

[No. 148, A.]

[Published March 21, 1882.]

## CHAPTER 132.

AN ACT relating to the city of Portage, and codifying, consolidating and amending the act of incorporation and all acts amendatory thereof.

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

## BOUNDARIES.

SECTION 1. All the district of country in the county of Columbia contained within the boundaries hereinafter described shall be a city by the name of "Portage," and the people now inhabiting and those who shall hereafter inhabit said district shall be a municipal corporation, the name of which shall be "The city of Portage." Said corporation shall have the general powers possessed by municipal corporations at common law, and in addition thereto the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with; of suing and being sued; pleading and being impleaded in all courts, and shall have a common seal and may change the same at pleasure. Corporate powers.

SECTION 2. The territory included within the following boundaries shall constitute said city of Portage, to wit: Beginning at a point in the center of Fox river, where the east and west quarter line of section number thirty-three (33), of township number thirteen (13), north of range number nine (9) east, intersects the center of said river, running thence west along the quarter line through sections number thirty-three (33), thirty-two (32), and thirty-one (31), of township number thirteen (13), north of range number nine (9) east, to the center of section number thirty six (36), of town thirteen (13) north, of range eight (8) east, thence south along the quarter line through section thirty six (36), of town thirteen (13) north, of range eight (8) east, and sections one (1) and twelve (12), of town twelve (12) north, of range eight (8) east, to the south quarter post of section twelve (12), in town twelve (12) north, of range eight (8) east, thence east along the south line of said section twelve (12), and of sections seven (7), eight (8) and nine (9), in town twelve (12) north of range nine (9) east, to the south quarter post of said section nine (9); thence north along the quarter line through sections nine (9) and four (4), till it intersects the easterly line of claim number twenty-one (21), known as Boundaries.

Grignon's claim, thence northeasterly along the east side of said claim to the center of Fox river, thence down Fox river along the center thereof to the place of beginning.

Ward boundaries.

SECTION 3. The said city shall be divided into five wards, the boundaries of which, for the present and until changed as hereinafter provided, shall be as follows, to-wit: All that portion of the city lying south and east of the canal connecting the Fox and Wisconsin rivers and north of the Wisconsin river, shall constitute the first ward; all that portion of the city lying north of said canal and east of Adams street, extended in a straight line to its intersection with the new Pinery road, and east of said new Pinery road, extended north to the north line of said city, shall constitute the second ward; all that portion of the city commencing at the canal bridge on Wisconsin street, running thence northwesterly along Wisconsin street to its intersection with Mac street, thence northerly along Mac street to its intersection with the railroad track of the Chicago, Milwaukee & St. Paul Railway, thence easterly along said railroad track to its intersection with Adams street, thence in a southerly direction along Adams street to the said canal, thence along said canal to the place of beginning, shall constitute the third ward; all that portion of the city which is bounded and described as follows, to-wit: Beginning on the northerly bank of the Wisconsin river, in the center of Cass street, running north through the center of said Cass street to the track of the Chicago, Milwaukee & St. Paul railroad, thence east along said track to the center of Mac street, thence south through the center of Mac street to the center of Wisconsin street, thence southeasterly through the center of said Wisconsin street to the canal which connects the Fox and Wisconsin rivers, thence westerly and northerly along said canal and river to the center of said Cass street, the place of beginning, shall constitute the fourth ward; all that portion of the city which is bounded and described as follows, to-wit: all that part of said city which lies west and south of the Wisconsin river, and all that part of the city which lies west of said Cass street, and south of said railroad track, and all that part of the city which lies north of said railroad track, and west of the new Pinery road, shall constitute the fifth ward. The council shall have power to change said lines of division as it may deem convenient and proper, but no such change

shall be made within the three months next preceeding any charter election.

SECTION 4. The corporate authority of said city shall be vested in one principal officer styled the mayor; in one board of aldermen, consisting of two members from each ward, who, with the mayor, shall be denominated the common council, and in such other officers as are hereinafter provided for or may be created under this act. Corporate authority, in whom vested.

#### ELECTIONS.

SECTION 5. The annual election for city and ward officers shall be held on the first Tuesday in April of each year, at such place in each ward as the council shall designate. Not less than five days' notice shall be given of the time and places of holding all elections, and of the officers to be elected, by publication in the official city paper. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as at such general election. In case a special election is to be held in the city other than for ward purposes, the council may order a single poll for the entire city, and appoint the place where the election is to be held, and the inspectors of election and clerks therefor. Each ward officer shall be a qualified elector in the ward in which he is elected and each city officer shall be a qualified elector in the city. Elections.

SECTION 6. The officers to be elected by the people shall be a mayor, treasurer, marshal, clerk, assessor, a superintendent of schools, three justices of the peace, and three constables for the city, and two aldermen for each ward. All other necessary officers shall be appointed by the council. All elective officers, except justices of the peace and aldermen, shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the council shall have power, for due cause, satisfactory to them, to expel any of their own number, and to remove from office any officer or agent of the city except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The term of office of every officer elected under this act shall commence on the second Tuesday in April of the year for which such officer is elected; Officers to be elected.

Term of office.

except that of superintendent of schools, which shall commence on the second Tuesday of July, next succeeding his election, and the term of office of all appointed officers shall expire on the second Tuesday of April next succeeding their appointment, unless sooner removed.

When vacancy shall occur.

SECTION 7. Whenever a vacancy shall occur in the office of mayor or alderman, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

SECTION 8. In all elections by the people a plurality of votes shall constitute an election. In case 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 council, at such time and in such manner as it may direct.

Insufficient qualifications.

SECTION 9. Whenever any officer shall cease to possess the qualifications necessary for his election, his office shall be deemed vacant; and any officer who shall neglect or refuse to qualify within ten days from the time he shall be notified of his election shall be deemed to have vacated his office.

Inspectors shall make returns.

SECTION 10. Whenever an election shall be held under this charter, the inspectors of election shall forthwith make their returns, stating the number of votes cast for each person for each and every office, to the city clerk. Within one week after an election, the council shall meet and canvass said returns, and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected, of their election.

Terms of office.

SECTION 11. Aldermen shall hold their office for the term of two years, one of whom, from each ward shall go out of office annually.

#### OFFICERS — THEIR POWERS AND DUTIES.

Powers and duties of officers.

SECTION 12. Every person elected or appointed to any office under the city charter except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city; and the clerk, marshal, constable, and

such other officers as the council may direct shall severally, before they enter upon the duties of their respective offices, execute to the city of Portage a bond, with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts exemptions or liabilities, and said bond shall contain such penal sums and such conditions as the council shall deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, and not more than ten, sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities or exemptions, and the aggregate of such amounts shall at least exceed the penal sum specified in the bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city; and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the council.

SECTION 13. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state and the 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 council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and to appoint a marshal in place of the one he may remove, but the term of office of a marshal who may be appointed by the mayor shall not commence until his nomination has been approved by a majority of the council. The mayor shall have a vote in the council only in case of a tie, except when the council shall be engaged in the election of any officer, in which proceeding he shall have a vote the same as an alderman. When presiding over the council his style shall be "Mr. President."

SECTION 14. The mayor shall have power to veto any ordinance, act or resolution passed by the council, or the allowance of any claim by notifying the council

Duties of mayor.

Powers of mayor.

of his objections 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 the clerk shall thereupon call a special meeting of the council, by giving notice in the same manner as other special meetings are called, to consider such veto and objections, and in case the council shall not within one week after receipt of such objection or such filing with the clerk, re enact such ordinance, or pass such resolution by the vote of two-thirds of the aldermen-elect, the same shall be null and void. If the mayor shall not return any ordinance, act, resolution or claim within seven days after the passage or allowance thereof, it shall take effect in the same manner as if he signed it.

Shall elect  
president.

SECTION 15. At the first meeting of the council after its election in each year, it shall proceed to elect by ballot, one of its members president, and in the absence of the mayor, the said president shall preside over the meetings of the 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 mayor. In case both the mayor and president shall be absent at any meeting of the council it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by him shall have the force and validity as if performed by the mayor.

Duties of clerk.

SECTION 16. The clerk shall keep the corporate seal, and all papers and records of the city, and keep a record of the proceedings of the 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 council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the council, and keep a full and accurate account thereof in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the council may appoint a clerk pro tem. The city clerk shall have power and authority to administer oaths and affirmations.

\* SECTION 17. The treasurer 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. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the council shall direct. He shall report to the council as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties and be subject to the same liabilities as treasurers in towns. No person having been city treasurer for two years in succession shall be eligible to a re-election until one year shall have elapsed, nor shall any person who has been city treasurer be appointed deputy treasurer for the term immediately succeeding his term of office. The salary of the treasurer shall not exceed \$400 per annum and shall be payable quarterly.

Duties of treasurer.

SECTION 18. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed by the mayor and when necessary, in criminal cases, or in case of the violation of any ordinance of said city or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service, but he shall receive no fees for services performed in behalf of the city. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinance of said city. He shall have the power to appoint one or more deputies, to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Duties of marshal.

SECTION 19. 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 pre-

May require other duties.

scribed; and to appoint such other officers as may be necessary to carry into effect the provisions of the city charter, and to prescribe their duties, and to fix the compensation of all officers appointed by them where the compensation is not fixed by statute. The council shall, at least ten days before the annual charter election in each year, fix, by resolution, the salary which shall be paid to the clerk, treasurer, marshal, assessor, and school superintendent for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted except by unanimous vote of the council, which vote shall be approved by the mayor.

Official news-  
paper.

SECTION 20. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper, printed in said city, which shall be the official paper of the city, in which shall be published all ordinances and other matters required by the city charter or the by-laws or ordinances of the city to be published in a newspaper.

Official publi-  
cation filed  
with clerk.

SECTION 21. The city printer or printers immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the clerk of the city a copy of such publication with his or their affidavit, or the affidavit of his or their foreman of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution, as stated in such affidavit.

Shall deliver to  
successor.

SECTION 22. 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 of every description in his possession belonging to said city or pertaining to the office he may have held he shall forfeit and pay to the use of the city a sum not exceeding one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

Shall not be in-  
terested in any  
job.

SECTION 23. No alderman shall be a party to or interested in any job or contract with the city, and any contract in which an alderman may be so interested shall be null and void; and in case any money shall have been paid by or for the city on any such contract, the council may sue for and recover the amount so paid; provided, however, that this section shall not prevent the council from leasing any of the public

grounds of the city in such manner and to such parties as it may see fit to do. The mayor of the city shall, when the council votes to lease any of the public grounds, execute a lease of such grounds. The said lease shall be signed by the mayor and countersigned by the city clerk, and be sealed with the corporate seal of the city and be duly witnessed and acknowledged, as is provided for the execution of deeds and conveyances.

SECTION 24. The mayor or acting mayor, sheriff of Columbia county, and each and every alderman, justice of the peace, marshal, constable and watchman 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 purposes, may command the assistance of all bystanders, and, if need be, of all citizens; and if any person, by-stander, military officer or private shall refuse to aid in maintaining the peace, when so required, every such person shall pay a forfeiture of not more than fifty dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present in the order above mentioned in this section, shall direct the proceedings.

SECTION 25. The council may elect a city engineer, and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk and shall be open to the inspection of the public.

SECTION 26. All actions to recover any penalty or forfeiture under the city charter, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All forfeitures and penalties collected by any justice in such cases shall be paid over to the city treasurer. Each justice shall report to the council on the first Monday in January, April, July and October in each year, a statement of all such forfeitures and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

SECTION 27. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect and his office shall be

deemed vacant from the time such resignation shall be accepted by the council.

Regarding  
bonds.

SECTION 28. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made by the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed and approved as by the city charter provided.

#### THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Powers and du-  
ties.

SECTION 29. 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 Portage do ordain," etc. The council shall meet at such time and place as it shall fix upon. A majority of the aldermen shall constitute a quorum.

Stated meet-  
ings.

SECTION 30. The council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual places of business or abode. The council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members.

Control of  
finances.

SECTION 31. The council shall have the management and control of the finances, and of all the property of the city; and shall likewise, in addition to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules or 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 ordinances, resolutions or by-laws:

Licenses.

1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, pool tables, bowling saloons, and to provide for the abatement and removal of all nuisances

under the ordinances or at common law; and to grant licenses, and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors.

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

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. Riots, &c.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler 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 deemed necessary for the health, comfort and convenience of the inhabitants of said city. Nauseous places.

5th. To direct the location and management of slaughter houses and markets, and regulate the storage, safe keeping and conveying of gunpowder or other combustible materials. Slaughter houses.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with carriages, carts, wagons, sleighs, boxes, lumber, fire wood, or any other material or substance whatever. Encumbering streets.

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

8th. To restrain the running at large of cattle, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to prevent the keeping of swine within any portion of the city where their presence may be offensive to the inhabitants in the vicinity, or may be regarded as nuisances. Restrain cattle.

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 ordinance. 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 the owner thereof, or by the per- Putrid carcasses.

son who shall have upon his premises any such substance or putrid or unsound beef, pork, fish, hides or skins of any kind, and on default, to authorize the removal thereof by some competent officer at the expense of such person or persons.

**License hacks,  
etc.**

11th. To regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen, and cartmen in the city.

**Boards of  
Health.**

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use from taxation. In case the original plat of any grounds laid out and used as a cemetery shall not have been recorded, such original plat or a certified copy thereof may be filed by the party making the same, or his heirs, administrators, or legal representatives, or by any officer of said city, to whom the same may be delivered for the purpose of being filed and recorded, and all sales and conveyances made in accordance with said plat before the same was filed and recorded, shall have the same force and effect as they would have been entitled to had said plat been in the first instance filed and recorded.

**Bread.**

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

**Animals on  
sidewalks.**

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

**Discharging  
fire arms, etc.**

15th. To prevent the shooting of firearms or fire-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.

**Drunkenness.**

16th. To restrain drunkards, immoderate drinking, vulgarity, 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.

**Runners, etc.**

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses, or other establishments, and to regulate the police of the city.

**Public mar-  
kets.**

18th. To establish public markets, and to 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 intercepting or interfering with the due observance of such rules and regulations.

19th. To license and regulate butcher's stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish, and other provisions. Butchers.

20th. To regulate the place and manner of the weighing and selling of fuel, hay, and lime, and to appoint suitable persons to superintend and conduct the same. Selling fuel,  
etc.

21st. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct; and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant. Remove snow,  
dirt, etc.

22d. To regulate, control and prevent the landing of persons from railroad cars, 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. Contagious diseases.

23d. To license auctioneers, peddlers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers, peddlers and transient dealers. License auctioneers.

24th. To appoint watchmen and prescribe their powers and duties, but the powers of watchmen in making arrests and in taking prisoners before magistrates and committing them to jail shall be the same as those of constables. Watchmen.

SECTION 32. All ordinances shall be passed by an affirmative vote of a majority of the council, and shall be signed by the mayor, and shall be published in the official paper of the city, but no ordinance shall be in effect until ten days after its publication, and within fifteen days after such publication, they shall be recorded by the city clerk in books provided for that purpose; but before any of the said ordinances shall be recorded, the publication thereof respectively within the time hereinbefore provided shall be proved by the affidavit of the foreman or publisher of such newspaper and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication. Ordinances,  
how passed.

SECTION 33. 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 according to law. Gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

Audit and adjust accounts.

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

#### STREETS, ALLEYS, ETC.

Grading streets, alleys.

SECTION. 35. The council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in any ward shall, by petition, represent to the council that it is necessary to take certain lands within the ward where such petitioners reside for public use, for the purpose of laying out public squares, grounds, streets, or alleys; or enlarging or widening the same, or to use certain lands within the ward for the purpose of constructing and repairing sewers and drains, giving the courses and distances, metes and bounds of the lands proposed to be taken or used as aforesaid together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the council shall, if

it deems it necessary to take or use such lands for the purpose specified in such petition, cause notice of such application to be given to the owners of such land, in case such owner or owners shall reside in the city of Portage, and to the occupant or occupants of such land, if any there be, which notice may be served personally or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if any portion of such lands shall not be in the actual occupation of any person, then the council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper of the city, for four successive weeks, at least once in each week.

SECTION 36. Such notice shall state that on a certain day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Columbia for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition. Should any of the lands proposed to be taken or used belong to the county judge, the application shall be made to the sheriff of the county.

What notice shall state.

SECTION 37. Upon presentation of such application and upon proof of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors twelve reputable freeholders, residents of the city, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept directed to said jurors, requiring them within thirty days from the date thereof to view such premises, to be specified in said precept, and to make return under their hands to the council, whether in their judgment it is necessary to take or use said premises for the purposes specified in such application.

Appoint jurors.

SECTION 38. If any juror so appointed shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or sheriff shall appoint another in his place, and a memorandum of such substitution shall be endorsed on the precept.

If jurors refuse to act.

SECTION 39. The said jurors, having first taken the oath hereinafter provided for, shall at such times as

How to proceed.

they may agree, 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 witnesses.

Viewing the premises.

SECTION 40. After viewing the premises 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 or use the premises in question for the public use; which said report, testimony and precept shall be returned to the council within the time limited therein.

Report of jurors.

SECTION 41. Should the jurors report that it is necessary to take or use such premises, the council shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the council; provided, however, that in case of sewers and drains the said jurors need not view the premises to be benefited or assess the benefits thereon.

In case buildings are on the lands.

SECTION 42. If there should be any buildings standing, in whole or in part upon the lands to be taken or used, the jurors, before proceeding to make their appraisements, shall first estimate and determine the whole value of the land, and secondly, the value of such buildings to remove, except in cases of sewers and drains.

Notice to be given.

SECTION 43. 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 persons interested shall be given by publication in the official paper of the city, three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear on a day to be therein named, and give notice of their election to the 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, at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the council may allow.

SECTION 44. If the owner refuses to take the building at the value to remove, or fails to give notice of his election as aforesaid within the time prescribed, the 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 city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor, provided it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

If owner refuses to take building.

SECTION 45. The said jurors, within the time limited, shall view and examine the premises proposed to be taken or used, and all such other premises as will in their judgment be benefited thereby; provided, however, that in case of sewers or drains the said jurors need not examine the lands benefited. After hearing such testimony as may be offered, 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 value of the real estate so proposed to be taken or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners 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.

Jurors shall view premises.

SECTION 46. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the jurors shall strike a balance and carry the differences forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall in any case be collected of them or payable to them.

If benefits be greater than damages.

If belonging to  
different per-  
sons.

SECTION 47. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage, or other incumbrance, if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively from the proposed improvement.

Jurors shall ap-  
portion.

SECTION 48. Having ascertained the damages and expenses of the proposed improvements as aforesaid the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate by them deemed benefited in proportion to the benefits resulting thereto from the proposed improvement as nearly as can be, and shall describe the real estate upon which their assessment may be made and state the amount assessed upon each separate tract; provided, however, that when the lands are used only for the purpose of a sewer or a drain the damages shall not be assessed upon the lands benefited, but shall be paid by the city as provided by law. The award of the said jurors shall be signed by them and returned, together with the testimony taken, to the council within the time limited, in their order of appointment, and shall be final unless appealed from in the manner hereinafter provided.

Land shall be  
taken and ap-  
portioned.

SECTION 49. The land required to be taken or used for the purposes mentioned in this act shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or, in case said parties or agents cannot be found or are unknown, deposited to their credit in some safe place of deposit to be determined by the council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

Covenants  
void.

SECTION 50. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance shall be taken or used by virtue of the city charter, all the covenants, contracts or liabilities relating to the same or any part thereof shall, after the ex-

piration of the time for appeal, as herein provided, respectively cease and be absolutely discharged.

SECTION 51. When only part of the lot or tract of land or other premises so under lease or other contract or incumbrance shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrances shall be absolutely discharged as to the part thereof so taken, or used, but shall remain valid as to the residue thereof; and the rents, liens and payments due from or on account of the same, shall be so appropriated that the part thereof justly and equitably payable for such residue, and no more, shall be paid or recoverable for or in respect of the same.

When only a part is taken.

SECTION 52. The damages assessed on each separate lot or tract 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 as to any lot or tract on which they are so unpaid shall be void, the benefits so assessed from the expiration of the time for appeal shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected. The amount so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

Damages on each separate lot shall be assessed.

SECTION 53. When any known owner of lands or tenements affected by any proceedings herein provided for shall be an infant or labor under disability, the judge of the circuit court of Columbia county, or the county judge may, upon the application of the council or such party by his next friend, appoint a guardian for such party, and all notices required by the city charter shall be served upon such guardian in the same manner as if he were the party interested.

Infants in law.

SECTION 54. The jurors herein provided for shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Jurors shall each take an oath.

- Appeal.** SECTION 55. The council or any party interested may, within twenty days from the return of the jurors to the council of the benefits and damages so assessed, appeal to the circuit court of Columbia county from the decision of said jurors so far as it affects the interests of said appellants. Notice of such appeal shall be filed by the appellant with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct.
- Assessment of damages.** SECTION 56. In case the total amount of damages and cos's awarded by the jurors, and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the council, and founded thereon, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk, under the direction of the mayor and council, upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be collected in the same manner.
- Survey.** SECTION 57. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.
- Vacating streets, alleys, etc.** SECTION 58. No street or alley, or part thereof shall be vacated except upon the petition of the owners of three-fourths of the front upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by parties interested.
- Change the name of streets.** SECTION 59. The council shall have power to change the name of any street and to vacate any plat or portion thereof that may be petitioned for by the proprietors of such plat, or any person interested therein; but no petition for such vacation shall be acted upon unless notice of such application to the council shall have first been published in the official city paper for at least two weeks prior to the meeting of the council.
- Shall not apply to unplatted lands** SECTION 60. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the council through unplatted lands in the same manner as roads are laid out by supervisors in towns.
- Directory only.** SECTION 61. All the directions given in the foregoing sections from 34 to 59 inclusive, shall be deemed only

directory, and no error, irregularity or informality of any of the proceedings thereunder, not affecting substantial justice, shall in any way affect the validity of the proceedings.

#### CITY IMPROVEMENTS.

**SECTION 62.** The council shall have power to order and contract for the making, grading, paving, macadamizing, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters, sewers, drains and sidewalks in the manner hereinafter mentioned and direct and control the persons employed therein. City improve-  
ments.

**SECTION 63.** The cost and expense of surveying streets, alleys, sidewalks, drains and sewers, and of estimating work thereon in the execution of any public improvement and of repairing streets, shall be charged to and payable by the city. The cost and expense of opening, grading and paving or macadamizing streets and alleys and constructing or repairing sidewalks shall be chargeable to and payable by the lots fronting on such street or alley, so that each lot or parcel of land shall pay for the work done between the front of such lot or tract of land and the center of such street or alley. Sewers and drains may be ordered by the council, and all costs and expenses as well as the damages which shall be sustained by owners of lands through which the same shall pass shall be charged to and payable by the city. Cost of survey-  
ing streets, etc.

**SECTION 64.** Whenever the council shall determine to make any public improvement, as authorized by the two preceding sections, it shall fix the time wherein which such work shall be done, and shall give notice by advertisement, to be published once a week for three successive weeks in the official paper of the city, to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk ordered to be improved, requiring them to do the work mentioned in such notice within the time fixed by the council for the doing of the same, to be therein specified. If said work shall not be done within said time, the street commissioner shall immediately proceed to advertise and contract for doing the same at the expense of the lots upon which such work is chargeable. Proposals shall state a gross amount for doing the work in front of any lot, and the contract shall be awarded to the lowest responsible bidder. This section shall apply to streets which have heretofore been ordered graded as well as to streets which may hereafter be ordered graded. The council may direct the letting of such City improve-  
ments, how  
made. ...

work in whole or in part; all bids for doing the same to be approved by the mayor, who shall have power to reject any and all bids, and may require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as he shall direct; such contract shall be executed on the part of the city by the mayor, and countersigned by the city clerk; notice of the time and place of receiving bids under this section shall be published for ten days in the official paper of the city.

Paving streets,  
etc.]

SECTION 65. Whenever the council shall require any street to be paved or macadamized, or any gutter to be constructed, it shall determine the manner in which the work shall be done, and of what material, and the street commissioner or such other person or officer as the council may designate to have charge of the work shall let a contract for doing the whole of such work. Public notice of the letting of such contract shall be given by advertisement in the official paper of the city for at least twenty days, and the contract shall be awarded to some responsible bidder whose bid it shall deem most reasonable and proper. The cost of such paving or macadamizing, or of constructing such gutter, shall be chargeable to the lots fronting on the street, so that each lot or parcel of land shall bear its proportionate amount of the expense of such paving or macadamizing, or of constructing such gutter according to its frontage on the street, but the expense of all engineering and grading necessary to be done to prepare a street for paving or macadamizing, or the constructing of a gutter, shall be payable by the city.

If no bids are  
received.

SECTION 66. In case no bids shall be received for the performance of any work required to be done by order of the council it may cause such work to be done under the supervision of the street commissioner or a committee of the council, and the expense for doing the same shall be apportioned and assessed to each lot, according to its frontage on the street, and the amount shall be collected in the manner provided for the collection of other special taxes.

Deep cuttings,  
etc.

SECTION 67. Whenever the general interest of the city requires deep cutting or extraordinary filling in any street, and the owners of the lots or lands affected by such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council, in writing, within twenty days after the passage of the ordinance requiring the work to be done, that

the expenses of such excavation or filling will exceed the proportion that should be justly and equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward, nor owners of nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if, in their opinion, the costs of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and to what lots and parts of land on the streets so improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof as soon as practicable, in writing, to the council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided in case such owners shall not do such work and the remainder shall be assessed upon the lots benefited by such improvement, in proportion to their respective benefit as determined by said jury; the sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expense as assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the council may require a bond for the payment of the same on the filing of the petition; provided, also, that the petition of no owner, feeling himself aggrieved, shall be received unless the same shall be presented within twenty days after the publication of the notice requiring the same to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands, to the amount of the costs and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury as herein provided.

SECTION 68. The council shall give written notice to all owners or occupants of lots upon which stagnant

Notice to owners of lots.

waters may be, which may be deemed injurious to health by reason thereof, to abate such nuisance by draining or filling such lot within a reasonable time to be specified in such notice, and if such nuisance shall not be abated or removed within the time so specified, the council shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

Payment for  
work.

SECTION 69. After the completion and performance of any contract entered into by the street commissioner for work chargeable to lots or lands by virtue of this act, he shall give the contractor or contractors a certificate under his hand, stating therein the amount such contractor is entitled to, and the description of the lot or parcel of land upon which the same is chargeable; which said certificate may be transferred by endorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and shall be assessed upon the said lots or parcels of land respectively, and collected therefrom for the use and benefit of the holder of such certificate as other taxes on real estate are collected by virtue of the laws of this state, except that personal property shall not be seized or sold for the payment thereof 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 such assessment. When the tax shall have been paid to the city treasurer, he shall pay over the amount on order of the council to the persons entitled to receive it. But if the tax on such lot shall not be paid while the roll is in the hands of the city treasurer, it shall be returned to the county treasurer as delinquent, and be received by such treasurer and collected as other delinquent taxes are received and collected. Then the city shall issue a city order to the amount assessed against the lot in favor of the contractor, upon his application to the council so to do. But in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or county be held responsible for or on account thereof, or of any proceeding for the collection of the pay therefor, except as hereinbefore provided. This provision shall apply as well to work already done or ordered to be done at the expense of particular lots as that which may be done hereafter.

When work is  
done by own-  
ers of lots.

SECTION 70. In all cases where work is ordered to be done by the owner of any lot, under the provisions of the city charter such owner may make his appeal as

hereinbefore provided at any time within twenty days after the publication of the notice required to be given, and while such appeal is pending no order shall be executed.

SECTION 71. The council shall appoint a street commissioner for the city, or may by resolution require that the city marshal shall be such street commissioner, who shall have all the powers and perform all the duties required of the street commissioner. The general powers and duties of the street commissioner shall be the same as those of overseers of highways in towns, except as otherwise herein provided. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the streets, alleys, public grounds, reservoirs, gutters, sewers, waters of the lakes and water courses within the city are duly observed and kept, and direct and control the persons employed thereon; and he shall have a general supervision over all work let by contract for the improvement of the streets or sidewalks unless the council shall otherwise provide. Such street commissioner shall be under the direction and control of the council, and he shall make no orders or give any directions for the improvements of streets, unless such improvements have previously been authorized by the council, or a committee of the council acting under authority. Whenever any place shall occur in any street whereby the life or property of persons using the street becomes endangered, the street commissioner shall proceed at once to repair such street to a safe and passable condition.

SECTION 72. It shall also be the duty of the street commissioner, whenever in his opinion any portion of a sidewalk shall be out of repair or in a dangerous condition, to serve a written notice upon the owner or occupant of the lot adjacent to which such defective sidewalk shall be, if a resident of said city, to immediately repair the same, and if said owner or occupant fail to repair the same forthwith, then and in that case the same may be repaired by the street commissioner at the expense of the lot adjoining said defective sidewalk; provided, however, that the expense to be charged to any lot for any such repairs shall in no case exceed the sum of five dollars, unless such repairs shall be made according to the provisions of the city charter; service of such written notice at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with

Street commissioner.

Sidewalks out of repair.

the agent of the owner, shall be deemed service upon such owner or occupant; and in case the owner of such lot is not a resident of said city or his residence is unknown, and such owner has no agent in said city known to the street commissioner, then and in that case it shall be the duty of the street commissioner to forthwith repair the same without notice to the owner of the adjoining lot, at the expense of such lot as hereinbefore provided. The street commissioner shall also have the same powers and duties in relation to removing obstructions from any of the streets in said city as town boards of supervisors have in removing obstructions from highways.

Removal of  
gravel, etc.

SECTION 73. Any owner of a lot may remove the earth, gravel or material of any kind from the street adjacent to his lot, prior to the grading of the same, at his pleasure, but in doing so he shall not impair the usefulness of the street. The street commissioner, however, may take material from any point in the street to make ordinary and necessary repairs elsewhere upon such street. When any street shall have been ordered graded and the time for doing such work shall have expired without its having been performed, the city may take such material from the street in front of or adjacent to any lot as is not necessary for the purpose of bringing such street along such lot to the established grade, or may authorize any person to take it and use it upon any street of the city.

Term of office.

SECTION 74. The street commissioner shall hold his office for the term of one year from the second Tuesday in April of the year in which he is appointed, unless removed by the council, and shall, before entering on the duties of his office, give a bond to the city of Portage, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than five hundred dollars, conditioned to render an account to the council whenever required by law or the ordinances of said city, or by a vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse and pay over as required by law or the ordinances of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Inspector of  
alleys.

SECTION 75. In order to secure a proper and faithful observance of the ordinances of the city relating to the cleaning of alleys, the council may appoint an in-

spector of alleys. If the power conferred by this section be exercised by the council, it shall by resolution designate the blocks which shall be under his supervision, and shall define his duties, and in the discharge of them he shall be invested with all the authority of the street commissioner and a police officer. The council may provide for defraying the expenses incurred under this section, by levying a special tax on each lot placed under the supervision of the inspector of alleys, not exceeding one dollar for each lot in any one year, but no special tax shall be assessed on any lot under this section which shall have been kept in a proper condition by the owner or occupant thereof.

SECTION 76. The council may provide for the construction and maintenance of a sidewalk of such width and material and in such manner as it may deem best, from Cass street to Silver Lake Cemetery, and to provide for the payment of the expense incurred in constructing such walk from the general fund of the city. Building side-  
walks.

SECTION 77. The council shall have power to purchase a stone crusher and to purchase stone and cause the same to be broken and prepared for use in improving the streets of the city, and in cases where owners of lots are required by ordinance to improve the streets in front of the lots owned by them, and broken stone are required to be used in making such improvements, the council may sell to said owners of lots the stone required at a price not exceeding the cost thereof. The council may, with the consent of the sheriff or of the board of supervisors of Columbia county, deposit stone when brought upon the grounds connected with the jail of said Columbia county, and may use in breaking said stone such labor of prisoners under sentence in said jail as the sheriff will furnish, or may use said labor in breaking stone or in doing any other work in any part of the city. Stone crusher.

SECTION 78. The council shall have power to require the owner of any lot or grounds in said city to set out ornamental or shade trees in the street in front of the same, and to protect and preserve them, 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. It shall also have the power to determine the lines on which the trees shall be set, the places where they shall be set, the kind and size of the trees to be set, and the manner of protecting them, and for replanting them, when they have died or been so injured as to fail to answer the Ornamental  
trees.

purpose for which they were set out, and to prohibit the setting out of any trees that may be regarded as nuisances, and to order their removal where they have hitherto been set out. It shall also have power to provide for and direct the trimming of shade trees to proper proportions, and to do all other needful acts as to them may seem just and proper, to give this section proper effect.

#### FINANCES AND TAXATION.

Finances.

SECTION 79. All funds in the city treasury, except school, state and county funds, shall be under the control of the council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they are drawn. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

No debts to be contracted.

SECTION 80. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same, in case it exceeds fifty dollars, shall be entered by ayes and nays upon the journal of the council; and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by the city charter, and for the payment of indebtedness now existing.

Forfeitures to go into general fund.

SECTION 81. All forfeitures and penalties accruing to the city for a violation of the city charter, 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 the city charter. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of three fourths of all the aldermen.

No property exempt.

SECTION 82. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under the city charter shall have and possess the same powers and perform the same duties as are or may hereafter be conferred upon and required by assessors of towns; provided, however, that the council may prescribe the

form of assessment roll, and more fully define the duties of assessors.

SECTION 83. The county board of supervisors shall have the right to regard the city of Portage as a town in equalizing the assessment rolls of the several towns in Columbia county, 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. City to be regarded as a town in assessing.

SECTION 84. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be authorized by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to 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. Levy taxes.

SECTION 85. Upon receiving the statement of the amount of taxes so levied the city clerk shall, upon a uniform percentage, compute and carry out upon said assessment roll, or a copy thereof, in one item opposite to each valuation in said assessment roll, the amount required to be raised upon such valuation to make the whole amount of taxes so certified, together with such city and other local taxes as are to be levied uniformly upon all the taxable property in the city; and all other taxes, if any, shall be entered in separate columns, opposite the valuation of the property, to be charged in a separate column, under the head of "taxes unpaid for previous year." The city clerk shall enter opposite each tract of land so returned to him by the county clerk, the year for which such tax remains unpaid. The city clerk shall enter upon said roll a general statement showing the several amounts of taxes levied on the city, or any part thereof, and for what purpose; said roll, when so completed, shall be known as the tax list of the city of Portage, and shall be preserved by said clerk as a record in his office. Town clerk shall compute taxes.

SECTION 86. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state that every act or thing required by law to be done relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regularly, correctly and as required by law. Shall be prima facie evidence.

SECTION 87. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy Duplicate copies.

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 the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office.

Treasurer shall collect taxes.

SECTION 88. The city treasurer, upon the receipt of such duplicate tax list, shall proceed to collect the same in like manner, and shall have like power and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise herein provided. All taxes may be paid to the treasurer before the tenth day of January in each year, without any addition thereto for treasurer's fees. To the taxes paid after the tenth day of January, five per cent. treasurer's fees shall be added, which fees when collected shall be paid into the treasury of the city for the benefit of the general fund.

Shall make return to county treasurer.

SECTION 89. The said treasurer shall make out and return to the treasurer of Columbia county, at the time required by law in the case of towns, a list of all lands and lots upon which the taxes have not been paid, and shall also settle with, and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers. The said treasurer shall also, by the same time make out and deliver to the city clerk a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest penalties or fees to such delinquent returns as are allowed or required by law upon the delinquent returns from the several towns.

County treasurer shall sell.

SECTION 90. The county treasurer shall sell all delinquent lands and lots returned from the city of Portage at the same time and in the same manner as other delinquent lands are sold in the county.

All lands subject to taxation.

SECTION 91. All real estate exempt from taxation by the laws of this state shall be subject to all special taxes for the building of sidewalks and improvements of streets in front of the same.

Farming lands.

SECTION 92. All lands lying within the city limits not divided and laid out into lots or blocks, and all out lots, not subdivided and numbered by such subdivision, which may be used, occupied, reserved or held

for agricultural purposes, shall be assessed as farming land, and shall not be subject to any special taxes.

SECTION 93. All the directions hereby given for the assessing of lands and the levying, collection and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted 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. Directory.

SECTION 94. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, they shall specify the amount to be raised and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election. Fire engines.

SECTION 95. The city treasurer shall receive nothing but coin, or coin certificates, treasury notes or national currency, for taxes, licenses or other dues of the city, and is prohibited from receiving county, city, school or other orders in payment of city dues. Lawful money.

SECTION 96. It shall be the duty of the council to always provide for the prompt payment of all orders drawn on the city treasury, and it shall have power to negotiate temporary loans, at the legal rate of interest, for the supplying of all funds to meet any deficiency in the treasury. Providing for payment of orders.

SECTION 97. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council. When money is out of treasury.

SECTION 98. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then judgments; then all special taxes, in the order in which they were levied; then taxes for bridge purposes; then taxes for fire purposes; then taxes for streets and public improvements; and lastly, county taxes. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner prescribed by the general laws of the state. What taxes shall be first paid.

When council shall meet before election.

SECTION 99. The council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of its unfinished business, and shall not thereafter, prior to the second Tuesday of April following, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of their terms.

Surplus money.

SECTION 100. All surplus moneys in the city treasury not belonging to the school fund may, by direction of the council, be temporarily used for the purpose of paying orders drawn on any other funds, but all funds so used shall be replaced.

#### FIRE DEPARTMENT.

Fire department.

SECTION 101. The council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the removal of buildings into such fire limits or the removal of any building or buildings situated or located within said fire limits to or on any other lot or lots within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, 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 damages. The council shall have no power to authorize wooden buildings to be moved into the fire limits or from one point within the fire limits to another point within the fire limits.

Regulate construction of buildings.

SECTION 102. The council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure 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 it shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, 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; to compel by-standers to aid in the extinguishment of fire, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires and the protection of property at fires as it may deem expedient, and enforce the foregoing provisions and the ordinances by suitable penalties.

SECTION 103. The council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulations of the same, and to disband any such companies at any time, and prohibit their meetings as such when disbanded, which companies shall be officered and governed by their own by-laws, provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every member of any company in said city shall be exempt from serving on juries and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, or bucket and hose company, shall have served therein for ten years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid.

Shall organize fire, hook and ladder companies, etc.

SECTION 104. The council shall have power to raise a tax each year, not exceeding five mills on the dollar of the taxable property within said city for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom shall be expended under the direction of the council, for fire purposes.

Tax to be raised.

SECTION 105. The council is hereby authorized and empowered to construct water works for the purpose of supplying the city and the inhabitants thereof with water for the extinguishment of fires and for other purposes; for that purpose, is authorized to open, construct and maintain an open channel of such depth and width as it shall determine, from such point within the limits of said city near the left bank of the Wisconsin river, to such point within the limits of said city in the Fox river, as may be determined, and may build, construct and maintain a dam at the commencement of said channel near the Wisconsin river, and between said dam and the Wisconsin river, may build,

Water works.

construct and maintain an open basin or reservoir of such size and with such inlet or inlets from the Wisconsin river as the council of said city shall determine, and may open and construct drains, sewers, aqueducts, mains, and purchase or construct water wheels, pumps and machinery for elevating and forcing water through mains and pipes and all other works and appendages necessary or proper to the successful construction and operation of water works to supply said city and the inhabitants thereof with water, and to establish water rates and provide for the collection thereof; and the council, in addition to the powers herein specifically granted to it, shall have power to pass and adopt all such ordinances, resolutions and orders as may be necessary or proper to construct, maintain, operate and regulate such water works; and, for the purpose of operating the same, to apply such portion of the water power created by said dam and channel as may be necessary for the successful and efficient operation thereof.

May rent water power.

SECTION 106. In case the basin or reservoir, dam and channel, hereby authorized to be constructed shall create any water power not immediately or continuously needed to propel the machinery and maintain and supply the mains connected with said water works, the council is hereby authorized and empowered to let, lease and rent such surplus water power, or any part or portion thereof, for manufacturing or other purposes which may not be needed to operate and supply such water works, and may fix the price for such lease or rent, and may also let, lease and rent for any purpose, the basin or reservoir, and the dock and piers forming said basin or reservoir, and the lands taken on each side of said channel or any parts or portion thereof, and may fix the price for such lease or rent.

May take possession of all lands required.

SECTION 107. The council may enter upon and take possession of any and all lands required for the building of said basin or reservoir, dam and channel, to a distance not over one hundred feet each way from the general outline of said basin or reservoir, and not over one hundred and twenty-five feet on each side of the center line of said channel. The damage sustained by any person whose lands shall be so taken by said council shall be ascertained and paid by said city in the same manner as damages for lands taken by supervisors of towns for highways, as provided in chapter 52 revised statutes of 1878, and the said council is hereby authorized and required to proceed in the same manner and

take the same action in relation to determining said damages as is provided for supervisors of towns in said chapter 52.

**SECTION 108.** The council may issue the bonds of said city for the purpose of constructing the works authorized by this act at such times as it may determine. But no bonds shall be issued until the council shall have caused to be made a survey and estimate of the cost of the works necessary to create the water power, an estimate of the amount of water power which such works will create, the cost of the necessary works to furnish said city with a sufficient supply of water for such uses and purposes as said council may determine, and of the amount of water power required therefor, and such estimates shall have been filed in the office of the clerk of said city, and the question of constructing such works and issuing such bonds shall have been fairly submitted to a vote of the legal voters of said city in such a manner as the council may, by ordinance, determine and provide, and decided in favor of such works and of issuing such bonds by a majority of the votes cast at such election. Such bonds shall be of such denominations and draw such rate of interest as the council may determine, not exceeding 7 per cent. per annum, and when issued shall be signed by the mayor and countersigned by the clerk of said city; provided, however, that this section shall not be construed to give any authority to construct a dam in the Wisconsin river below the entrance of the canal into said river.

May issue bonds.

#### SCHOOLS.

**SECTION 109.** The council shall annually, at its first meeting after the charter election, elect from each ward, where the term of office of a school commissioner expires, a school commissioner for a term of two years; and the council may make appointments of school commissioners to fill vacancies which may occur from any cause.

School commissioner.

**SECTION 110.** Every woman of the age of twenty-one years and upwards residing in the city shall be eligible to the office of superintendent of schools and to the board of education.

Who are eligible.

**SECTION 111.** The said school commissioners so appointed in conjunction with the superintendent of schools of said city of Portage shall constitute a board to be styled "the board of education of the city of Portage." Said board shall appoint and hold stated

Board of education.

meetings, and a majority thereof shall constitute a quorum for the transaction of business. At the first meeting of said board in each year the members thereof shall elect one of their number president and whenever he shall be absent a president pro tem may be appointed. The superintendent of schools shall be clerk of said board, whose compensation shall be fixed by the council. The said commissioners shall not receive any compensation for their services.

Clerk shall keep a record of proceedings.

SECTION 112. 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 president and clerk, shall be received in all courts and places as prima facie evidence of the facts therein set forth, and such records and all books and accounts of said board shall at all times be subject to the inspection of the council, and of any committee thereof, and the said board shall examine all teachers making application to teach in the public schools of said city; all certificates to teachers, granted by said board, shall be substantially in the form as prescribed by the state superintendent of schools. The clerk of said board shall visit all schools in said city, at least once in each month, and report their condition to the board of education, with such suggestions for their improvement as he may deem proper. He may also make such suggestions to said board as he may deem necessary for improving and repairing school houses, grounds, fences, and appurtenances thereunto belonging. When any repairs shall be ordered the board may employ some suitable person to superintend the making of such repairs and such compensation may be paid for such services as the board may deem just and reasonable.

Clerk shall make report.

SECTION 113. The clerk of said board shall in each year, and at the time and in the manner now and hereafter to be required of town clerks, make and transmit to the state superintendent a report in writing, which report shall be such as is now or may hereafter be required by law to be made annually by town clerks and transmitted to county superintendents. He shall also make and submit to the council, at least ten days before the annual election in each year, a report, showing the receipts and expenditures by the board since the report made to the council, at its first meeting in July. Such account need only show the gross amount of receipts from each of the various sources, and gross

amount of expenditures for each of the various purposes required to be reported. Such report shall include salaries of teachers, and all other expenses up to the second Tuesday in April following, and all salaries or bills that will be due at that time may be paid before making the report. The report shall also show the gross amount of receipts and expenditures since the preceding annual report. If the receipts or expenditures since the July report are more or less than estimated in the July and October reports, the report shall state the amount, more or less, and the report shall also state whether, and if any, how much more or less than estimated in July and October will be needed for the entire school year, ending in June.

SECTION 114. The council of said city shall have power to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection and safe-keeping, care and preservation of school houses in said city, and lots and appurtenances to the schools, and also to impose penalties for the violation thereof. All such penalties shall be collected in the same way that other penalties authorized to be imposed by said council under the city charter are collected.

Council shall have power to pass ordinances.

SECTION 115. The title of the school houses, sites, furniture, apparatus and appurtenances, and all other property herein mentioned, shall be vested in the city of Portage; and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever, and the said city shall be able to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest, or devise, for the use of the schools of said city, whether the same shall be transferred in terms to said city by its proper style, or by any other designation, or to any person or persons or body, for the use of said schools.

Title of school property vested in city.

SECTION 116. The treasurer of said city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer for Columbia county, all moneys appropriated for the use of schools in said city, and all other moneys in possession of said county treasurer at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required, on demand of the said city treasurer, to pay over to him the said moneys without delay or set

Money due city from county.

off, taking his receipts as such city treasurer therefor, and all such moneys shall be placed to the credit of the school fund of said city. A statement of all school moneys so received shall forthwith be reported to the city superintendent of schools by said treasurer.

SECTION 117. The said board of education shall have power and it shall be its duty :

May organize schools.

1st. To establish and organize such and so many schools in said city, or the several wards thereof, as they shall deem necessary and expedient, and to alter and discontinue the same.

Custody of school houses.

2d. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances and regulations of the council in relation thereto are observed.

Employ teachers.

3d. To contract with and employ in behalf of the city, all teachers in such public schools of the city as may be under the direction of said board, who shall have been licensed by said board, and at their pleasure to remove them.

Superintendence.

4th. To have in all respects the superintendence, supervision and management of all the public 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 the promotion of their good order, prosperity and utility.

Selling school houses.

5th. Whenever in the opinion of said board it may be advisable to sell any of the school houses, lots or sites, or any of such school property now or hereafter belonging to the city, to report the same to the council.

Report ordinances.

6th. To prepare and report to the council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots, sites and appurtenances, and all the property belonging to the city connected with or appertaining to the schools, and suggest proper penalties for the violation of such ordinances and regulations, and annually to determine and certify to the council at its first meeting in October of each year, the amount of money, in their opinion, necessary or proper to be raised for school purposes, specifying the sum required for each of the purposes therein mentioned, and the reason therefor.

Repair of school houses.

7th. In the name of the city of Portage to contract for the repair of school houses and their appurtenances, and for all things necessary or proper for the support

and maintenance of schools in said city, and generally to have the entire and exclusive supervision and control of all property belonging to said city used for said purposes. The board of education shall have the power, by and with the consent of the council of said city, to erect, construct, hire and purchase buildings suitable for school houses, buy and lease sites for school houses with the necessary grounds, and to furnish the school houses in said city with the necessary fixtures, furniture and apparatus. No greater amount shall be expended by the board of education in any year under the provisions of this section than shall be appropriated by the council for school purposes during such year.

SECTION 118. The council of said city of Portage shall have power to annually levy and collect a school tax not exceeding three fourths of one per cent. on all real and personal property of said city to meet the expenses of erecting and repairing school houses, purchasing or hiring sites for school houses, and supporting and maintaining schools. Shall levy a tax.

SECTION 119. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and to issue orders therefor, signed by the president and clerk of the board of education; and all moneys received by or raised in the city of Portage for school purposes shall be disbursed on the said orders of the president and clerk of the board of education, and in no other manner. Audit accounts.

SECTION 120. The said board of education shall have power to permit the children of persons not residents of said city to attend in either of the schools therein under the care and control of said board, upon such terms as said board shall by resolution prescribe, fixing the tuition which shall be paid therefor. Permits to so enter the schools shall be issued by the city superintendent, but no such permit shall be issued which will interfere with the proper instruction of resident pupils. He shall report his actions under this section to the board of education as often as may be required, and he shall not issue any greater number of permits than may be authorized or sanctioned by the board of education. All permits shall specify the amount to be paid by such non-resident pupil, and no such pupil shall be admitted to any school of the city until he has exhibited the receipt of the city treasurer that the amount specified in such permit has been paid to him. At the end of each term and at such other times as may be required by the board every teacher who has admitted to the school under his charge any non-resi- Non-residents may attend school.

dent pupil under the city superintendent's permit, shall return to the board of education the permit under which the pupil was admitted. All moneys so received for tuition shall become a part of the school fund of said city. It shall be the duty of the board of education to report to the council at its first meeting in the month of July of each year, the condition of the several schools of said city, and the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each and all of said schools since the previous report, and the estimated cost thereof to the time of their next succeeding report, as in this section required, specifying the items thereof under their appropriate heads, together with such other matters as they may deem proper, or the council may require; provided, that nothing in this act contained shall be deemed to authorize said board of education or the council, or both, to appropriate, contract or expend for school purposes in any one year, any greater sum than is provided for in section 137 of this chapter, in addition to the school moneys derived by said city from the state and county school funds and such fines, forfeitures, penalties and tuition moneys as may properly belong to the city school fund, unless first authorized thereto by a vote of two-thirds of the legal voters of said city.

Council may borrow money.

SECTION 121. The council of the city of Portage on the application of the board of education may borrow money for the erection and completion of school houses in said city, not exceeding in amount the sum of five thousand dollars, and may issue the bonds of said city for the payment of the same, bearing an interest not exceeding seven per cent per annum, payable annually or semi-annually, and becoming due within ten years, or less, as the council may by ordinance prescribe. In case said bonds are issued, the council of said city shall annually levy and collect a tax, on the taxable property of said city, as other taxes are levied and collected, sufficient to pay the interest and principal of said bonds as the same may become due; and the money thus raised shall be applied to the purpose for which it was raised, and no other; provided however, that no bonds issued in pursuance of this section shall be sold for less than their par value.

#### MISCELLANEOUS PROVISIONS.

Credit of city not to be given.

SECTION 122. The credit of the city shall never be given or loaned in aid of any individual, association or corporation.

SECTION 123. No tax for general city purposes shall be levied in any year exceeding one per cent. of the assessed valuation of property in the city in that year.

General city tax.

SECTION 124. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the fiscal year, which shall commence on the first day of December of each year, except as otherwise herein provided.

City shall have no power to borrow money.

SECTION 125. All work for the city exceeding one hundred dollars in amount shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract.

Shall be let by contract.

SECTION 126. No extra compensation shall be allowed to any officer, agent, servant or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or aldermen for their services.

No extra compensation.

SECTION 127. The council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens.

Council shall settle all just claims.

SECTION 128. In all prosecutions for any violation of any of the provisions of the city charter, or any by-law or ordinance, the first process shall be by a summons unless oath be made for a warrant as in other cases.

How prosecutions shall be begun.

SECTION 129. Execution shall issue forthwith on the rendition of the judgment, unless the same be stayed or appealed according to the laws of this state. The execution shall require the defendant in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be collected, be found, to be imprisoned in the jail of Columbia county, for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or the defendant be discharged by order of the council.

How to proceed.

SECTION 130. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Incompetent.

SECTION 131. If any election by the people or 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 or to perform any other act, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but

Failure to hold election does not invalidate.

such election or organization may be had on any subsequent day, by order of the council; and if any of the duties enjoined by this act or the ordinances or by-laws of the city to be done by any officer at any specified time, be not then done or performed, the council may appoint another time at which said acts may be done or performed.

How suit or action to be commenced.

SECTION 132. When any suit or action shall be commenced against said city, the service of summons or process therein may be made by leaving a copy thereof with the mayor, or in the absence of the mayor from the city, or in case he cannot be found, by leaving such copy with the president of the council, or acting mayor, whose duty it shall be forthwith to inform the council thereof, or take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

Judgment against city.

SECTION 133. When a judgment shall be recovered against the city of Portage or against any city or ward officer in an action prosecuted by or against such officer in his name of office, where the same should be paid by the city, no execution shall be awarded or issued upon such judgment, except as hereinafter provided. The person recovering such judgment may file a certified copy or transcript thereof with the city clerk, who shall lay the same before the council at its next regular meeting, and unless the council shall determine to appeal from such judgment, it may provide for the payment of the same out of the general fund. Unless so paid the amount of such judgment shall be added to and included with other city taxes by the clerk in making the next annual tax list, and shall be collected as other city taxes, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution, on special application therefor. No real or personal property of any inhabitant of said city or of any individual or private corporation shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

City may lease, etc.

SECTION 134. The said city may lease, purchase and hold real or personal estate sufficient for municipal

purposes, and may sell and convey the same, and the same shall be free from taxation while owned by the city; provided that no debt shall be incurred in any such purchase which cannot be paid out of the revenue of the fiscal year.

SECTION 135. No general law of this state, contravening the provisions of the city charter, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SECTION 136. Every license issued under the charter, or the ordinances of the city shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which shall be approved by the council; provided, that the sum to be paid for any such license shall not be less than the amount fixed by the laws of this state, and that all licenses shall be granted to expire on the first day of May next following in each year.

License, by whom signed.

SECTION 137. The use of the jail of Columbia county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of such county, for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases.

Use of county jail.

SECTION 138. This act shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue of or in pursuance of the acts hereby repealed or any of them, but the same shall exist and be enforced and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed, and all ordinances, regulations, rules, by-laws and orders of the council of said city, or parts thereof not repealed, suspended or made void by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the council; and all the city and ward officers now in office in said city, shall hold

This act shall not invalidate.

their respective offices until their successors shall be elected or appointed, and duly qualified. The words "city charter," or "the charter," wherever used in this act or any acts amendatory thereof, shall be held and construed to include and extend to all the provisions of this act, and to all acts amendatory hereof, or in any way relating to the city of Portage, except as may be otherwise specifically provided by such act or acts.

Shall cause a plat to be made.

SECTION 139. The council of said city is hereby authorized and empowered to cause to be made by some competent person a plat of all pieces or parcels of land within said city which are not embraced and described in any of the recorded plats of land in said city, which plats shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat shall be designated by a number placed thereon. The said plat when completed shall be certified to by the person making the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Columbia county.

"Assessor's" subdivision.

SECTION 140. The said plat shall be called and known as "assessors' sub-division of lands in the city of Portage," and for the purpose of assessment and taxation it shall be deemed a sufficient description of any piece of land described and designated in said plat, to designate the same by its number as it appears on said plat and any deed of any such tract or piece of land which may be executed pursuant to the laws of this state by reason of the non-payment of any tax hereafter assessed shall be as valid and effectual to pass the title to the lands therein described as it would be if said premises had been described by metes and bounds, and the said plat or the record thereof shall be received in evidence in all courts and places as correctly describing the several pieces or parcels of land therein designated and numbered.

Repeal.

SECTION 141. Neither the provisions of sections 20, 21, 22, 23 and 24 of the revised statutes, entitled of "registry of electors," nor any act amendatory thereof, shall apply to the city of Portage.

SECTION 142. Chapter 122 of the laws of 1876, entitled "an act to consolidate and amend the act to incorporate the city of Portage," and the several acts amendatory thereof, and all acts and parts of acts inconsistent

and conflicting with the provisions of this act, are hereby repealed.

SECTION 143. This act shall take effect and be in force from and after the 22d day of March, 1882.

Approved March 16, 1882.

[No. 89, S.]

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CHAPTER 133.

AN ACT to amend an act entitled "an act to revise, consolidate and amend the charter of the city of Racine," approved August 8, 1848, and the several acts amendatory thereof, approved March 11, 1876, and the several acts amendatory thereof.

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

SECTION 1. Section 9 of title 5 of chapter 313 of Amended. the laws of 1876, as amended by chapter 59 of the laws of 1879, is hereby amended so that the same shall read as follows: Section 9. The commissioners, together with the aldermen of the ward in which the improvement is being made, may determine what proportion, if any, of the damages awarded shall be chargeable to the ward, and be paid out of the respective ward fund, and shall embody such determination in their report, provided such report shall be concurred in and signed by the aldermen of the ward. Upon such recommendation and report the common council shall order such sum to be paid out of the ward fund of the respective ward, and the common council may, whenever the amounts of benefits found and assessed, together with the amount, if any, made payable out of the ward fund, shall be less than the amounts of damages assessed, appropriate the difference from the contingent fund, or provide for it by the levying of special ward or city taxes, or both; provided, that the common council may, at any time before the adoption of the final resolution ordering such street, alley or grounds to be opened, discontinue, dismiss and annul the proceedings had.

SECTION 2. Section eleven (11) of title six (6) of Amended. said chapter 313, as amended by chapter 180 of the laws of 1880, is hereby amended so that the same shall read as follows: Section 11. The common council shall have power to cause sidewalks with proper In regard to sidewalks. guards, or handrails, if necessary, curbing of wood or stone, and gutters to be built, rebuilt, graded or repaired, and to assess the cost thereof against the par-