

[Published February 27, 1877.]

CHAPTER 30.

AN ACT to incorporate the city of Darlington.

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

CHAPTER I.

BOUNDARIES.

SECTION 1. All the district of country in the county of La Fayette contained within the limits and boundaries hereinafter described shall be a city by the name of Darlington, and the people now inhabiting, and those who shall hereafter inhabit the district of country so described, shall be a municipal corporation by the name of the city of Darlington, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession and shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

General powers of corporation.

SECTION 2. The west half of southwest quarter of section thirty-five (35) in town three (3), range three (3), fraction seven (7) and eight (8), in section thirty-four (34), in town three (3), range three (3), fractions one (1), two (2), three (3), and four (4), in section three (3), town two (2), range three (3); southeast quarter of northwest quarter of section three (3), town two (2), range three (3), northeast quarter of southwest quarter of section three (3), town two (2), range three (3), north half of southeast quarter of section three (3), town two (2), range three (3); and also commence at the northwest corner of fraction six (6), in section two (2), town two (2), range three (3); thence east on north line of said fraction twenty (20) chains, thence south to south bank of Pecatonica river, thence west along the bank of said river to west line of section two (2), thence north on the said line to place of beginning; all east of fourth (4th) principal meridian shall be included within and constitute the territory comprising the city of Darlington.

City limits.

CHAPTER II.

CORPORATE POWERS, IN WHOM VESTED.

Election of city officers.

SECTION 1. The government of said corporation, the exercise of its corporate powers, the management of its fiscal, prudential and municipal concerns, shall be vested in a mayor and a common council consisting of five (5) members, one clerk, one treasurer, one marshal, and such other officers as the common council shall ordain. The mayor and members of the common council shall be elected by the qualified voters of the said corporation, on the 1st Monday of March, 1877, and on the first Monday in March in each year thereafter, and shall hold their respective offices for one year, and until their successors are elected and qualified. There shall also be elected at the same time one justice of the peace for the term of two (2) years, who shall possess the same power and jurisdiction, and qualify in the same manner as justices of the peace under the general laws of this state, and the justices of the peace now in office shall continue in office until the expiration of their term. The clerk shall give at least ten (10) days notice of the time and place of holding any election, and the mayor and common council or any three (3) members of the same, shall preside and be judges of election at every such election, and any vacancy in the office of mayor or common council shall be filled by the common council; all other officers shall be appointed by the common council, and shall hold their office during the term for which the common council is elected and until their successors are appointed and qualified, and shall be subject to removal by the common council.

First election.

SECTION 2. Notice of the first election of officers under this act shall be given by the clerk of the village of Darlington, as required by this act, and the president and trustees of said village of Darlington, or a majority of them, shall be the judges of election, and with the clerk of said village shall constitute the election board of said first election.

CHAPTER III.

OF ELECTIONS.

Qualification of electors.

SECTION 1. All persons qualified to vote who have resided *bona fide* in said city for ten (10) days previous to the time of such election, shall be legal voters for

corporation officers. No person shall be eligible to the office of mayor, member of the common council or treasurer, unless he is a freeholder and voter therein. The voters present at any election may appoint three voters to act as judges of election in case there shall not be a quorum of the council present to conduct the election.

SECTION 2. At all elections held under this act the polls shall be opened at one o'clock in the afternoon, and shall continue open until five o'clock in the afternoon of the same day; and the election shall be by ballot, conducted in the same manner as far as may be, as general elections, and a plurality of votes shall in all cases decide the election. How elections conducted.

SECTION 3. In case such officers, or any of them, shall not be elected, as herein provided, the corporation shall not thereby be dissolved, but a special election of mayor and members of the common council may be held as herein provided for annual elections, and in case there shall be no officer to give notice thereof, then such notice shall be given by any ten freehold voters of said city, as herein provided for annual elections. Special elections.

SECTION 4. If either of the judges of election shall suspect that any person offering a vote does not possess the qualifications of an elector, or if any vote shall be challenged by an elector, the judges of election, before receiving the vote of such person, shall require him to take the following oath, which either of said judges of election is hereby authorized to administer: "You do solemnly swear (or affirm, as the case may be), that you are twenty-one years of age; that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization); that you have resided in this city during the last ten days, and that you now reside therein, and that you have been a resident of this state during the last preceding year; that you have not voted at this election, and that you have made no bet or wager, and have not become directly or indirectly interested in any bet or wager depending upon the result of this election." And if the person so offering to vote shall take such oath, his vote shall be received. If such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, upon indictment or information, shall suffer the punishment provided by law for persons guilty of Oath of elector.

Penalty for illegal voting.

perjury. If any person who is not a qualified voter shall vote at any election, or shall vote more than once at any one election, he shall be liable to a criminal prosecution, by indictment or information, and on conviction thereof, shall forfeit and pay a sum not exceeding fifty (50) dollars nor less than ten (10). It shall be the duty of the judges of election to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any judge of election shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns for 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 such judge of election and clerk, shall be liable to be prosecuted therefor, by indictment or information, and on conviction thereof shall forfeit a sum not exceeding one hundred (100) dollars for each offense.

Officers to take oath of office.

SECTION 5. Every officer elected or appointed under this act, before he enters upon the duties of his office, and within ten days after his appointment and election, shall take an oath and file the same with the clerk, faithfully to discharge the duties of his office, and to support the constitution of the United States and of this state, and the laws thereof.

CHAPTER IV.

THE DUTIES OF OFFICERS.

Treasurer and marshal to give bonds.

SECTION 1. The treasurer and marshal before they enter upon the duties of their offices shall severally give bonds to the council in such sum, with such conditions, and with such sureties as said council shall direct.

Duties of mayor

SECTION 2. The mayor shall preside at all meetings of the council, sign all commissions, licenses and permits which may be granted by the council, but shall not be entitled to a vote on any subject before the council. He shall maintain peace and good order, and see that the ordinances of the city are observed and executed. A municipal court is hereby created in the said city, to be styled "the police court," and the person elected as mayor of said city shall be elected on the same ballot as "mayor and police justice," who shall hold the said police court, and he shall have power to administer oaths and affirmations, and to take and certify acknowledgments and proofs of the execution of deeds

and other instruments in writing relative to real estate or other matters required by law to be acknowledged or recorded, or both. As a judicial officer and court, the said justice and court shall have and possess all the authority, jurisdiction, powers and rights of justices of the peace and justices' courts in civil and criminal proceedings, and shall have exclusive jurisdiction of all civil and criminal actions and cases for the violation of any provisions of this act or of any ordinance, by-law, rule, regulation or resolution of said city; and as police justice he shall receive the same fees as a justice of the peace receives for his services; but the city shall not be liable for his fees, except such as accrue in prosecutions or actions brought in the name of the corporation for the violation of the provisions of this act, or for the violation of the ordinances of the said city.

SECTION 3. The council shall prescribe the time and fix the place of their meetings, which shall at all times be open to the public, and shall determine the rules of their proceedings and keep a journal thereof, which shall be open for the inspection of every respectable citizen, at all reasonable times and hours, and shall have the power to preserve order and propriety in their proceedings, and may adopt such by-laws, rules and regulations for their government as are not inconsistent with the provisions of this act, and shall have power to compel the attendance of its members.

Common council.

SECTION 4. The mayor, each and every member of the council, marshal, each and every justice of the peace and constable of the county in which said city is situated, shall be officers of the peace, and may command the peace and suppress, in a summary manner, all rioting and disorderly behaviour, in a manner consistent with law and the ordinances, by-laws, rules, regulations and resolutions of said city, within the limits thereof; and for such purpose may command the assistance of bystanders, and if need be all citizens; and if any person refuses to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of ten dollars.

Officers of the peace.

SECTION 5. The marshal shall possess all the power and enjoy all the rights of a constable of this state, and be subject to the same liabilities. It shall be his duty to execute all writs and process to him directed by the mayor or other judicial officer, and when necessary in criminal cases, or for violation of any of the provisions of this act, or of any ordinance of said city, or by-laws, rule, regulation or resolution thereof, he may serve the

Duties of city marshal.

same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to apprehend all disorderly persons in said city, and pursue and arrest any person fleeing from justice, in any part of the state of Wisconsin, to apprehend any person in the act of committing any offense against the provisions of this act, or of the laws of this state, or the ordinances, by-laws, rules, regulations or resolutions of the city, with or without process, and forthwith to bring such person before competent authority for examination; and for such, and other services, he shall receive like fees as are allowed to constables for like services. Any peace officer may, and it shall be the duty of the marshal to, arrest without process any person found in a state of intoxication, or guilty of immoderate drinking, improper reveling, indecent exposure of the person, or noisy, boisterous or disorderly conduct in the streets or public places, and take such person or persons forthwith before the police justice, or keep them until they become sober, in confinement, or until such time as said justice can reasonably hear and dispose of such offender. It shall be the duty of the marshal to see that all hawkers, peddlers and common showmen, and all other exhibitors pay their licenses according to law and this act, and the ordinances of the city; and in default of payment to prosecute for the same in the corporate name of the city, and pay over the same to the treasurer when received by him.

Duties of city treasurer.

SECTION 6. The treasurer of the city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances, rules, regulations, resolutions or by-laws of said city, and by law. All money raised, received, recovered and collected by means of any tax, license, fine, forfeiture or otherwise, under the authority of this act, or which belongs to said city, shall be paid to and received by him, and shall not be drawn therefrom except by a written order signed by the mayor and countersigned by the clerk, by order of the council. Such order shall specify the amount of money to be drawn and its objects. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer in a book to be provided by the council for that purpose, which shall remain the property of the city, wherein he shall note the time when the person from whom the amount of the several sums received, and the source from whence the said sums arose, which said book, at

all reasonable times, shall be open to the inspection of the electors of the city. He shall, as often as the council requires, render a minute account of his receipts and payments, and at the expiration of his term of office he shall pay over and deliver to his successor all moneys, books and vouchers in his possession belonging to said city.

SECTION 7. It shall be the duty of the clerk to keep a record of the transactions of the common council, especially of the passing of by-laws, ordinances, rules resolutions and regulations, and also a faithful record of the doings and votes of the inhabitants of said city, at their annual and other legal meetings; and to keep on file all papers which may be ordered by the council. The records kept by the clerk shall be evidence in all legal proceedings, and copies of all papers duly filed in his office, and transcripts from the record of proceedings of the common council certified by him under the corporate seal, shall be evidence in all courts of the contents of the same. He shall keep the corporate seal of the said city. He shall keep a full and accurate account of all orders drawn on the treasury, in a book provided for that purpose, and shall keep all accounts of the corporation with individuals, and shall also keep an accurate account with the treasurer, and charge him with all taxes levied, and sums of money paid into the treasury, and all receipts for the payment of money or property to the treasurer, shall be countersigned by the clerk before they shall be a legal voucher against the city. The clerk shall have power to administer oaths.

Duties of city clerk.

SECTION 8. The attorney shall conduct all the law business of the city and of the departments thereof, and all other law business in which the city shall be interested, when so ordered by the common council. He shall, when required, furnish written opinions upon subjects submitted to him by the mayor or council. He shall keep a docket of all cases to which the city may be a party in any court of record, in which shall be briefly entered all steps taken in each cause, and which shall, at all times be open to the inspection of the mayor or council. It shall also be the duty of the city attorney to draft all ordinances, bonds, contracts, leases, conveyances and other instruments of writing as may be required by the business of the city; to examine and inspect tax and assessment rolls, and all proceedings in reference to the levying and collection of taxes and assessments, and to perform such other duties as may be prescribed by the charter and ordinances of the city.

Duties of city attorney.

Other duties of officers.

SECTION 9. The council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution at the time the office is created or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

Penalty for withholding books, etc.

SECTION 10. If any person having been an officer in said city shall not within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall pay and forfeit to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Style of ordinances.

SECTION 11. The style of all ordinances passed by the council shall be, "The mayor and common council of the city of Darlington do ordain as follows." The mayor and three members of the council, or four members of the council, shall constitute a quorum for the transaction of any business, and in the absence of the mayor, the members of the council present shall appoint one of their number president *pro tem.*, who shall possess all the powers of the mayor, except as police justice.

CHAPTER V.

OF EXCISE.

Excise regulations.

SECTION 1. The council shall have the exclusive authority, within the corporate limits of the said city, to grant or refuse according to law or ordinance, or both, licenses for selling wine, beer, or cider, or spirituous, intoxicating, alcoholic, vinous, fermented, malt or mixed liquors, liquids or drinks; regulate and license groceries, taverns, hotels, victualing houses, and saloons, where such liquors are sold, and all persons vending or dealing in any such liquors, drinks or liquids, and to revoke the same: and no person shall sell, vend, deal in, or for the purpose of evading the provisions of law or of this act, or the ordinances of said

city, give away any such wine, beer, cider, or intoxicating, spirituous, alcoholic, vinous, fermented, mixed or malt liquors, liquids or drinks, within such corporate limits, without having first obtained license therefor, as provided by this act, and the laws of this state, and the ordinances of the said city; and any person who shall in any manner violate any of the provisions of this section, or the ordinances, or the laws herein referred to shall, on conviction thereof, be punished as provided by the laws of this state, or the ordinances of said city on this subject; and all such offenses shall be prosecuted as provided by such laws or ordinances. All money received for such licenses shall be paid to the treasurer of said city for its use; *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of this state, or the ordinances of the said city, and that no licenses shall be granted for a longer period than the residue of the term of office of the council granting the same; and *provided further*, that no person thus licensed, or without being so licensed, shall sell or give away any such wine, beer, cider, or spirituous, intoxicating, alcoholic, vinous, fermented, mixed or malt liquors, liquids or drinks, on any election day or on Sunday. In all prosecutions for any violation of this section, or of the laws or ordinances herein referred to, it shall be sufficient to allege in general terms, the selling, vending, dealing in, or giving away without such license of any such inhibited liquors, liquids or drinks, and the proof on the trial of such selling, vending, dealing in or giving away to any person of any one of such inhibited liquors, liquids or drinks, shall be sufficient to warrant and sustain a conviction; on proof that the person charged kept a bar, sideboard or other thing, or fixture, with bar furniture, usually used by persons vending or dealing in such inhibited liquors, liquids or drinks, shall be *prima facie* evidence sufficient to warrant and sustain a conviction, or proof that any person permits the drinking of any inhibited liquors, liquids or drinks, before mentioned, which have been purchased or procured by clubs or other combinations of people, on his premises; or the treating, sampling, or giving away of any such inhibited liquors, liquids or drinks in any place of business or public resort in said city, such as groceries, bazaars, stores, taverns, hotels, victualing houses, saloons, shops, warehouses, or other places, the owner or occupant thereof not having first obtained license according to

law or the ordinances of said city, shall be deemed a selling of the same.

CHAPTER VI

GENERAL POWERS OF THE COMMON COUNCIL.

General powers
of common
council.

SECTION 1. The common council shall have the control and management of the finances and of all the property of the city, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, regulations, resolutions and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce or health, as they shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, resolutions, regulations or by-laws; and such ordinances, rules, regulations, resolutions and by-laws are hereby declared to be, and have the power and force of laws; *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 ordinances, resolutions, by-laws, regulations or rules:

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, and to provide for the abatement and removal of all nuisances under the ordinances or at common law; to restrain, prohibit or license billiard tables, ten pin or other ball alleys, or the setting up or playing on the same in said city.

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

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

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tan-

nery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

5th. To direct the location and management of, and to establish the rules for, and license venders of gunpowder, and regulate the storage, keeping and conveying of the same, or other combustible materials.

Combustible materials.

6th. To prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substances whatever, and to prevent the digging or sinking of mineral or other shafts, or holes in the streets, alleys or other public grounds of said city.

To prevent encumbering of streets.

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

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

Distraining of animals.

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.

Dogs.

10th. To prevent any person from bringing, depositing, or having within said city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, putrid or unwholesome, unsound beef, pork, fish, hides or skins of any kind; and on default of such person to authorize the removal thereof, by some competent officer, at the expense of such person or persons.

Nuisances.

11th. To make and establish pounds, and appoint poundmasters, and fence viewers, and prescribe their powers and duties; also to protect shade or ornamental trees, on the public squares or in the streets of the corporation, and the monuments of said city; also to fence the public squares and grounds of said corporation and to protect the same.

Improvement of public grounds.

12th. To establish and regulate boards of health, provide hospitals for those infected with small pox or other contagious diseases, and order and regulate the removal of such persons from the city, when its health and safety so require, and to provide grounds for the burial of the dead.

Health regulations.

Compensation
and accounts of
officers.

13th. To call regular and special meetings of the voters of the said city, and to prescribe the compensation of all officers of the corporation, and shall examine, audit and adjust the accounts of all persons and of all officers of the corporation.

Fire regula-
tions.

14th. To organize fire companies, hook and ladder companies; to regulate their government and the time and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to require the owners of buildings to provide and keep suitable ladders and fire buckets, which are hereby declared to be appurtenances to the real estate, and exempt from seizure, distress or sale in any manner, and if the owner shall neglect or refuse to procure suitable ladders or fire buckets after reasonable notice, the council may procure and deliver the same to him, and in default of payment therefor, may recover of such owner the value of such ladder and fire buckets, or both, with costs of suit; to direct the safe construction of places for the deposit of ashes; to appoint one or more fire wardens; to enter into, at reasonable times, and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such of them as may be dangerous to be put in a safe condition; to regulate the manner of putting up stoves and stove pipes; to prevent fires and the use of fire works and fire arms within the limits of said city, or such part thereof as they may think proper; to compel the inhabitants of said city to aid in the extinguishment of fires, and to pull, break down and raze such buildings in the vicinity of the fire as shall be directed by the council or any four of them who may be at the fire, for the purpose of preventing its communication with other buildings; to construct and preserve reservoirs, pumps, wells and other water works, and to regulate the use thereof, and generally to establish other measures of prudence for the prevention and extinguishment of fires, as they shall deem proper.

Fast riding and
driving.

15th To prevent all persons riding or driving any horse, ox, mule, cattle or other animal on the sidewalks, or in any way doing damage to such sidewalks.

Disturbances.

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

Fire arms.

17th. To prevent the shooting, wounding or worry-

ing of birds, and the discharge of fire-arms, or the exhibition of any fire-works in any place which they may consider dangerous to the city or any property therein, or annoying to any person thereof.

18th. To regulate the police of the city, to regulate the place and manner of selling and weighing hay, and measuring and selling of fuel, either wood or coal, or of lime, and to appoint suitable persons to superintend and conduct the same. Markets.

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

20th. To regulate, suppress or license hawkers, peddlers and auctioneers, who travel from place to place to sell goods, wares and merchandise within said city, and to license transient dealers, traders and auctioneers to sell the same, and the license so imposed by said council shall be to any amount, in the discretion of said council, not exceeding five per cent. on the gross amount of sales of said hawkers, peddlers and auctioneers. Hawkers and peddlers.

21st. To compel the owners of buildings or grounds, or the occupants, to remove snow, dirt or rubbish from 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 default to authorize the removal or destruction of the objectionable substance by some officer of the city at the expense of such owner or occupant. Removal of rubbish.

22d. To regulate the time, place and manner of holding public auctions and vendues. Auctions.

23d. To appoint watchmen and prescribe their duties, and provide for badge or uniform of marshal. Watchmen.

24th To provide by ordinance for a standard of weights and measures, and for the punishment of false weights and measures. Weights and measures.

25th. They shall have the power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting the same, and in default thereof to cause the same to be done, and to lay a special tax upon such lots or grounds to pay the expense of the same. Trees.

Streets, alleys,
etc.

26th. To make, open, keep in repair, grade, improve, lay out, alter, widen, vacate or discontinue streets, avenues, lanes, alley, sewers, bridges and sidewalks, to keep them free from incumbrances, and to protect them from injury in said city.

Poll tax.

27th. To tax every male resident of said city above the age of twenty-one years and under the age of fifty years, one day's labor, or in lieu thereof one dollar, to be appropriated to improving the roads and streets of said city under the direction of such person as they may appoint.

Special taxes.

28th. Upon the application of the owners or occupants of two thirds of the lots on any street or part of a street, or on one side of any block, to levy and collect a special tax on the owners of the lots on such street or part of street, according to their respective parts, for the purpose of making a sidewalk along the same or grading, paving and improving the street along the same.

Power of council to appoint or remove officers.

SECTION 2. The council shall have power to appoint and at their pleasure to remove, the following officers, to wit: one chief engineer of the fire department, two fire wardens, and as many assistant wardens as they shall from time to time deem necessary; one attorney, one sealer of weights and measures, sexton and keeper of burial grounds, and prescribe their duties and fix their compensation, under the provisions of this act; and to impose and enforce in law such penalties as to the said council may seem proper, for any malfeasance or improper conduct of any of said officers, and to require bonds for the faithful performance of the duties of any or such of them as may be deemed necessary by the council.

Grade of streets

SECTION 3. The council shall, at such time as it may deem proper, establish the grade of all streets, alleys and sidewalks in said city, and shall cause accurate profiles thereof to be made, which shall be filed with the clerk.

Levying of tax for street purposes.

SECTION 4. Whenever the council shall levy any tax for the purpose of grading, paving or otherwise improving any street, or for the building or repairing any sidewalk, or for any other special purpose, they shall make out and deliver to the marshal such tax to be collected and expended, a list of persons and a description of the property taxed; and thereupon the marshal shall notify the persons named in such tax list by publishing a notice in three or more conspicuous places in said city, or in some public newspaper printed

therein, and shall specify in such notice a time not less than twenty days nor more than thirty days from the date thereof, when the persons charged with taxes in such lists may pay their taxes in labor, materials or money; and the persons charged with such tax may, within such time and at such place as may be required of such marshal, pay their taxes in labor or materials; *provided*, the labor and materials offered in payment for such taxes are suitable and such as may be required by such marshal.

SECTION 5. At the expiration of thirty days from the time the marshal shall have received such tax list, he shall return the same to the council, accompanied by a statement verified by his affidavit, subscribed thereto, showing the amount of tax collected in labor and materials, and the amount collected in money, and the manner in which such money was expended, and the items of expenditure, also the taxes which remain unpaid, and the persons and descriptions of real estate and lots to which such unpaid taxes stand charged; and the clerk of said city shall make out a certified copy thereof and deliver the same to the town clerk of the town in which said city is situated, who shall, in making out the duplicate tax and assessment of such town next thereafter, enter such unpaid special taxes in a separate column, with ten per cent. added thereto opposite to the names of the persons and descriptions of property against which the taxes so remain charged and unpaid; and such taxes shall be collected in the same manner as the general taxes of said city and town are collected, and when so collected shall be paid over on the order of the council, and when not previously applied shall be expended, under their direction, on the street or sidewalk or for the purpose for which they were originally assessed.

SECTION 6. In all cases in relation to which, by the provisions of this act, the council have power to enact or pass ordinances, rules, regulations, resolutions or by-laws in relation to any subject; they may prescribe any penalty for the violation of such ordinances, rules, regulations, resolutions or by-laws, not exceeding one hundred dollars for any one offense in violation or nonobservance thereof; and may also provide that in default of payment of any judgment rendered for such violation or nonobservance, the offender may be imprisoned for such term as they may, by such ordinance, by-law, rule, regulation or resolution, direct, not exceeding sixty days, for which purpose the said city

Return of tax list.

Council may fix penalties for violation of ordinances.

shall have the use of the jail of the county in which said city is situated, for the imprisonment of any person liable to be imprisoned, and all such persons committed to said jail by the marshal or any other officer, shall be under the charge of the sheriff of said county, and kept by him the same as other prisoners.

Actions to be brought in corporate name of city.

SECTION 7. All actions brought to recover any penalty or sum of money, or forfeiture under this act, or the ordinances, by-laws or rules, regulations, resolutions or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city without being required to give security for costs in any such action, and the process may be either by summons or warrant, and it shall be sufficient, without setting forth the special matter, to declare generally stating the clause of this act, by law, ordinance, resolution, rule or regulation under which the action is brought. The defendant may plead the general issue, and give the special matter in evidence, and a printed copy of an ordinance, by law, rule, regulation or resolution published in a newspaper or pamphlet by authority of the council, shall be *prima facie* evidence of the passage and publication of such ordinance, by-law, rule, regulation and resolution.

Imprisonment upon execution.

SECTION 8. Every execution issued upon judgments for any violation of the provisions of this act, or for the violation or non-observance of any ordinance, by-law, rule, regulation or resolution of said city shall contain a clause directing, in the event of non-payment of the judgment, the imprisonment of the defendant in the said county jail or jail provided by said city for such term as shall have been provided for by this act or the ordinance, rule, regulation, resolution or by-law under which the judgment shall have been rendered or in the discretion of the court in the absence of such provision by this act, or by rule, regulation, resolution, by-law or ordinance. All fines, penalties and forfeitures, when collected, shall be paid into the treasury of said city for its use.

Publication of ordinances, etc.

SECTION 9. Any ordinance, regulation, resolution, rule or by-law imposing any penalty or forfeiture for the violation of its provisions, shall be published one week in some newspaper in the city before the same shall be in force, except as hereinafter provided, and proof of such publication by affidavit of the printer or foreman in the office of such newspaper, or by producing such newspaper containing such publication, shall be conclusive evidence of the publication and

promulgation of such ordinance, regulation, resolution, rule or by law, in all courts and places, and within ten days after such publication, they, with said affidavit, shall be recorded by the clerk of the city in books to be provided for that purpose, which record shall also be conclusive evidence of such publication and passage of such ordinance, rule, regulation or by-law, in all courts and places. No ordinance, rule, regulation, by-law or appropriation shall be passed, made, altered, amended or repealed, without an affirmative vote of a majority of the common council in its favor, which vote shall be taken by ayes and noes, and entered of record.

SECTION 10. All notices, ordinances, by-laws, rules, regulations, resolutions or other matter required by or under this act, to be published in a newspaper, shall be published in a weekly newspaper published in said city, if there be one, and if no such paper shall be published in said city, then the same shall be published by posting up the same, either in writing or print, in three or more of the most public places in said city. In all actions brought by or in the name of said city, or against it, the said city shall have the same right of appeal, or to a writ of error, as individuals have, and in no case shall any judgment be rendered against said city for costs, but it shall be liable for costs to the same extent that the state is liable for costs in criminal cases, and no more.

How ordinances, etc., to be published.

SECTION 11. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any action or proceeding in which said city is a party or interested.

Residence not to disqualify as witness or juror.

SECTION 12. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where intoxicating, alcoholic, malt, mixed, spiritous, vinous or fermented liquors are sold without license required therefor, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances, and shall be abated as herein provided, and according to the laws of this state for abating nuisances.

Nuisances.

SECTION 13. The council is hereby invested with full power and authority to survey, establish, and de-

Street regulations.

termine, the lines, boundaries, width and dimensions of all streets, highways, alleys, lanes and public grounds in said city, which determination, when recorded, shall be conclusive upon all persons and parties; and whenever and wherever the same are now or shall be hereafter encroached upon or obstructed by any person, or in any manner, they shall have power to cause the same to be removed in a summary manner, by giving notice to the person suffering or causing such encroachment or obstruction to remove the same within not less ten days after service of such notice; and in case of neglect, default or refusal of such person to remove the same within the time specified in such notice, they shall order and direct the marshal to remove the same forthwith, at the expense and cost of such person, to be recovered the same as fines and penalties are recovered, as provided by this act, and for the purpose of such removal, the marshal is hereby authorized to call to his assistance all officers and persons, and every officer or person refusing to render such assistance, shall forfeit and pay a fine of ten dollars.

New survey of streets, etc.

SECTION 14. The common council of said city may, at any time, appoint three commissioners, resident freeholders of said city, who, with the assistance of a duly qualified surveyor to be appointed by the council, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, lots, blocks and tracts of land, and shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which, when approved by the said council, shall be filed in the office of the clerk, and a copy thereof shall be recorded in the office of the register of deeds of the proper county.

Survey to be evidence.

SECTION 15. The survey, landmarks and plats so made and established and recorded, shall be conclusive evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, and blocks, in all cases in which they shall be drawn into controversy in all courts of this state, and shall be *prima facie* evidence of the lines and boundaries of all lots and tracts of land owned by individuals.

Service of process.

SECTION 16. When any suit or action shall be commenced against the said city, the service in such case shall be made by leaving a copy of the process, duly certified to by the proper officer, with the mayor,

and it shall be the duty of the mayor forthwith to inform the council thereof, or to take such other proceedings as, by the ordinances and resolutions of said city, may be in such case provided.

SECTION 17. No real or personal property of the said city, or of any inhabitant of said city, or of any individual or corporation, shall be levied on and sold by virtue of any execution, issued to satisfy or collect any debt, obligation or contract of said city.

Property exempt from execution.

SECTION 18. All highway taxes assessed or payable on property or persons resident or being within said city, shall be expended on any and on all the highways, streets, bridges and alleys in said city, but not on any sidewalk, and the overseers of highways in said city, and every overseer of highways of whose districts any portion of said city shall form a part, shall apply and expend the highway taxes assessed and collected on property or persons resident or being within said city, under and according to the direction and control of the mayor, under the instruction of the council of such city, any law to the contrary notwithstanding, whose compensation for services rendered by him in the discharge of such duties, shall be such as they may order or allow, not exceeding one dollar and fifty cents per day; *provided, however,* that the council of said city may, by special order previously made, allow such portion of the highway taxes assessed or collected as aforesaid in said city, not exceeding one-third part thereof, to be expended without the limits of said city on any public highway leading from said city.

How highway taxes to be expended.

SECTION 19. The council shall have power, and it is hereby made its duty, in each year, to levy and assess upon the taxable property in said city, such a sum of money, as taxes, as shall be sufficient to pay and discharge the outstanding debt of the corporation, if any, and its expenses for the current year, after applying the money derived from other sources to such purposes and no more.

Levying of taxes.

SECTION 20. All taxes raised and collected in the said city of Darlington, for the purposes authorized in the last preceding section, shall be levied and assessed upon the same kinds of property, real and personal, within the corporate limits of the said city, as taxes for town, county and state purposes are levied and assessed.

How taxes to be assessed.

SECTION 21. The common council of the said city, shall, on or before the first Monday of November in each and every year, by resolution, to be entered on their records, determine the amount of such corporation tax

Council to determine the amount of tax to be levied.

to be levied and assessed on the taxable property within the corporate limits of the said city, for the current year; and the clerk of the said city shall thereupon, on or before the third Monday of the same month of November in each year, deliver to the town clerk of the town in which such city is situated, a certified copy, under his hand and name and the corporate seal of the said city of all resolutions of the said council, determining the amount of taxes to be levied and assessed for the current year, together with a description of the territory included within the corporate limits of the said city.

Town clerk shall assess corporation taxes.

SECTION 22. The town clerk or other proper officer, as the case may be, of the town in which said city is situated, shall assess, apportion and carry out such corporation taxes pro rata according to the dollar valuation, upon all the real and personal property liable therefor, in a separate column in the tax and assessment roll and warrant of his town next thereafter issued and delivered to the town treasurer of his town for collection, in the same manner as he shall assess, apportion and carry out town, county and state taxes, and if for any reason such corporation taxes shall not be assessed, apportioned and carried out in the next assessment and tax roll and warrant, as herein provided, it shall or may be assessed, apportioned, carried out and collected in that of any succeeding year. The said corporation taxes shall be in all respects collected or returned delinquent in the same manner as town, county and state taxes are collected by law, and when collected shall be paid over by any officer collecting or receiving the same, to the treasurer of said city. Any officer or other person who shall neglect or refuse on demand to pay over any such corporation taxes when collected or received by him, in any manner, to such city treasurer, shall be liable to an action therefor, with twenty per cent. damages to be added thereto, to be sued for and recovered in the corporate name of the said city, both against such defaulting officer or other person and his sureties.

How town assessor to assess city property.

SECTION 23. The town assessor of the town in which said city is situated, in assessing the taxable property in his town in each year, shall assess the taxable property, real and personal, within the corporate limits of the said city, in one continuous part of his assessment roll, and foot up the valuations of all the items of property assessed and valued by him within said limits.

Duty of city clerk to make

SECTION 24. It shall be the duty of the clerk of said

city, immediately after an election under this act, to make out a statement of the persons elected as corporation officers, and of the persons appointed to the offices of clerk, marshal and treasurer of the corporation, whenever an appointment of such officer is made, with the fact of the acceptance and qualification of such officers so elected or appointed, under his hand and corporate seal, and file the same in the office of the clerk of the circuit court of the county in which such city is situated; and it is hereby made the duty of the clerk of such circuit court to file the same in the same manner as he files and preserves like certificates of the election and qualification of justices of the peace and other town officers. The police justice shall file a duplicate of his oath of office with the said clerk of the said circuit court.

List of officers
elected.

CHAPTER VII.

MISCELLANEOUS PROVISIONS.

SECTION 1. No person shall keep a slaughter house, yard, or pen, or occupy any open ground for slaughtering purposes within the corporate limits of said city, or keep any such place for depositing the offal of slaughtered animals within such limits; and any person who shall violate this section shall, on conviction thereof, forfeit and pay for each day he shall keep or occupy any such place for such purpose, the sum of fifty dollars with costs of prosecution and shall also in addition thereto, be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment. All such places are hereby declared to be common nuisances, and shall be abated as provided by law and the ordinances of said city.

Penalty for
keeping nuisance
within
city.

SECTION 2. The council for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty to prescribe in said city the limits within which wooden buildings or buildings of other materials that shall not be considered fireproof, shall not be erected, placed or repaired, and to direct that all buildings within the limits prescribed, shall be made and constructed of fireproof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits so established, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Fire limits.

CHAPTER VIII.

PROCEDURE IN COURT, AND FORMS.

Form of summons.

SECTION 1. When the action is commenced by summons, such summons may be substantially in the following form :

COUNTY OF LA FAYETTE — *City of Darlington, — ss.*

The state of Wisconsin, to the sheriff or any constable of said county, or the marshal of said city :

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned mayor and police justice in and for the said city, at my office in said city, on the — day of — 18—, at — o'clock, in the — noon, to answer to the city of Darlington, in a plea of debt to the damage of said city, two hundred (200) dollars or under.

Given under my hand at the said city, this — day of —, 18—. C. D., Mayor and Police Justice.

How summons made returnable.

SECTION 2. Such summons shall be made returnable, and be served in the same manner as is now, or hereafter may be prescribed by the laws of this state, for the commencement of actions before justices of the peace, by summons, and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of the state, for the time being, relative to actions commenced by summons, and triable before justices of the peace.

Form of complaint.

SECTION 3. When the action is commenced by summons, the complaint may be substantially in the following form :

The city of Darlington against A. B. In police court, before C. D., mayor and police justice.

The plaintiff complains against the defendant, for that the defendant, on the — day of —, 18—, at the said city, did violate (section — of chapter — of this act, or section — of an ordinance or by-law or regulation of said city, describing it by its title), which said — is now in force. By reason of such violation an action hath accrued to the city of Darlington, to recover from the defendant the sum of — dollars debt. Wherefor the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

Form of oath for warrant.

SECTION 4. In all cases where oath is made for

a warrant, it shall be substantially in the following form :

LA FAYETTE COUNTY — *City of Darlington* — ss.

The city of Darlington against A. B. In police court, before C. D., mayor and police justice.

E. F., being duly sworn, say on oath that A. B., on the — day of —, 18—, at said city, did violate (section —, of chapter —, of an ordinance or by-law, or regulation) describing it by its title, which (—) is now in force, and was then and there guilty of (here name the act constituting the offense), as deponent verily believes, and prays that A. B. may be arrested and held to answer to said city therefor. Subscribed and sworn to before me, this — day of —, 18—.

C. D., Mayor and Police Justice.

Upon filing with the mayor and police justice such complaint, the mayor and police justice shall issue his warrant containing the statement of the offense, charged in the usual form, and the same proceedings and trial shall be had as in cases under the statutes for the recovery of penalties.

SECTION 5. Witnesses and jurors shall attend before the mayor and police justice in all actions for the violation of any ordinance, by-law or regulation of said city, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Witnesses to attend without prepayment of fees.

SECTION 6. In city prosecutions for the violation of any ordinance, by-law or regulation of said city, the defendant may call a jury as prescribed by law in justice courts in this state, and the trial shall proceed in the same manner and be governed by the same rules as in the trial of cases before justices of the peace. If the defendant be found guilty, the court shall render judgment thereon against the defendant for the fine, penalty, or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if he be found not guilty, the costs of suit shall be taxed against the city. In case the action was commenced by summons, upon the rendition of judgment against the defendant and the nonpayment thereof, the mayor and police justice shall forthwith issue execution as in cases of tort, or a commitment in case the action was commenced by warrant. Such execution may be in the following

City prosecutions.

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

Form of execution.

COUNTY OF LA FAYETTE — *City of Darlington* — ss.

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

WHEREAS, The city of Darlington, on the — day of —, 18 —, recovered a judgment before the undersigned mayor and police justice for said city, against A. B., for the sum of — dollars and — cents costs of suit, for the violation of (section —, chapter —, of this act, or section — of an ordinance or by-law or regulation of said city, describing it by its title), you are hereby commanded to levy distress of the goods and chattels of said A. B., excepting such as the law exempts, and make sale thereof, according to law, 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 the want of such goods and chattels whereon to levy, to take the body of the said A. B., and him convey and deliver to the keeper of the common jail in La Fayette county, and the said keeper is hereby commanded to receive and keep in custody, in said jail, the said A. B. for the term of —, unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law.

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

C. D., Mayor and Police Justice.

Appeal to circuit court.

SECTION 7. In all cases where the fine or judgment is more than five dollars (\$5.00), the defendant may appeal from such judgment to the circuit court of the county of La Fayette, provided such defendant, within twenty-four hours, pay to the mayor and police justice his costs, one dollar (\$1.00) for returns, and one dollar (\$1.00) state tax, and enter into a recognizance with one or more sufficient sureties, to be approved by such mayor and police justice, conditioned to appear before said court, and abide the judgment of the court therein. The mayor and police justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and copy of the entries on his docket, in the action, together with the

recognizance to be filed in the office of the clerk of said court.

SECTION 8. Said appeal shall stand for trial by jury, unless a jury be waived in a manner provided by law, in said circuit court, at the next term thereof, after the day of judgment of the mayor and police justice shall be rendered.

How appeal to be tried.

SECTION 9. If the judgment of the mayor and police justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, by-law, resolution or regulation of said city, under which he or they are prosecuted, and enter judgment against him or them, and their sureties, for such penalty, together with the costs in both courts, and enforce the same by execution, as in actions of tort, or by commitment.

When judgment is affirmed.

SECTION 10. Whenever, by the judgment of the police court, a person shall be sentenced to imprisonment in the county jail, or whenever, by the non-payment of a fine, in actions commenced by warrant, a person shall be committed to the said jail for a term exceeding one day, for a violation of any of the provisions of this act, or of the ordinances of said city, the court may also sentence such person to be kept at hard labor during the term of his imprisonment, on the streets and public works of said city, without the jail, as hereinafter provided.

Police court may sentence to hard labor.

SECTION 11. The labor thus to be performed shall be appropriate to the physical condition of the convict, and under the direction of the council of said city, which may adopt such orders, rules and regulations in relation thereto, as they may deem best, and the officer having the custody of such convict shall be governed thereby.

Labor to be appropriate to physical condition of convict.

SECTION 12. For the purpose of enabling the common council of said city to employ such convicts as hereinbefore stated, the county jail in such cases is hereby declared to extend to any of the streets or the public works of said city, and within the limits of the same, and outside the walls of said jail; and in all cases of such sentence it shall be stated in the commitment, and when so stated, shall be sufficient authority to enable the officer having such convict in charge to remove him from said jail to place of labor and back to such jail for safe keeping during the term of such imprisonment.

Limits of county jail.

SECTION 13. Chapter three hundred and twenty-six

Repealed.

(326) of the laws of 1865, approved April 7th, 1865, and published April 28th, 1865, entitled "An act to incorporate the village of Darlington," and all acts and parts of acts amendatory thereto, are hereby repealed.

Construction of
act.

SECTION 14. This act shall be considered as a public act, and shall be construed favorably in all courts and places, and shall take effect and be in force from and after its passage and publication; and it is hereby made the duty of the secretary of state to cause this act to be published in the official state paper immediately after its passage.

Approved February 23, 1877.

[Published February 28, 1877.]

CHAPTER 31.

AN ACT to appropriate to George B. Smith and Wm. F. Vilas a sum of money therein mentioned.

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

Appropriation.

SECTION 1. There is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of twenty-five hundred dollars to George B. Smith and William F. Vilas, one-half to each, in full payment for their services as counsel on behalf of the state in defending the action of Stephen D. Carpenter against the state of Wisconsin, in the supreme court.

SECTION 2. This act shall take effect on its passage.
Approved February 23, 1877.

[Published February 28, 1877.]

CHAPTER 32.

AN ACT to regulate the times of holding the circuit court in Portage county.

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

Terms of circuit
court.

SECTION 1. The terms of the circuit court for the county of Portage shall hereafter be held on the first Tuesday of March, and on the second Tuesday of November in each year.