and costs of prosecution; and if the defendant shall refuse or neglect to pay such fine and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Winnebago or city lock-up, in its discretion, for a term not exceeding three months, and shall forthwith commit the defendant for the term fixed by said judgment; and in all cases where the judgment shall be that the defendant shall be imprisoned in the county jail or said lock-up, the court may, in its discretion, enter a further judgment that the defendant pay the costs of prosecution, and that he be held in imprisonment in the said jail or lock-up until such cost be paid or he be otherwise discharged by due course of law.

Street super-
intendent.

SECTION 37. The street superintendents shall hold their office during the pleasure of the common council. It shall be their duty to superintend and control all repairs to streets, alleys, lanes, public grounds, wells, reservoirs, gutters, sewers and public pumps at the expense of the proper ward, under the direction of the aldermen thereof, and shall see that all the ordinances of the city relating to the obstruction and cleaning of side walks, streets, alleys, public grounds, reservoirs, sewers, gutters and water courses within the city are duly observed and kept. He shall monthly make report to the commissioners of the ward in which any work has been done of the amount thereof, and the

number of days employed therein, and if such work is chargeable to and lot, to report the description thereof and shall perform such other and further duties as the common council may prescribe. He shall not be directly or indirectly interested in any contract to work or for furnishing materials for said city under penalty of removal from office.

SECTION 38. The bridges within the city limits of said city shall be under the charge and control of the city council, and the charges and expenses necessarily incurred in opening, taking care of, repairing and reconstructing said bridges, or any of them, or any part thereof, shall be chargeable to and payable out of the general city fund. Bridges.

SECTION 39. All school districts and parts of school districts situated within the limits of the city of Menasha are hereby consolidated, and all laws, orders, resolutions, organizing any of said districts, are hereby repealed and made void, and the treasurer of all such districts add parts of districts within the limits of said city shall, within ten days after the board of education herein provided for shall be elected and qualified, deliver to the city treasurer all moneys of said district in their hands as said treasurer; and all district treasurers and other district officers shall deliver, within the same time, all books, papers and records in their hands, to be delivered by said board to the proper officers. School districts consolidated.

SECTION 40. The supervisors elected at each annual election shall be members of the county board of supervisors of Winnebago county, and represent said city in said board.

SECTION 41. The inspectors of election, after the first election, shall be the alderman and assessors for each ward, and the inspectors shall appoint two clerks of elections.

SECTION 42. There shall be two street commissioners annually appointed by the common council, one to be appointed from the First and Fourth wards and one from the Second and Third wards.

SECTION 43. The common council may establish a city lock up for the confinement of all offenders against the laws of this state or any ordinance passed under the provisions of this charter, and all such offenders may be imprisoned in said lock up or in the common jail of Winnebago county, in the discretion of the committing magistrate, whenever such imprisonment is adjudged. City lock up.

CHAPTER XIV.

SECTION 1. An act entitled "an act to consolidate the act incorporating the village of Menasha," approved March 24, 1866, and all acts or parts of acts inconsistent and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contract, act, suit, claim, penalty or demand that may have been entered into, performed, commenced or that may exist under or by virtue or in pursuance of the said acts, or any of them, but the same shall exist and be enforced and carried out and be completed, as fully and effectually, to all intents and purposes, as if this act had not been passed.

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

Approved March 5, 1874.

CHAPTER 128.

[Published March 31, 1874.]

AN ACT for the division of the county of Marathon, and the erection of the county of Lincoln.

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

Lincoln county
boundaries.

SECTION 1. All that territory in the county of Marathon lying north of the correction line on the south line of township numbered thirty-one (31) north, shall, as soon as a separate county organization is perfected, as provided in this act, be detached from the county of Marathon, and shall be known and called, when so detached and organized, the county of Lincoln, and shall thereafter constitute a separate county, except that the same shall be and remain attached to the county of Marathon for all judicial purposes under the laws of this state.

Organizing
Lincoln county.

SECTION 2. For the purpose of organizing such separate county, the town clerk of the town of Jenny, situated therein, shall, not sooner than the first day of October next after the passage of this act, call an election for county officers of said county of Lincoln, and shall give at least twenty day's notice thereof, in the usual manner. Such election shall be held at the