

compensation for their services, such ~~sum as the~~ common council shall determine. No such officer shall receive a higher or lower compensation than his predecessor, unless such increase or reduction of compensation, shall have been determined by the city council before the election or appointment of such officer; and in case of an officer elected or appointed to fill a vacancy, he shall receive the same *pro rata* compensation that his predecessor would have received.

SECTION 89. This act is hereby declared a public act, and shall be liberally construed in all courts. Public act.

SECTION 90. The town clerk of the town of Hartford, shall sign and give the notices, and file the papers provided for in this act, and shall receive the same compensation therefor, as for doing like services for the town. Town clerk shall sign notices, etc.

SECTION 91. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1883.

[No. 187. S.]

[Published March 21. 1883.]

CHAPTER 84.

AN ACT to revise, codify and amend chapter 102, laws of 1882, entitled "An act to incorporate the city of Menomonie."

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

SECTION 1. All the district of country in the county of Dunn, contained within the boundaries hereinafter described, shall be a city by the name of "Menomonie;" and the people now inhabiting said district shall be a municipal corporation, the name of which shall be, "The city of Menomonie." 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 contracting and being contracted with; of suing and being sued; pleading and impleaded in all courts, and shall have a common seal and may change the same at pleasure. Boundaries, and corporate name.

CITY BOUNDARIES.

SECTION 2. The southwest quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$), and the southeast quarter ($\frac{1}{4}$) of the southwest quarter ($\frac{1}{4}$) of section eleven City boundaries.

(11), all of sections number thirteen (13), fourteen (14), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), all that part of thirty-four (34) lying east of the Red Cedar river, all of sections number thirty-five (35) and thirty-six (36), in township number twenty-eight (28) north, of range thirteen (13) west, in the county of Dunn and state of Wisconsin, shall be included in, and constitute the limits of the city of Menomonie.

WARD BOUNDARIES.

Ward boundaries.

SECTION 3. The said city shall be divided into four wards, the boundaries of which for the present, and until changed as hereinafter provided, shall be as follows, to wit: All that portion of said city lying west and north of the Red Cedar river shall constitute the first ward; all that portion of said city lying east of Red Cedar river and north of the section line between sections number twenty-six (26), and thirty-five (35), extended west to said river, and west to the center of Ninth street, extended north from said section line to the said river, shall constitute the second ward; all that portion of said city lying east of the center of Ninth street and north of the section line between sections twenty-six (26), and thirty-five (35), extending east on said line to the east boundary line of said city, shall constitute the third ward; all that portion of said city lying south of the south boundary line of the second and third wards, and east of the Red Cedar river, shall constitute the fourth ward. But the common council shall have power to change said lines of division as they may deem convenient and proper.

COMMON COUNCIL.

Common council.

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 such other officers as are hereinafter mentioned, or may be created under this act.

ELECTIVE OFFICERS.

Elective and appointive officers.

SECTION 5. The elective officers of said city shall be a mayor, clerk, treasurer, assessor, mar-

shal, superintendent of schools, street commissioner, and three justices of the peace, elected by the city at large, and two aldermen, one school commissioner, one supervisor to represent his ward in the board of supervisors of Dunn county, and one constable in each ward. The school commissioners elected at the election of 1882, from the first and second wards, shall hold their offices for one year, and until their successors are elected and qualified; and the commissioners elected from the third and fourth wards, shall hold their offices for two years, and until their successors are elected and qualified. Annually thereafter, there shall be elected 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. All other necessary officers, shall be appointed by the common council. All elective officers, except justices of the peace and aldermen, shall, unless elected to fill 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 every officer elected under this act, shall commence on the second Tuesday in April, of the year for which such officer is elected, and the term of office of all appointed officers, shall expire with that of the members of the body appointing them.

SECTION 6. At the first election held in said city under the provisions of this charter, one alderman shall be elected from each ward, whose term of office shall be one year, and one alderman from each ward, whose term of office shall be two years. Aldermen elected thereafter, except to fill vacancy, shall hold their office for two years.

Election of
aldermen.

ANNUAL ELECTIONS.

SECTION 7. The qualified voters of the city of Menomonie, shall hold an election on the first

Regarding
elections.

Tuesday in April of each year, for the election of city and ward officers herein designated, and shall be presided over by the inspectors of election, appointed under the general laws of this state, who shall see the ballots safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns; and the day following the election, shall direct and return one of the said returns to the city clerk of the city of Menomonie, and the other to the county clerk of the county of Dunn. The mayor of the city and such members of the common council, as shall hold over, shall constitute a board of canvassers, who shall, within three days after such election, meet at the council chamber and canvass such returns; and after the aforesaid returns have been canvassed by said board, the mayor shall notify by a certificate, the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon until five in the afternoon, but an adjournment may be made from twelve o'clock noon, to one o'clock in the afternoon, by notice thereof given at the opening of the polls. Said elections shall be conducted in accordance with this act, and of the existing laws of the state of Wisconsin, and any frauds or violation of said laws at such elections, shall be punishable in the same manner as any violation of the election laws in any part of the state.

QUALIFIED ELECTORS.

Who are qual-
ified electors.

SECTION 8. All persons who are qualified electors of the state of Wisconsin, shall be deemed qualified electors and voters of said city and ward. 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.

SPECIAL ELECTIONS.

Special
elections

SECTION 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by inspectors of election, as provided by this act, and the returns thereof shall be made in the same manner and form as of annual elections; provided, however, that in case a special election is to be held in the city other than for ward purposes, the

common 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 the clerks therefor.

SECTION 10. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the council shall be *viva voce*, except as hereinafter provided. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as it may direct.

Elections to be
by ballot.

SECTION 11. In the event of a vacancy in the office of mayor or alderman, the common council shall order a new election, and shall give five day's notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy, shall hold the 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.

In case of
vacancy.

SECTION 12. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify, on or before the second Tuesday of April next after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

What consti-
tutes a vacan-
cy.

OFFICERS — THEIR POWERS AND DUTIES.

SECTION 13. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the 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 Menomonie a bond, with at least two sureties, who shall swear that they are

Duties requir-
ed of officers
to qualify.

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, nor more than ten, sureties. The penal sum expressed in such sum 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 elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws, except that their official bonds shall be approved by the council, and in addition thereto, shall have jurisdiction in all cases arising under this act, and hold their office and courts in any part of the city. All constables elected under this act, shall have, and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Duties of
mayor.

SECTION 14. The mayor shall, when present, preside over the meetings of the 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, and when the council shall be engaged in the election of any officer, he shall have a vote the same as an alderman. When presiding over the council his style shall be, "Mr. 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 the mayor. In case both the mayor and president shall be absent at any meeting of the common 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 same force and validity as if performed by the mayor, but the president of the council, as acting mayor, shall sign no order, warrant, or other proceeding whatever, which the mayor has refused to sign and communicated such refusal to the council.

Election of
president.

SECTION 16. The clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the council, at whose meetings it shall be his business 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 shall keep a full and accurate account thereof, in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem*. The city clerk shall have power and authority to administer oaths and affirmations. The salary of the city clerk shall not exceed four hundred dollars per annum, payable quarterly.

Clerk.

SECTION 17. The treasurer shall perform such duties and exercise such powers as may be law-

Treasurer.

fully 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 four hundred dollars per annum, and shall be payable quarterly.

Assessor.

SECTION 18. The assessor shall assess all the taxable property of the city of Menomonie as required by law, without regard to wards, and shall complete and return his assessment roll to the common council on the day fixed by the general laws of this state. The assessor shall receive for his services such compensation as the common council shall determine, not exceeding two hundred dollars for the term for which he was elected, and which shall be payable when the assessment roll is completed. The salary, as so fixed, to be in lieu of all fees, and full compensation for all the duties imposed on said assessor by law.

Marshal.

SECTION 19. 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 for 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. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinances 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.

SECTION 20. The common council shall have the power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers appointed by it where the compensation is not fixed by the statute or this charter. 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.

Council may require other duties of officers.

SECTION 21. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper, printed in said city, in which shall be published all ordinances and other matters required by this act, or the by-laws or ordinances of the city, to be published in a newspaper.

Official paper.

SECTION 22. The city printer, or printers, immediately after the publication of any notice, ordinance or resolution, which, by this act, 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.

Evidence of publication.

SECTION 23. If any person, having been an officer in said city, shall not, within ten days after

Penalty for refusing to deliver over property.

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, one hundred dollars (§100), 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 in this state.

Alderman shall not be party to any job or contract.

SECTION 24. 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 on any such contract, the council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same, or either or any one of them; 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 party, as it may see fit to do.

Who are officers of the peace.

SECTION 25. The mayor, or acting mayor, sheriff of Dunn county, and each and every alderman, justice of the peace, marshal, constable and watchmen, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and, for such purposes, may command the assistance of all bystanders, and, if need be, of all citizens; and if any person, bystander, military officer or private, shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars (§50); 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.

Election of city surveyor, and his duties.

SECTION 26. The council may elect a city surveyor, 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 surveyor, or filed with the city clerk when ordered by the council, and be open to the inspection of the parties interested; and the same, together with all books and papers appertaining

to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the council. The certificate of the surveyor shall have the same force and effect in all courts, as the certificate of the county surveyor. The council may elect a city attorney, who shall conduct all law business of said city, and the departments thereof, and all other business in which the city shall be interested, and when requested by the mayor or council, he shall furnish written opinions on subjects submitted to him in which the city or any departments thereof, may be interested. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be ordered by the council, and to perform such other duties as may be prescribed by the ordinances of the city, or by any resolution of the council. The salary of the city attorney shall be fixed by the council at a sum not exceeding two hundred dollars a year, payable quarterly.

City attorney,
and his duties.

SECTION 27. All actions to recover any penalty or forfeiture under this 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. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All fines 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 fines and penalties collected by him, and at the same time, pay over the amount thereof to the city treasurer, except as above mentioned.

Actions shall
be brought in
corporate name
of city.

SECTION 28. In all prosecutions of any violations of any of the provisions of this act, or any ordinance, by-law or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace, under the general statutes of the state for the time being.

How prosecutions
shall be
conducted.

SECTION 29. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF DUNN, }
City of Menomonie. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Menomonie: You are hereby commanded to summon _____, if _____ shall be found within your county, to appear before the undersigned, a justice of the peace in and for said city, on the _____ day of _____, A. D., 18—, at _____ o'clock in the _____ noon, to answer the city of Menomonie to the damage of said city, two hundred dollars (\$200) or under.

Given under my hand this _____ day of _____, 18—. A. B., Justice of the Peace.

When summons shall be returnable.

SECTION 30. Such summons shall be made returnable and be served in the same manner as is now, or hereafter may be, prescribed by laws of this state for the commencement of actions before justices of the peace by summons, and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace.

SECTION 31. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

THE CITY OF MENOMONIE,) In Justice Court, be-
Against fore C. D., Justice of
A. B.) the Peace.

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

SECTION 32. In all cases when oath is made for a warrant, the complaint shall be made on oath of

the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

THE CITY OF MENOMONIE, Against A. B. County of Dunn.	}	In Justice Court, before C. D., Jus- tice of the Peace.	Form of complaint.
		ss.	

————, being first duly sworn, on oath complains to ———, justice of the peace in and for the city of Menomonie, in said county, that A. B., on the ——— day of ———, 18—, at the said city, did violate (section ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city, describing it by the title), which said ——— is now in force, as this complainant verily believes, and prays that A. B. may be arrested and held to answer to said city of Menomonie.

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

It shall be sufficient to give the number of the section of this act, or the section of the ordinance, by-law or regulation violated, in the foregoing form of complaint; and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint, with the justice of the peace, he shall issue a warrant substantially in the following form:

COUNTY OF DUNN, City of Menomonie,	}	} ss.	Form of warrant.
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The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Menomonie, greeting:

Whereas, ——— has this day complained to me, in writing, on oath, that A. B., on the ——— day, of 18—, at said city, did violate (section ——— of this act or section ——— of an ordinance, or by-law or regulation of said city, describing it by the title), which said ——— is now in force as the complainant believes; therefore, you are commanded to arrest the body of the said A. B., and to bring him before me forthwith, to answer to the city of Menomonie, on the complaint aforesaid.

C. D.,
Justice of the Peace.

Upon the return of the warrant, the justice shall proceed summarily with the case, unless it

Duties of justice after return of warrant.

be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize, with security to be approved by the court, for his, her, or their appearance, in such sum as the court shall direct, or in default therefor, may be put in charge of the officer who made the arrest, or be committed to the common jail of Dunn county, and shall be received and kept therein the same as in criminal actions, except as modified by this act, or the ordinances, by-laws or regulations of said city. The complaint made as aforesaid shall be the only complaint required; and the plea of not guilty shall put in issue all subject matter embraced in the action.

Printed copy shall be prima facie evidence.

SECTION 33. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper, or in pamphlet, or in book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without pre-payment of fees.

SECTION 34. Witnesses and jurors shall attend before the justices of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof their attendance may be compelled by attachment.

Right of trial by jury.

SECTION 35. In city prosecutions both plaintiff and defendant shall enjoy the right of trial by jury, as in civil actions in justices' courts, and the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant, for the fine, penalty, or forfeiture presented in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the nonpayment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, and a commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon his docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the exe-

cutation or commitment. Such execution shall be in the following form:

COUNTY OF DUNN,)
 City of Menomonie,) ss.

Form of
 execution.

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

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

Given under my hand, this _____ day of _____, 18—.
 C. D., Justice of the Peace.

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

Form of
 commitment.

SECTION 36. In any case, the defendant may appeal from such judgment to the circuit court of the county of Dunn; provided, that such defendant within twenty-four hours enter into a recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice, from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall

Regarding
 appeals.

forthwith, cause the summons or warrant and return, together with the proceedings and a copy of the entries in his docket in the action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Appeal to stand for trial.

SECTION 37. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof, after the day the judgment of the justice shall be rendered, unless continued for cause.

Court to inflict penalty.

SECTION 38. If the judgment of the justice shall be affirmed, or if, upon the trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them, and his or their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Not to work incompetency.

SECTION 39. 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.

Service of summons, how made.

SECTION 40. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the summons with the mayor, or clerk of said city, and it shall be the duty the said mayor or clerk so served, forthwith, to inform the city attorney thereof, or to take proceedings as by ordinance or resolution of the common council of said city may be, in such cases provided. Judgments against said city shall be collected in the same manner as judgments against towns.

No city officer to go on bond unless approved.

SECTION 41. No alderman, or other city officer, shall be accepted as surety upon any bond, note or obligation executed to 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 this act provided.

COMMON COUNCIL.

What constitutes the common council.

SECTION 42. The mayor and aldermen shall constitute the common council, and the style of all

ordinances shall be: "The common council of the city of Menominee do ordain," etc. The council shall meet at such time and place as it by resolution shall direct. A majority of the aldermen shall constitute a quorum.

SECTION 43. 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 abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members; and have power to compel the attendance of absent members and enforce its rules; to punish by fine and imprisonment, by a vote of two-thirds its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds, its members may expel any member for cause.

Meetings of council.

GENERAL POWERS OF COUNCIL.

SECTION 44. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, 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 and immorality, for the prevention of crime, and for the benefit of the trade, commerce and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such ordinances, rules and by-laws are hereby declared to be, and have the force of law; provided, they are 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:

Powers of council.

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 or pool tables and bowling saloons, and to provide for the abatement and removal of nuisances under the ordinances, or at common law; and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing

License and regulate amusements, liquor selling.

houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state.

Gaming, fraudulent devices.

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

Riots, etc.

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.

Nauseous places.

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.

Slaughter houses.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use or occupation of the same where the offal or filth thereof, shall discharge into the waters of the creeks or river; and to establish rates for, and license vendors of gunpowder, and to regulate the storage, keeping and conveying of the same or other explosive materials.

Vendors of gunpowder.

Improvement of streets.

6th. To provide for the making, grading, improving and repairing the streets of the city of Menomonie, and to provide for the making, constructing and repairing gutters and sidewalks in said city, and to prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substance whatever.

Horse racing, bathing, etc.

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

Restrain cattle.

8th. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and

to authorize the distraining, impounding and sale of the same.

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

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

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of the city; to regulate and to license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city; and to erect lamps and to provide for lighting the streets, public grounds and public highways, with gas or otherwise. Public pounds, water works and street lamps.

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. Boards of health, bills of mortality, burial grounds.

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

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

15th. To prevent shooting off fire-arms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to citizens thereof. Fire arms, fire crackers.

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

17th. To restrain and regulate runners and

- Runners, solicitors, etc. solicitors for boats, vessels, stages, cars, public houses and other establishments.
- Regulation of police. 18th. To make rules and ordinances for the government and regulation of the police of the city.
- Public markets. 19th. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.
- Weighing and selling hay, etc. 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.
- Removal of snow and dirt. 21st. To compel the owners of buildings, or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substance as the board of health shall direct; and in his default, to authorize the removal, or destruction of the objectionable substance, by some officer of the city, at the expense of such owner or occupant; provided, however, that snow shall be removed from the sidewalks of vacant or unoccupied lots, at the expense of the city, by the street commissioner, or by such other person or persons, as the council may employ.
- Contagious or infectious diseases. 22d. To regulate, prevent and control the landing of persons from boats, cars and stages, wherein are contagious and infectious diseases, or disorders, and to make such disposition of such persons as to preserve the health of the city.
- Auctioneers. 23d. To regulate the time and manner of holding public auctions and vendues, and to regulate the sale of goods, wares, and merchandise and other property at public auction, and to grant licenses for the sale of goods, wares and merchandise and other property at public auction, and to prescribe and fix the amounts to be paid for such licenses; provided, it shall not be lawful to charge less than five dollars, (§5) nor more than five hundred dollars, (§500) for any such license for

one year; and provided also, that nothing in this section shall prohibit, or affect in any manner, sales at auction in cases specified in section 1585 of the revised statutes.

24th. To appoint watchmen and to prescribe their duties. Watchmen.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of any person using or keeping any false weights and measures. False weights.

26th. The common council shall have jurisdiction over the streams within the limits of said city, and may enact and enforce ordinances or by-laws for the preservation of fish in the waters thereof, so as to prohibit, regulate or license the taking or killing of fish in the waters thereof, at any time; and may also, by ordinance or resolution, prevent any deterioration of the said waters, or any nuisance being cast therein, by which the health of the inhabitants of the city, or the purity of the waters shall be impaired, as it shall deem expedient. Jurisdiction over streams.

SECTION 45. No appropriation shall be made, nor shall any debt be created or liability incurred against the city, except by a vote of a majority of all the members of the council; and all laws, ordinances, rules and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council; and all ordinances, before the same shall be in force, shall be signed by the mayor; and all resolutions or measures for the appropriation of money, whereby a debt shall be created against, or a liability incurred by the city, shall be approved by the mayor before the same be in force; and all ordinances shall be published in the official newspaper, printed at the city of Menomonie, before the same shall be in force, and within fifteen days after publication, such publication being duly approved by the affidavit of the printer, or foreman of the printers, of such newspaper, the city clerk shall record such ordinance and affidavit in a book provided for that purpose, and such affidavit shall be *prima facie* evidence of such publication. No appropriation except by a majority of council.

SECTION 46. The power conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disor- Power conferred shall not bar or hinder suits.

derly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required therefor, 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.

Examination
and adjust-
ment of
accounts.

SECTION 47. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, street commissioner, and all other officers or agents of the city, at such time as it deems proper, and also at the end of each year, and before the time for which the officers of said city are elected or appointed, shall have expired. And the common council shall require each and every such officer or agent, to exhibit his books, accounts 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 their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements; and the common council shall have power, by an affirmative vote of two-thirds of its members, upon reasonable notice, for cause, to remove from office, any officer of the city, elected by the common council, or whose appointment shall have been confirmed by it.

OPENING OF STREETS, ALLEYS, ETC.

May take land
for streets.

SECTION 48. The common council shall have power to take, for the use of the city, in the manner hereinafter provided, any lots or any land for public squares, grounds, streets and alleys, and to widen or straighten the same, or for the purpose of erecting a public hall, market house, fire engine house, or any building in the construction of water works, or for flowing the same, for supplying the city with water, or any other lawful municipal purpose, or for erecting hospitals or pest houses, for the prevention of contagious or infectious diseases within the city, or for

any needful or convenient purpose in connection with, or to execute and accomplish any other power, right, or privilege, conferred on, or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature; and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain and sale, or upon a donation thereof, or in manner as follows: Whenever it shall, in the opinion of the common council, be necessary, said council shall declare, by resolution, that it is necessary to take any such lots or lands for any of the purposes above set forth, giving the description of the premises, defining separately each parcel thereof, separately owned, and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant or occupants of such lands, and the owner or owners of the same, if the place of residence of such owner, or owners, is known, or can be ascertained by reasonable diligence, when such residence is within this state, and in case such owner or owners are non-residents of the state, or their place of residence, after due diligence by the city attorney of said city, cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such non-resident owner or owners, or the owner or owners, the residence of whom cannot be ascertained, by causing the same to be published for six weeks in the official paper of the city, at least once each week, and by causing such notice to be mailed, postpaid, to the address of such owners within five days from the time of the first publication of such notice, when the post-office address of such owner is known.

Publication of
notice.

SECTION 49. Such notice shall be signed by the city clerk, or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further, that at a time and place therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the circuit court for said county of Dunn, for a jury to enquire and determine whether it is necessary to take the land or any part thereof, described in such resolution, for

Notice, by
whom signed.

the purposes therein specified. Such notice shall further state the time and place at which such jury will be applied for, to meet and discharge such duty; and the judge aforesaid shall fix the time and place so named in the precept hereafter mentioned, and no other notice thereof shall be necessary.

Appointment
of jurors.

SECTION 50. At the time fixed in said notice for the appointment of such jurors, the judge named in said notice, upon proof of the service of the same on the owner or owners of the premises described in such notice, which proof shall be made in the same manner as is now required to make proof of the service of a summons in civil actions in courts of record in this state, shall appoint twelve competent persons, having the qualification of jurors in and for the county of Dunn, and not residents of the ward in which such premises are situated, not interested in such application, but residents of the city shall not be disqualified; provided, that if the owner of the land sought to be taken, shall, before said judge shall appoint such persons, demand in writing that the jury be taken from any other county in such judicial circuit, then said judge shall appoint such jury from persons having the qualifications of jurors in such other county in the circuit, as shall be designated by such land owner in his demand for the enquiry to be made respecting his lands. The same rights of challenge peremptorily, or for favor or cause, may be exercised by the city attorney, and by such land owner whose land is sought to be taken, or by his agent or attorney, as a party to a civil action in the circuit court is entitled to have, and the judge shall decide the same in like manner, and replace the name of any jurors successfully challenged, by the name of some other competent person, until a jury of twelve be chosen. The said judge shall thereupon issue his precept directed to such jurors, requiring them and each of them, to appear before him, on the day named in the notice for such jurors to meet for the discharge of their duties under such appointment. The precept so issued may be served by the sheriff of said county, or by any public officer of said city. The jurors so chosen, shall, before entering upon the performance of their duty, take an oath before such judge faithfully and impartially to discharge their duty as such jurors, and a true verdict give,

whether it is necessary to take such lands, or any part thereof, mentioned in such resolution for the purpose therein specified.

SECTION 51. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

In case jurors are disqualified.

SECTION 52. The said jurors shall forthwith, under the direction of said judge, 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 said judge; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors to examine premises.

SECTION 53. After having made such view and heard such testimony as shall have been produced, the said jury shall, under direction of said judge, deliberate apart, and return their unanimous verdict, in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution, for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict, with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith filed by said judge with the clerk of the circuit court for Dunn county, together with a certificate by said judge that the same are the originals, and the whole thereof. The clerk shall, on application, furnish a certified copy of the same, or any part thereof, which shall have the same force and effect as the originals. In case any jury called under the provisions of this charter shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had, as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembling of such jury, in the precept therefor, but no other notice thereof shall be necessary to any party; and the like steps shall be taken in case of any further disagreement, until a verdict shall be found.

Jury shall deliberate apart, and render verdict.

SECTION 54. Should the necessity for the taking of the premises, or any part thereof, mentioned in the resolution of the council, be so established by

Proceedings, in case premises are needed.

the verdict of the jury, then the common council may enter an order directing the city attorney to proceed to procure, to be assessed and appraised, the damages to the owner or owners of the premises so found necessary to be taken, by reason of the taking of the same for the purpose specified. The city attorney shall thereupon make application to the judge of the circuit court, or judge of the county court for Dunn county, briefly setting forth the fact that the necessity for taking such premises has been so established by the verdict of a jury, and praying the appointment of three commissioners, to appraise the damages of each and all of the several owners of such lands, and showing the amount of land, giving the metes and bounds thereof, the purpose for which the same is to be taken, and the names of the several owners so far as the same are known to the city attorney. Five days' notice of the time and place when such application will be presented to such judge, accompanied with a copy of such application, shall then be served on each owner in the cases when required and in the manner provided in section thirty-six of this act. At the time and place designated, such judge shall hear all parties interested who appear, and shall appoint three disinterested and reputable freeholders of said county as such commissioners, by his order in writing, to ascertain and appraise the compensation to be made to the owners of, or persons interested in the land so found necessary to be taken, and fix the time and place for the first meeting of said commissioners.

In case buildings are on premises.

SECTION 55. If there should be any building standing, in whole or in part upon the lands to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him, and secondly, the value of such building to remove.

Personal notice of removal shall be given.

SECTION 56. 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 three successive weeks; such notice shall specify

the building and the award of the commissioners. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the commissioners and allow such building to be taken with the land appropriated, or their intention to remove such building, at the rate set thereon by the commissioners to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council shall allow.

SECTION 57. If the owner refuses to take the building at the value to remove, or fail 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 owner or deposited for him in the city treasury.

If owner refuses to take buildings at value assessed.

SECTION 58. The commissioners shall take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them, from time to time, in their discretion. They shall cause notice to be given to each party interested of the time when, and place where, they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party, or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion, at least six days before the time of such meeting. If such party is a non-resident of this state, or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file a proof of such notices, or of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment.

Duties of commissioners in regard thereto.

SECTION 59. The commissioners shall view the premises described in the petition, and hear the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or

Commissioners required to view the premises, and mode of procedure.

parcel of land proposed to be taken, with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner by reason of the taking thereof, and fix the amount of compensation to be made to each of such owners therefor; and in fixing the amount of such compensation, said commissioners shall not make any allowance or deduction from the value of the real estate taken, on account of any real or supposed benefits which the parties in interest may derive from the construction of the proposed improvement, for which such real estate may be taken; but special benefits to the real estate adjoining the lands so taken, shall be allowed in deduction of any damages sustained by the owner to such adjoining real estate. In case of any building on the land, and proceedings shall have been taken as provided in sections 55, 56 and 57, the said commissioners shall include the value of such building as estimated by them, 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. A majority of the commissioners, all being present, shall be competent to determine all matters before them. The commissioners shall, within twenty days, after viewing any of the lands so taken, make and file in the office of the clerk of the circuit court of such county, a report of their proceedings concerning such lands, setting forth the award made for each tract or parcel thereof, or separate estate therein, to the owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the city.

If they belong to different persons.

SECTION 60. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment, or mortgage, or if there be any estate in it, less than an estate in fee, the injury done to such person or interest respectively, may be awarded to them by the commissioners, less the benefits resulting to them respectively from the proposed improvement.

When improvements shall be ordered to be made

SECTION 61. Whenever the commissioners shall have completed their duties, and filed the report of their proceedings and determination, as before provided, the common council may, if they shall deem it expedient, by resolution or ordinance,

order such improvement to be made, and the land which has been so found necessary to be taken therefor, to be taken and used; and in such case the city shall be absolutely liable to the owner or owners, or parties entitled thereto, for all compensation that may be established against said city therefor; and the council may also, in that case, make an assessment of the compensation to be paid therefor, with the costs of proceedings, or such part thereof as they shall determine to be just, upon the lands found by them to be directly benefited by such improvement, in such proportion to the benefits enjoyed as they shall determine. If the council shall not deem it expedient to make such improvement, they may, by resolution, order all further proceedings to be discontinued.

SECTION 62. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court within twenty days from the time of awarding of compensation or assessment of benefits, by serving on the mayor or city clerk a notice of appeal therefrom, and giving a bond to the city in not less than one hundred dollars (\$100), to be approved by the mayor, acting mayor or city clerk, to pay all costs of appeal in case the appellant shall not, upon such appeal, increase the amount of compensation or decrease the amount assessed as benefits, as the case may be. The common council may appeal in behalf of the city by giving notice to the opposite party without giving bond. Upon filing such notice with the clerk of the circuit court, the appeal shall be considered an action pending in court for trial there, as other actions, and shall be entered by the clerk upon the records of the court, by setting down the party appealing as plaintiff and the other party as defendant. Such appeal shall be tried by jury, unless a trial by jury be waived by both parties; costs shall be allowed to the successful party in accordance with the conditions of the said bond.

Right of appeal granted.

SECTION 63. The report of the commissioners shall be recorded by the clerk of the court, in whose office the same is filed, in the judgment book of such court, and at any time after the making of such award, the city may set apart in its treasury, to the order of the owner or owners of the lands

Report shall be recorded, and manner of settlement of amount awarded.

so taken, or pay the same to such owner or owners, or to the clerk of said court for the use of such owner or owners, the amounts awarded by the commissioners, and thereupon may enter upon, take and use the land for the purposes for which it was condemned, and may obtain from either of said judges, upon twenty-four hours' notice, a writ of assistance to put its officers or agents into possession of the same. If such city be in possession, or put in possession of such land, pending an appeal, the owners or parties entitled thereto, shall be entitled to receive the money paid into court, or set apart in the city treasury on account of the award appealed from, without prejudice to the appeal taken, but if the city shall have appealed, such money shall only be so withdrawn by leave of court, upon filing a bond in such sum, and with such surety, as shall be approved by the court or judge, to repay the amount by which such award shall be abated on such appeal, with costs. If any defect of title to, or incumbrance upon any parcel of the premises, shall be suggested in said petition, or if any party to said proceeding, or any person not a party, shall petition to the said court, setting up a claim adverse to the title set out in said petition to said premises, and to the money, or any part of it, to be paid as compensation for the property so taken, the court shall hear and determine the right of the parties to said money, and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decisions of the court and appeal to the supreme court, in like manner as in actions. Either court may award costs to the prevailing party, and render judgment therefor against the other party.

Property in question under lease.

SECTION 64. When the whole of any lot or tract of land, or other premises under lease or under contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same, or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When only a part is under lease.

SECTION 65. When only a part of lot, or tract of land, or other premises so under lease or contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respectively, the same, upon the confirmation of

such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable, and to be paid for, and in respect to the same, shall be so proportioned that the part thereof, justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for in respect to the same.

SECTION 66. When any known owner of lands Infant in law. or tenements, affected by any proceedings under this charter, shall be an infant, or labor under any disability, the judge before whom the proceedings are pending, may, upon application of the council, or such party, or his next friend, appoint a guardian for such party, in the same manner as in a civil action, in a court of record, and all notices required by this charter, shall be served on such guardian.

SECTION 67. The judge, or court, before whom proceedings are pending, shall have power at any time, to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as he deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving. Defects or informalities may be amended.

SECTION 68. Whenever any improvement chargeable to the property adjacent thereto, shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot, or parcel of land, subject to contribute to the payment of the same, shall be ascertained by the council, and the city clerk shall forthwith issue to each person occupying such premises, liable to contribute, a certificate, stating the amount assessed and chargeable to the premises, occupied by such person; and the amount so chargeable to any particular lot, or parcel of land, shall be, from the time it is so ascertained, a lien and charge thereon, and upon no other property; and the said amount shall be entered against such lot or lots, in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes. Division of costs.

SECTION 69. Whenever any public grounds, street or alley, shall be laid out, widened or en- Accurate survey to be made

larged, or other public improvements made under the provisions of this chapter, or this act, the common council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city clerk.

Power to change the name of streets.

SECTION 70. The council shall have the power to change the name of any street, and to vacate any plat, or portion thereof, that may be petitioned for by the proprietor 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.

Roads and streets on unplatted lands.

SECTION 71. 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.

Directions, only directory.

SECTION 72. All the foregoing directions, given in this chapter, shall be deemed only directory, and no error, irregularity, or informality of any of the proceedings, under the provisions of this act, not affecting substantial justice, shall, in any way affect the validity of the proceedings.

CITY IMPROVEMENTS.

City improvements.

SECTION 73. 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, sidewalks and crosswalks, in the manner hereinafter mentioned, and direct and control the persons employed therein, and provide for the payment of the costs, charges and expenses incurred thereby, out of the city moneys, except for such sidewalks as shall be ordered built and maintained by owners of lots, as hereinafter provided.

Building of sidewalks.

SECTION 74. The common council shall have power, and may order sidewalks built upon either side of any street, upon a petition of a majority of the owners of the lots (residing thereon) abutting on the side of the street upon which said sidewalk is proposed to be built. The cost of building and maintaining such sidewalks shall be paid by the owners of such lots; provided, that in the event of the cost of construction or of rebuilding, or replacing such sidewalk, on the grade on which such sidewalk is so required to be built, shall

exceed the cost of construction on a level, the amount of such excess shall be allowed by the council to such lot owners, and the amount of such excess paid by the city; such excess of costs to be estimated by the street commissioner.

SECTION 75. Whenever the common council shall order the building of a sidewalk, it shall, by resolution, designate the grade upon which the same shall be built, fix the width thereof, the material of which it shall be built, and the time allowed for the construction thereof, and shall give notice to the owners of the lots liable to build the same, as hereinafter provided. The street commissioner shall serve a notice, containing such resolution, upon the owners of the lots liable to build such sidewalk, personally, or if not found, then by leaving a copy with some member of his family, of suitable age, at the residence of such owner, if a resident of the city, commanding them to build such sidewalk within the time designated in the resolution. If service cannot be had as above provided, or if said lot owner is not a resident of said city, then service shall be made by publishing said notice, at least two weeks in the official paper of said city, and said commissioner shall make return to the city clerk of such service. At the expiration of the time fixed for building such sidewalk, the street commissioner shall proceed to build such portions of said sidewalk as may be unfinished, and upon the completion thereof, make a statement in writing to the council, specifying the lots abutting on such sidewalk so built by him, and the cost of each portion abutting each respective lot, verified by his affidavit. The council shall, upon the receipt of such statement, appropriate from the general fund of the city the amount of such cost. The amount so appropriated shall be charged to the lots so returned, and if not sooner paid, shall be entered by the city clerk in the next annual tax roll opposite the lots so returned, in the same manner as other taxes are entered, but in a separate column under the head of sidewalk taxes; provided, that the amount so charged shall not exceed the cost of building such sidewalk upon level ground.

How sidewalks shall be ordered built, modus operandi.

SECTION 76. The common council shall have, and it is hereby granted, power to annually levy a tax of one dollar and fifty cents (\$1.50) upon each male inhabitant of the city of Menomonie, who is

Poll tax.

over the age of twenty-one years and under the age of fifty years, excepting disabled soldiers who served in the late war, paupers, idiots and lunatics. Such tax shall be paid in money and shall be denominated a poll tax. The common council shall levy such tax by resolution, not later than the first Monday in May of each year. Upon the adoption of such resolution by the common council, the city clerk shall immediately proceed to make a list of all persons residing in said city who are liable to pay such tax, and attach thereto, a warrant directed to the street commissioner of said city, and commanding him to forthwith collect such tax from the persons charged therewith upon said list, which warrant shall be signed by the mayor and countersigned by the city clerk. The city clerk shall deliver such list with the warrant attached, to the street commissioner, on or before the first day of June in each year. The street commissioner, upon the receipt of such list, shall proceed to collect the poll taxes charged thereon, in the same manner as overseers of highways in towns are authorized to collect highway taxes in money, and for that purpose he shall have all the powers and authority possessed by overseers of highways in towns, and he shall add to the said list the names of all persons liable to pay such tax, which shall have been omitted, and collect in the same manner the tax of the persons so added. The poll taxes so collected, shall be expended in building and repairing roads, streets and highways under the direction and by order of the common council. The street commissioner shall annually, not later than the first day of December, make a report in writing to the common council giving the amount of such poll taxes by him collected, the names of the persons paying, and the amount by him expended and place and manner of such expenditure, which report shall be verified by his affidavit.

Duty of street commissioner.

Stagnant waters.

SECTION 77. The council shall give notice to all owners or occupants of lots, which may be deemed injurious to health by reason of stagnant waters remaining thereon, in the official paper for two weeks, to abate such nuisance by draining or filling such lot within a reasonable time therein to be specified, 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.

SECTION 78. In all cases where work is ordered to be done by the owner of any lot, under the provisions of this chapter, 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 such order shall be executed. Owner may take an appeal.

SECTION 79. The general powers and duties of the street commissioner, shall be the same as 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 river and water courses in said city, are duly observed and kept, and direct and control the persons employed therein; and he shall have a general supervision over all work let by contract for the improvement of streets or sidewalks in said city, 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 places 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. Powers of street commissioner.

SECTION 80. 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 this act; service of such writ- Further duties of street commissioner.

ten 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 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. The city shall not be liable for any services ordered to be performed by the street commissioner, unless provision is made for paying therefor, at the time such services are ordered.

Removal of dirt, gravel, etc.

SECTION 81. 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, but in so taking material he shall do no damage to the adjacent property. 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, or for any other purpose, as to it may seem best.

Term of office of street commissioner.

SECTION 82. 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 was elected, unless removed by the council, and shall, before entering on the duties of his office, give a bond to the city of Menomonie, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than five hundred dollars, (\$500) 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.

SECTION 83. 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 inspector 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.

Inspector of alleys, and his duties.

SECTION 84. 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 Dunn county, deposit stone when brought upon the grounds connected with the jail of said Dunn county, and may use in breaking said stone such labor of prisoners under sentences 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.

Purchase a stone crusher.

SECTION 85. 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

Ornamental trees, how to be planted.

grounds, to pay the expense of the same. It shall also have 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 for the 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 when 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.

Control of funds.

SECTION 86. 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 treasury shall specify the purpose for which they are drawn, and shall be payable generally out of any funds in the treasury belonging to the city. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

No debt contracted or orders drawn unless by majority vote.

SECTION 87. No debt shall be contracted against the city, or orders 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 this act, and for the payment of indebtedness now existing.

Forfeitures go to city.

SECTION 88. All forfeitures and penalties accruing to the city for a violation of this act, or any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by this act. 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 elect.

SECTION 89. 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 assessor elected under this act shall have and possess the same powers, and perform the same duties as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of the assessment roll, and more fully define the duties of assessor.

All property
subject to
taxation.

SECTION 90. The county board of supervisors shall have the right to regard the city of Menomonie as a town in equalizing the assessment rolls of the several towns in Dunn 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 regarded
as a town for
equalization
purposes.

SECTION 91. The said board of supervisors, may levy a tax or taxes, as now is, or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to towns or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Supervisors
may levy tax
on city.

SECTION 92. The council shall annually, not later than the second Thursday in November of each year, by resolution, levy such taxes upon the taxable property of the city, as will, in its opinion, be required to defray the general expenses of said city for the year next ensuing; provided, that such tax levy shall not exceed one and one-half ($1\frac{1}{2}$) cents on each dollar, of the taxable property of the said city, as shown by the last assessment roll of said city. It shall also, at the same time and in the same manner, levy a tax not exceeding one mill on each dollar valuation, for a library fund.

Tax for general
expenses.

SECTION 93. The city clerk shall make the tax roll of the city, in the same manner and form and

Tax roll

at the same time, as required by chapter 48 of the revised statutes of 1878.

Treasurer shall collect taxes.

SECTION 94. The city treasurer, upon the receipt of such tax roll, shall proceed to collect the same, and in like manner, and shall have like power and be subject to like requirements, liabilities, and restrictions as town treasurers, except as otherwise provided in this act. All taxes may be paid to the treasurer before the first day of January in each year without any addition thereto for treasurer's fees. To the taxes paid after the first day of January, five (5) 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.

Sale of delinquent lands,

SECTION 95. The county treasurer shall sell all delinquent lands and lots returned from the city of Menomonie, at the same time, and in the same manner, as other delinquent lands are sold in the county.

Special taxes on exempt property.

SECTION 96. 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.

Exemptions.

SECTION 97. All lands lying within the city limits that are used, occupied, reserved and held exclusively for agricultural purposes, shall be exempt from all special taxes levied for the purpose of purchasing fire engines, parks, public squares, and for water and gas purposes.

Tax for purchase of fire engines.

SECTION 98. 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 common council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, it 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.

Kind of money treasurer shall receive.

SECTION 99. The city treasurer shall receive nothing but national currency, treasury notes, coin, or coin certificates, 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. 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.

SECTION 100. 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. Thereupon the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

In case treasurer is short of funds.

SECTION 101. 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 other 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.

State tax shall first be paid, others in order.

SECTION 102. The council shall meet on the last Thursday in March of each year, for the purpose of disposing of its unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers, for the balance of their terms.

Disposal of unfinished business.

SECTION 103. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, except school funds, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interests and profits arising from such investment shall belong to the city, and shall be accounted for in the same manner that other funds are accounted for.

Disposal of surplus funds.

SECTION 104. The council shall have power to provide for the erection of a monument to the memory of those of her citizens, who lost their lives during the late rebellion, at such time and in such place as it may direct, and for that purpose may levy a tax to pay for all necessary expenses incurred, without submitting the same to a vote of the people.

Soldiers' monument may be erected.

FIRE DEPARTMENT.

Protection
against fire.

SECTION 105. The council, for the purpose of guarding against the calamities of fires, 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 damage.

Regulation of,
and building of
chimneys, etc.,
and sundry
precautions for
protection
against fires.

SECTION 106. The council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, boilers, apparatus used in 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 they shall prescribe, and to regulate the use of them in time of fire; to regulate and to 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, and to compel bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient, and enforce the provisions of this act and the ordinances under it, by suitable penalties.

Formation of
hook and lad-
der companies.

SECTION 107. The council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulation of the same, and to disband

any such companies at any time, and to 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 cases of war, invasion or insurrection; and whenever a member of a fire, hook and ladder, 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.

SECTION 108. The council shall have power to raise a tax each year, not exceeding five (5) 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 of said city for fire purposes. Fire tax.

SECTION 109. The council shall have power to organize sack companies, to consist of not more than thirty members each. Such companies shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said companies, either collectively or individually, are hereby authorized and empowered to act as special police in and for said city, and are hereby vested with all the power and authority which now is, are, or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department; at fires they shall take charge of all the property which may be exposed or endangered, and shall, as far as it may be in their power, preserve the same from injury or destruction; such companies may, from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with the laws of this state. The members of said companies shall not be entitled to receive pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, Organizing sack companies, and their duties.

and shall perform such services as may be necessary for the peace and good order of the same. The members of said companies shall severally, take an oath or affirmation, that they shall faithfully discharge the duties of their said office, and when any member shall cease to be a member thereof, by resignation, expulsion or otherwise, a notice thereof shall be given to the city clerk, and he shall preserve a list of all members of each of said companies.

SCHOOLS.

Superintendent of schools to be member of board of education.

SECTION 110. The superintendent of schools shall be a member of the board of education, and shall perform such duties as pertain to his office and are required of him by the provisions of this act.

Women eligible to be school superintendent.

SECTION 111. 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.

Board of education, by whom composed.

SECTION 112. The school commissioners, in conjunction with the superintendent of schools of said city of Menomonie, shall constitute a board to be styled, "The board of education of the city of Menomonie." Said board shall appoint and hold stated 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 the 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.

SECTION 113. 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 superintendent, shall examine all teachers making application to teach in the public schools of said city; all certificates to teachers, granted by said superintendent,

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 thereto belonging.

SECTION 114. The clerk of said board shall, in each year, and at the time and in the manner now and hereafter to be required by law, make and transmit to the state superintendent of public instruction, a report in writing, which report, in form, shall be such as is now, or may hereafter be required by law, to be made annually to the state superintendent. 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 close of the terms of office of the board, on the second Tuesday in April, 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.

Clerk shall make report to state superintendent, what to contain.

SECTION 115. The salary of the superintendent of schools shall be fixed by the council, not to exceed two hundred dollars (\$200) a year, payable quarterly at the end of each quarter.

Salary of superintendent of schools.

SECTION 116. 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

Ordinances for protection of school houses.

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 act of which this act is amendatory, are collected.

Title of school houses to be vested in city.

SECTION 117. The title of the school houses, sites, furniture, apparatus and appurtenances, and all other property mentioned by this act, shall be vested in the city of Menomonie, 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.

Treasurer of city to demand money from county.

SECTION 118. The treasurer of said city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer of Dunn 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 treasurer, to pay over to him the said moneys without delay or set off, taking his receipts as such treasurer therefor, and all such moneys shall be placed to the credit of the school fund of said city.

Power and duty of board of education.

SECTION 119. The said board of education shall have power and it shall be its duty:

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.

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 common council in relation thereto, are observed.

3d. To contract with, and employ in behalf of the city, all teachers in the common and ward schools, and such other schools as may be under the

direction of said board, who shall have been licensed by said board, and at their pleasure to remove them.

4th. To have, in all respects the superintendence, supervision and management of all the public schools in said city, and from time to time to adopt, alter, modify and repeal, as it 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.

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.

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 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 its 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.

7th. In the name of the city of Menomonie, to contract, subject to the approval of the council, 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 to superintend the erection, construction and repair of all school houses, 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.

SECTION 120. The council of said city of Menom- School tax.

onie, shall have power to annually levy and collect a school tax, not exceeding one (1) 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.

Audit accounts.

SECTION 121. 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 Menomonie 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. The city treasurer and his sureties, shall be liable for all school funds that come into his hands, and for payments not authorized by this act.

Non-resident children allowed to attend either schools upon payment of tuition.

SECTION 122. The said board of education shall have power, to allow 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; 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 extend for school purposes in any one year, any greater sum than is provided for in section 115 of this act, 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.

SECTION 123. All lands formerly in school district No. 1, of the town of Menomonie, which are not included within the limits of the city of Menomonie, shall be attached to, and become a part of the school district in the town of Menomonie, upon which such lands adjoin. The council of the city of Menomonie, and the supervisors of the town of Menomonie, are hereby authorized and empowered to meet and make an order attaching such lands to said school districts, in the same manner as though such lands were a part of a joint school district.

Limits of school district.

SECTION 124. The city treasurer is hereby authorized to demand of, and receive from the former treasurer of school district No. 1, of the town of Menomonie, such moneys as were in his hands at the time of the adoption of the charter of the city of Menomonie, belonging to said school district, and give his receipt for the same to said district treasurer. Said receipt, when given, shall release said school district treasurer and his bondsmen, from all liability for such money.

City treasurer to demand moneys from former treasurer.

MISCELLANEOUS PROVISIONS.

SECTION 125. The credit of the city shall never be given or loaned in aid of any individual, association or corporation.

Credit of city shall never be loaned.

SECTION 126. The city shall have no power to borrow money, or contract any debt, which cannot be paid out of the revenue of the current year.

May borrow money.

SECTION 127. 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 any alderman for their services.

No extra compensation shall be allowed.

SECTION 128. 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 claims against city.

SECTION 129. In all prosecutions for any violation of any of the provisions of this act, 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.

Prosecution to be commenced by summons.

Execution to be
issued forth-
with.

SECTION 130. 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 Dunn 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 discharged by the common council.

Process, how
served.

SECTION 131. 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 said city shall be a party in interest.

Shall not work
incompetency.

SECTION 132. When any suit or action shall be commenced against said city, the service of process therein, may be made by leaving a copy thereof, by the proper officer, with the mayor; and it shall be the duty of the mayor 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.

Regarding
judgment
against city

SECTION 133. When a judgment shall be recovered against the city of Menomonie, 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 herein provided; but the same, unless reversed, shall be levied and 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 any 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. Nor shall any real or personal property of any inhabitant of said city, or any individual or corporation be levied upon or sold, by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

SECTION 134. The said city may lease, purchase

and hold real or personal estate, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation; provided, that no debt shall be incurred in any such purchase, which cannot be paid out of the revenue of the fiscal year.

City may hold real or personal estate.

SECTION 135. Every license issued by the authority of this act, or the ordinance 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, either by the mayor or council; provided, that the sum to be paid for any such license, shall not be less than the amount fixed by the laws of the state, and that all licenses shall be granted to expire on the first day of May next following, in each year.

Licenses shall be signed by city clerk.

SECTION 136. The use of the jail of Dunn 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. But said county shall not incur, or pay any liability, or expense, on account of any person committed to said jail for the violation of any ordinance, by-law, rule or regulation of said city, but such expenses shall be paid by the city.

Use of jail.

SECTION 137. Whenever the town board of supervisors of the town of Menomonie, in the county of Dunn, may deem it for the convenience and interest of the legal voters of said town, they are hereby authorized and empowered to select a place for the polls of any general or special election, or town meeting, at any suitable place within the limits of the city of Menomonie; provided, that such polls shall not be nearer to any poll of election in any ward of said city than three hundred feet, and notice of such elections and the place

Selecting a place for holding polls by town boards

where the same is to be held shall be given as provided by the laws of this state.

Town super-
visors may
hold meetings
in city.

SECTION 138. It shall be lawful for the supervisors of said town, to hold their meetings for the transaction of town business, at any proper place within the city of Menomonie, and the town board may authorize and empower the town clerk and town treasurer of said town, to keep the books and papers in their respective offices at some suitable place within the limits of said city; provided, that the said city shall not be chargeable with, nor liable for any of the expenses arising or growing out of any of the provisions of this or the preceding section; and, provided further, that the place of meeting, and the places for the town clerk and the treasurer of the town, mentioned in this and in the preceding section, shall not be at any place or places of meeting of the common council, or of officers of the city without consent first being obtained of the common council.

Repealed.

SECTION 139. Chapter 102 of the laws of 1882, and all acts or parts of acts contravening the provisions of this act are hereby repealed.

SECTION 140. This act shall take effect and be in force from and after its passage and publication.

Approved March 19, 1883.

[No. 143, S.]

[Published March 22, 1883.]

CHAPTER 86.

AN ACT to incorporate the city of Edgerton.

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

Corporate
name.

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