

by the town of Cedarburg, shall be assumed and settled by either the said city or by the said town of Cedarburg in whichever boundaries the same may be located.

SECTION 93. This act shall take effect and be in force from and after its passage and publication.

Approved February 25, 1885.

[No. 94, A.]

[Published March 5, 1885.]

CHAPTER 32.

AN ACT to revise chapter 5, of the general laws of 1883, entitled, "An act to incorporate the city of Merrill."

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

SECTION 1. From and after the passage of this act, the following described district of country, to wit: The west one-half of section seven, and the northwest quarter of section eighteen, all in township thirty-one north, of range seven east, and sections ten, eleven and twelve, and the north one-half of sections thirteen, fourteen and fifteen, all in township thirty-one north, of range six east, lying and being in the county of Lincoln and state of Wisconsin, shall be a city, the name of which shall be Merrill, and the people inhabiting said territory shall be a municipal corporation, to be known and designated as "The City of Merrill." Said corporation shall have all the general powers possessed by municipal corporations at common law, and under the general statutes of the state of Wisconsin. And in addition thereto, the powers hereinafter granted, and shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded in all courts of purchasing and conveying real and personal estate, and shall have a common seal and may alter the same at pleasure.

Corporate name.

SECTION 2. A special election shall be held in said city of Merrill on the first Tuesday of March, A. D. 1885, for the purpose of determining the number of wards into which said city shall be

Special election.

divided; provided, that in case this act shall not be published on or before February 26, 1885, said special election shall be held on the second Tuesday of March, 1885. Such election shall be conducted and the votes canvassed in the same manner as general elections for state and county officers, except as hereinafter provided, and the qualifications of voters shall be the same as at general elections, except that no person shall be entitled to vote at such special election, who has not been a resident of said city for at least thirty days immediately preceding the time of such special election. At such special election each voter shall publicly, at the poll when he offers to vote, deliver in person to one of the inspectors of election, a ballot or piece of paper on which shall be written or printed the words, "For division into seven wards," or the words, "Against division into seven wards," and the inspector receiving the same shall without opening it, or permitting it to be opened or examined, deposit it in a ballot box to be provided for receiving such ballots. No notice of such special election shall be required, except the publication of this act in the official state paper. There shall be two election polls in said city of Merrill for such special election, one of which said polls shall be at the council room in said city, and the other at the skating rink in the fifth ward of said city. All voters residing in the first, second and third wards of said city of Merrill, as constituted by chapter 5, of the laws of 1883, shall be entitled to vote at the election poll held at said council room and not elsewhere, and all voters residing in the fourth, fifth and sixth wards of said city, shall be entitled to vote at the election poll held at the skating rink in the fifth ward of said city and not elsewhere. Four inspectors and two clerks of said election for each of said polls shall be appointed as follows: One clerk and two inspectors for each of said polls shall be appointed by the aldermen of the first, second and third wards of said city, who shall meet for that purpose the day before said special election is held, and one clerk and two inspectors for each of said polls shall be appointed by the aldermen of the fourth, fifth and sixth wards of said city in the same manner.

Division into
wards.

SECTION 3. The inspectors of said election shall forthwith make their returns, stating the number of votes cast for division into seven wards, and the number of votes cast against division into seven wards respectively, to the city clerk of said city, and shall also make duplicate returns thereof, to the county clerk of Lincoln county. On the next day after such election, at eight o'clock P. M., the common council of said city, shall meet and canvass said returns, filed with said city clerk, and declare the result as it shall appear from the same, and said city clerk shall make and keep a record of the same. In case a majority of the members of said common council shall not be present to make said canvass at the time herein specified, the members present shall proceed to make such canvass. All provisions of law relating to penalties and punishments for violations of the laws relating to general elections, shall be applicable to said election.

Return of
votes.

SECTION 4. If at such election a majority of all lawful votes cast shall be "Against division into seven wards," said city of Merrill is and shall be divided into six wards, the boundaries whereof shall be as follows: All that territory lying in the following boundaries shall be known as the First ward, viz.: Beginning in the center of section eighteen, town thirty-one north, of range seven east, and running north to the quarter post on the north side of section seven, town thirty-one north, of range seven east; thence west on the section line to the northwest corner of the northeast quarter of section twelve, town thirty-one north, of range six east; thence due south one-half mile, thence west along the center of the street to a point where the center of Park street intersects the former street; thence south, following the center line of said Park street to the south bank of the Wisconsin river; thence westerly along the south bank of said river to the line between sections thirteen and fourteen, of town thirty-one north, of range six east; thence south to the quarter post between said sections thirteen and fourteen; thence east to the place of beginning. All that territory lying in the following boundaries shall be known as the Second ward, viz.: Beginning at the northwest corner of the first ward

Ward boundaries in case the vote is against division into seven wards.

and running west one-half mile to the northwest corner of the northeast quarter of the northwest quarter of section twelve, town thirty-one north, of range six east; thence on a line due south to a point where said line intersects the center of Poplar street; thence south twenty degrees east, to the center of Main street, thence south seventy degrees west, to the east line of fractional lot two, in the last above named section; thence south to the north bank of the Wisconsin river; thence easterly along the north bank of said river to where the west line of the first ward crosses the same; thence north and west on said ward line to the place of beginning. The street running south twenty degrees east, along the east side of the High School Block to Main street, is the one referred to as Poplar street. All that territory lying in the following boundaries shall be known as the Third ward, viz.: Beginning at the northwest corner of the second ward and running west to the Prairie river; thence along the east and north bank of Prairie river to the Wisconsin river; thence north and east along the bank of the Wisconsin river to the west line of the Second ward; thence north and west along said ward line to the place of beginning. All that territory lying in the following boundaries shall be known as the Fourth ward, viz.: Beginning on the north bank of the Wisconsin river, where the west line of section ten, town thirty-one north, of range six east, intersects the same, and running thence north to the northwest corner of said section ten; thence east to the east bank of the Prairie river; thence south and westerly along said bank of said river to the south line of the northwest quarter of the southeast quarter of section eleven, town thirty-one north, of range six east; thence west to the center of the east channel of the Wisconsin river; thence down the center of said channel to a point seventy-five feet south of the south point of the island known as Howe and Chandler's island; thence up the center of the west channel and the main river to a point south of the place of beginning; thence north to the place of beginning. All that territory lying in the following boundaries shall be known as the Fifth ward, viz.: Beginning at the north bank of the Wisconsin river where the Prairie river intersects the same, and

running westerly and north along said bank of said Wisconsin river to the north line of fractional lot three, section eleven, town thirty-one north, of range six east; thence east to the east bank of the Prairie river; thence down said bank to the place of beginning. All that portion of section ten, town thirty-one north, of range six east, lying south of the Wisconsin river, and all that portion of the north one-half of sections fourteen and fifteen of the above named town, lying south of the Wisconsin river, shall constitute the Sixth ward, and chapter 2, of the laws of Wisconsin for the year 1885, and all other acts and parts of acts conflicting with the provisions of this act, so far as they conflict with the provisions of this act, shall be and are hereby repealed.

SECTION 5. If at such election held as hereinbefore mentioned, a majority of all lawful votes cast shall be, "For division into seven wards," said city of Merrill is and shall be divided into seven wards, the boundaries whereof shall be as follows: All that part of the northwest quarter of section eighteen lying north of the Wisconsin river, and the west half of section seven, all in township number thirty-one north, of range number seven east, and the east half of the east half of section twelve, in township number thirty-one, north of range six east, and blocks three, four, five, six, eleven and twelve, of G. L. Parks', Thos. P. Mathews', John Phelps, and Thos. B. Scott's addition to Merrill; and blocks nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of G. L. Parks' addition to Merrill shall constitute and be known as the First ward. The west half of the northeast quarter of section number twelve, in township number thirty-one north, of range six east, and blocks one, two, three, four, five, six, seven and eight of G. L. Parks' addition to Merrill, and blocks one, two, seven, eight, nine and ten of G. L. Parks', Thos. P. Mathews', John Phelps and Thos. B. Scott's addition to Merrill; all of lot number four of section twelve, township thirty-one north, range six east, south of said last mentioned addition; blocks two, three, four, five and nine of Scott's and Parks' addition to Merrill; blocks one, ten, thirteen, fourteen, fifteen and sixteen of the original plat of Jenny; all of the northwest quarter of section number eighteen, township number thirty-one

Ward boundaries in case the vote is for seven wards.

north, of range seven east, south of the north bank of the Wisconsin River; the north half of section thirteen, township number thirty-one north, of range six east, and lot number one of section twelve, township thirty-one north, of range six east, shall constitute and be known as the Second ward; the northeast quarter of section fourteen, the south half of the southeast quarter of section eleven, lot number two, of section twelve, all in township number thirty-one north, of range six east, and blocks thirteen, fourteen, fifteen and sixteen of V. R. Willard's addition to Merrill; blocks four, five and eleven of H. Streeter's addition; blocks two, three, four, seven, eight, nine, eleven and twelve of the original plat of Jenny, and all of lot number three, section number twelve, township number thirty-one north, of range six east, lying south of said last mentioned addition, shall constitute and be known as the Third ward. All the remaining territory in said city lying north of the Wisconsin river and east of Prairie river, not hereinbefore described, shall constitute and be known as the Seventh ward. The boundaries of the fourth ward shall be as follows: Beginning in the center of the Wisconsin river, where the west line of section ten, in township number thirty-one north, of range six east, crosses the same; thence north to the north line of the city; thence east to the east bank of the Prairie river; thence southerly along the east bank of said river to the north line of lot three, of section eleven, township number thirty-one north, of range six east; thence west on said line to the center of the Wisconsin river; thence up stream, following the center of said river to the place of beginning. All that part of the city of Merrill not heretofore described, lying north and east of the main channel of the Wisconsin river, including the island known as "Howe Island," shall constitute and be known as the Fifth ward. All the balance of the territory in said city, not hereinbefore described, shall constitute and be known as the Sixth ward.

SECTION 6. The corporate authority of said city shall be vested in one principal officer, styled the mayor, two aldermen from each ward who, with the mayor, shall be denominated the common council; and in such other officers as are here-

inafter provided for, or may be created under this act.

ELECTIONS.

SECTION 7. The annual election for city and ward officers shall be held on the first Tuesday in March of each year, at such place in each ward as the council shall designate, excepting the first election of said officers which shall be held on the first Tuesday in April, A. D. 1885. Not less than five days' notice shall be given of the time and places of holding all elections and of the officers to be elected by publication in the official city paper. The aldermen and supervisors of each ward shall be the inspectors of election for their respective wards and may appoint clerks of election for such wards. The common council of said city shall appoint the inspectors and clerks of such election for said seventh ward to be held on the first Tuesday of April, 1885, in case said seventh ward shall be established as herein provided. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers and the qualifications of voters shall be the same as at such general election, and that each elector shall reside in the city at least thirty days, and in his ward at least ten days prior to such election. In case a special election is to be held in the city other than for ward purposes, the council may order a single poll for the entire city and appoint the place where the election is to be held and the inspectors of election and clerks therefor. Each ward officer shall be a qualified elector in the ward in which he is elected, and each city officer shall be a qualified elector in the city.

Elections, when held.

SECTION 8. The officers to be elected by the people shall be a mayor, treasurer, assessor, two justices of the peace and three constables for the city at large, and two aldermen to be elected in each ward, and one supervisor for each ward. All of said elective officers, except justices of the peace and constables, shall be freeholders in said city.

Officers to be elected.

SECTION 9. The general laws of this state upon the subject of elections and prescribing punishment for illegal voting, so far as they are consistent with this charter, shall apply to all elections

General law to apply.

held in said city. No spirituous or malt liquors shall be sold within said city upon the day of any election held therein, and any person offending against this provision of this section shall be guilty of a misdemeanor and punished by fine of fifty dollars, or by imprisonment in the county jail for sixty days, or by both such fine and imprisonment; and the city council shall have power to create and prohibit the same offense by ordinance, and to punish it by penalties not exceeding the penalty above prescribed.

Appointed
officers.

SECTION 10. All necessary officers not hereinbefore named as elective officers, shall be appointed by the council. All elective officers, except justices of the peace and aldermen shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, that the council shall have power, for due cause satisfactory to it, to expel any of its 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 hearing having been first given to the officer proposed to be removed. Justices of the peace and aldermen shall hold their offices for two years and until their successors are elected and qualified; provided, however, that at the first charter election held in said city after the passage of this act, one of the aldermen from each ward, to be designated on the ballot, shall be elected for one year only, and one shall be elected for two years, and thereafter at each annual charter election there shall be elected one alderman from each ward to represent his ward on the common council for the term of two years. The term of office of every officer elected or appointed under this act shall commence on the second Tuesday in March, of the year for which such officer is elected or appointed except those of superintendent of schools and school commissioner, which shall commence on the second Tuesday of July next succeeding their appointment, and the term of office of all other appointed officers shall expire on the second Tuesday of March next succeeding their appointment, unless sooner removed.

Vacancies, how
filled.

SECTION 11. Whenever a vacancy shall occur in the office of mayor or alderman, the council may

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

SECTION 12. In all elections by the people, a plurality of votes shall constitute an election. In case two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the council, at such time and in such manner as it may direct.

Plurality of votes shall constitute an election.

SECTION 13. Whenever any officer shall cease to possess the qualifications necessary for his election, his office shall be deemed vacant; and any officer who shall neglect or refuse to qualify within ten days from the time he shall be notified of his election, shall be deemed to have vacated his office.

When an office is deemed vacant.

SECTION 14. Whenever an election shall be held under this charter, the inspectors of election shall forthwith make their returns, stating the number of votes cast for each person, for each and every office, to the city clerk. Within one week after an election, the council shall meet and canvass said returns, and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected, of their election.

Return of inspectors.

SECTION 15. In case of the inability of the ward supervisor, of any ward, to act or sit on the county board, for a temporary cause, the alderman from that ward having the shortest time to serve on the council, may attend the meetings of the county board, and sit and act as a member of said county board to represent his ward until the disability of the supervisor is removed.

Respecting representation on county board.

OFFICERS — THEIR POWERS AND DUTIES.

SECTION 16. Every person elected or appointed to any office under the city charter, except justices of the peace, shall before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer

Officers—their powers and duties.

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

**Duties of
mayor.**

SECTION 17. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state, and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time, give the council such information, and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot, or other disturbance, or apparent necessity, he may appoint as many special or temporary constables as he shall deem necessary. He shall have the authority to remove the chief of police for inefficiency or neglect of duty, and to appoint a chief of police in place of the one he may remove; but the term of office of a chief of police who may be appointed by the mayor, shall not commence until his nomination has been approved by a majority of the council. The mayor shall have a vote in the

council only in case of a tie, except when the council shall be engaged in the election of any officer, in which proceeding he shall have a vote the same as an alderman. When presiding over the council his style shall be, "Mr. President."

POWERS OF MAYOR.

SECTION 18. The Mayor shall have power to veto any ordinance, act or resolution passed by the council, or the allowance of any claim by notifying the council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution, or the allowance of such claim. In case of no session of the council, on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council by giving notice in the same manner as other special meetings are called to consider such veto and objections, and in case the council shall not, within one week after receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of two-thirds of all the members of the council elect, the same shall be null and void. If the mayor shall not return any ordinance, act, resolution or claim within seven days after the passage or allowance thereof, it shall take effect in the same manner as if he signed it.

Powers of
mayor.

SECTION 19. At the first meeting of the council after its election, in each year, it shall proceed to elect, by ballot, one of its number president, and in the absence of the mayor, the said president shall preside over the meetings of the council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent at any meeting of the council, it shall proceed to elect a temporary presiding officer, who for the time being shall discharge all the duties of mayor. The president, or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled

President of
council.

acting mayor, and any acts performed by him shall have the same force and validity as if performed by the mayor.

DUTIES OF CLERK.

Duties of clerk.

SECTION 20. There shall be a city clerk appointed by the common council who shall keep the corporate seal, and all papers and records of the city, and keep a record of the proceedings of the council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the council, and keep a full and accurate account thereof in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the council may appoint a clerk pro tem. The city clerk shall have power and authority to administer oaths and affirmations. He shall also be the sealer of weights and measures of said city, and be governed by the general laws of the state appertaining to the sealing of weights and measures by town clerks. The city clerk shall also be the clerk of the board of education.

DUTIES OF TREASURER.

Duties of treasurer.

SECTION 21. The treasurer shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the council shall direct. He shall report to the council as often as is 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 three hundred dollars per annum and shall be payable quarterly.

DUTIES OF CHIEF OF POLICE.

SECTION 22. The chief of police 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 or delivered, for that purpose, and when necessary, in case of the violation of any ordinance of this city, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city, or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service, but he shall receive no fees for services performed in behalf of the city. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinance of said city. He shall have the power to appoint one or more deputies to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Duties of chief of police.

POWERS OF COUNCIL.

SECTION 23. The council shall have power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to appoint such other officers, as may be necessary to carry into effect the provisions of the city charter, and to prescribe their duties, and to fix the compensation of all officers appointed by it, where the compensation is not fixed by statute. The council shall, at least ten days before the annual charter election,

Power of the council.

in each year, fix, by resolution, the salary which shall be paid to the clerk, treasurer, chief of police, 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, and the salaries of the following named officers shall not exceed the following amounts: City clerk, three hundred dollars per year; city assessor, three hundred dollars per year; chief of police, four hundred dollars per year; and city treasurer three hundred dollars per year, and shall be payable quarterly.

Official newspaper.

SECTION 24. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper, printed in said city, which shall be the official paper of the city, in which shall be published all ordinances and other matters required by the city charter, or the by-laws or ordinances of the city, to be published in a newspaper.

Printer shall file affidavit.

SECTION 25. The city printer or printers immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the clerk of the city, a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of the 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.

Penalty for failure to deliver to successor.

SECTION 26. If any person having been an officer in said city, shall not, within ten days after notification and request deliver to his successor in office, all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city a sum not exceeding one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

Shall not be interested in any job.

SECTION 27. Neither the mayor, nor any member of the common council of said city, shall be a

party to, or interested in any job or contract with the city, and any contract in which the mayor or any member of the common council may be interested, shall be null and void; and in case any money shall have been paid by, or for the city on any such contract, the city may sue for and recover the amount so paid.

OFFICERS OF THE PEACE.

SECTION 28. The mayor, or acting mayor, sheriff of Lincoln county, and each and every member of the common council, justice of the peace, chief of police, constable and watchman, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and, if need be, of all citizens; and if any person or bystander shall refuse to aid in maintaining the peace when so required, every such person shall pay a forfeiture of not more than fifty dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present in the order above mentioned in this section shall direct the proceedings.

CITY ENGINEER.

SECTION 29. The council may elect a city engineer and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk, and shall be open to the inspection of the public.

SECTION 30. All actions to recover any penalty or forfeiture under the city charter, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All forfeitures and penalties collected by any justice in such cases shall be paid over to the city treasurer. Each justice shall report to the council on the second Monday in March, June, September and December in each year, a statement of all such forfeitures and penalties collected

by him, and at the same time pay over the amount thereof to the city treasurer. No person shall be incapacitated or excused from testifying in any such action by reason of being implicated in the offense or act charged; but the testimony of such witness shall, in no case, be used against himself.

RESIGNATIONS.

Resignations.

SECTION 31. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the council.

Sureties.

SECTION 32. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made 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 the city charter provided.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Common council its powers and duties.

SECTION 33. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Merrill do ordain," etc. The council shall meet at such time and place as it shall fix upon. A majority of the aldermen shall constitute a quorum.

Council shall hold stated meetings.

SECTION 34. The council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their usual places of business or abode.

RULES OF COUNCIL.

Rules of council.

SECTION 35. The council shall determine the rules of its own proceedings; shall be the judge of the election and qualifications of its own members, and a less number than a quorum shall, at any regular or special meeting, have power to adjourn or compel the attendance of absent members.

CONTROL OF FINANCES.

Control of finances.

SECTION 36. The council shall have the management and control of the finances and of all the property of the city; and shall likewise, in addi-

tion to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as it shall deem expedient; declaring and imposing penalties and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws.

LICENSES.

1st. To license and regulate the exhibition of Licenses. common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, pool tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law, and to grant licenses and regulate groceries, taverns, victualing-houses, and all persons vending or dealing in spirituous, vinous or fermented liquors.

2d. To restrain and prohibit all descriptions of Gaming and fraudulent devices. gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the council; provided, that no license shall be issued by said council for the sale of spirituous, vinous or fermented liquors at less than the following rates: For a license to sell such liquors to be drank upon the premises or not to be drank upon the premises, and in any quantity whatsoever (meaning thereby to include both a wholesale and retail license), the sum of two hundred dollars. For a license to sell such liquors in any quantity, not to be drank upon the premises, the sum of one hundred dollars. For a license to a druggist to sell such liquors, solely

upon the prescriptions of practicing physicians, the sum of twenty-five dollars.

Riots, disturbances.

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

Abatement of nuisances.

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 regulate the storage, safe keeping and conveying of gunpowder or other combustible materials.

Encumbering the streets.

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

Horse racing and immoderate driving.

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

Restrain cattle.

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

Dogs.

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

Unwholesome substance.

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

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

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

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

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

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

16th. To restrain drunkards, immoderate drinking, vulgarity or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Restrain drinking.

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

18th. To establish public markets, and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets and to restrain all persons from intercepting or interfering with the due observance of such rules and regulations. Public markets.

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

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

21st. To compel owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, street or alley opposite there- Removal of rubbish.

to, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant.

Infectious diseases.

22nd. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

License of auctioneers.

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

Watchmen.

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

Weights and measures.

25th. To prohibit and punish by suitable fines, penalties or forfeitures, the use of false weights or measures within said city.

Trees and monuments.

26th. To protect trees and monuments in said city.

Sewers.

27th. To provide for and regulate the construction of sewers within said city.

Alter streets.

28th. To alter or change the name of any street in said city.

Ringling of bells.

29th. To regulate and license the ringling of bells, and the crying of goods, wares and merchandise, or other commodities in the streets or vacant lots of said city.

Locomotives.

30th. To regulate the running of locomotives, engines and cars through the city.

Awning and awning posts.

31st. To regulate and control the erection of awnings and awning posts, and to provide for and control the erection and maintenance of safe and convenient hitching posts and places for fastening teams, at such points as the council may deem necessary.

Public markets.

32nd. To establish public markets and make rules and regulations for the government of the same.

33rd. To direct the location of and regulate and license breweries, tanneries and packing houses. Breweries.

SECTION 37. All ordinances shall be passed by an affirmative vote of a majority of the council, and shall be signed by the mayor, and shall be published in the official paper of the city, but no ordinance shall be in effect until ten days after its publication, and within fifteen days after such publication, they shall be recorded by the city clerk in books provided for that purpose; but before any of the said ordinances shall be recorded, the publication thereof respectively, within the time hereinbefore provided, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times such record, or a duly certified copy thereof or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be deemed and taken as *prima facie* evidence of the time and manner of such publication and of the passage of such ordinance. Ordinances,
how passed.

SECTION 38. The powers conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings according to law. Gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances. Shall not bar or
hinder suits.

SECTION 39. The council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, chief of police, and all other officers and agents of the city, at such time as it may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired; and the council shall require each and every such officer and agent to exhibit his book accounts, moneys and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his said duties in pursuance of this section, or shall neglect or Adjustment of
accounts.

refuse to render his account, or present his moneys, books and vouchers to said council, it shall be the duty of the council to declare the office of such person vacant; and the council shall order suits and proceedings at law against any officer or agent of the said city, who may be delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

STREETS, ALLEYS, ETC.

Streets, alleys,
etc.

SECTION 40. The council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains as follows: Whenever ten or more freeholders residing in any ward shall by petition, represent to the council that it is necessary to take certain lands within the ward where such petitioners reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the ward for the purpose of constructing and repairing sewers and drains, giving the courses and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the council shall, if it deems it necessary to take or use such lands for the purpose specified in such petition, cause notice of such application to be given to the owners or occupants of such land, which notice may be served personally or by leaving the same at the place of business, or at the residence of such owner or owners, occupant or occupants; or if any portion of such lands shall not be in the actual occupation of any person, and such notice has not been served upon the owner, then the council shall cause such notice, describing as near as may be, the premises proposed to be taken, to be published in the official paper of the city, for four successive weeks, at least once in each week.

Appointment
of jurors.

SECTION 41. Such notice shall state that on a certain day therein to be named, not less than ten days from the service of such notice or the expi-

ration of such publication, as the case may be, application will be made to the county judge of the county of Lincoln for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition. Should any of the lands proposed to be taken or used belong to the county judge, the application shall be made to the sheriff of the county.

SECTION 42. Upon presentation of such application, and upon due proof made in the same manner as is required to make proof of service of the summons in civil actions in courts of record, of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors twelve reputable freeholders, residents of Lincoln county, possessing the qualifications of jurors of said county, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept directed to said jurors, requiring them, at some time therein specified, within thirty days from the date thereof, to view such premises to be specified in said precept, and to make return under their hands to the council whether, in their judgment, it is necessary to take or use said premises for the purpose specified in said application. In selecting such jury, the same rights of challenge peremptorily for favor or for cause may be exercised by the city attorney or any other representative of the city, and by the owner of the land sought to be taken, his agent or attorney, as a party to a civil action in the circuit court, is entitled to have; and the judge or sheriff, as the case may be, shall decide the same in like manner, and replace the name of any jurors successfully challenged with the name of some other competent person, until a jury of twelve be chosen.

Further, regarding the appointment of jurors.

SECTION 43. If any juror so appointed shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or sheriff shall appoint another in his place, and a memorandum of such substitution shall be indorsed on the precept.

In case person is disqualified.

SECTION 44. The said jurors, having first taken the oath hereinafter provided for, shall proceed in

Jurors shall view premises.

a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jury shall make a report.

SECTION 45. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the council within the time limited therein.

In case jury reports favorably, duty of council.

SECTION 46. Should the jurors report that it is necessary to take or use such premises, the council shall, if it approves such report, enter an order among its proceedings confirming said report and directing the same jurors to again view said premises at a specified time for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what premises will be benefited by such taking, and to assess and return within the time limited, such damages and benefits to the council; provided, however, that in case of sewers and drains the said jurors need not view the premises to be benefited, or assess the benefits thereon.

In case there are buildings on land.

SECTION 47. If there should be any buildings standing, in whole or in part, upon the lands to be taken or used, the jurors, before proceeding to make their appraisements, shall first estimate and determine the whole value of the land, and secondly, the value of such buildings to remove, except in cases of sewers and drains.

Notice of determination shall be given.

SECTION 48. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in the official paper of the city, three successive weeks; such notice shall specify the building and award of the jurors. It shall also require the parties interested to appear on a day to be therein named, and give notice of their election to the council either to accept the

award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building, at the value set thereon by the jurors to remove. If the owner shall agree to remove such building he shall have such time for that purpose as the council may allow.

SECTION 49. If the owner refuses to take the building at the value to remove, or fails to give notice of his election, as aforesaid, within the time prescribed, the council shall have power to direct the sale of such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor; provided, it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

In case the owner refuses to take the premises.

SECTION 50. The said jurors, within the time limited, shall view and examine the premises proposed to be taken or used, and all such other premises as will, in their judgment, be benefited thereby; provided, however, that in case of sewers or drains the said jurors need not examine the lands benefited. After hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom, for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings, if the property of the owners of such lands, as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

Jurors shall view and examine the premises.

SECTION 50a. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case

Providing damages are greater than benefits.

the jurors shall strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall, in any case, be collected of them or payable to them.

Provided lands belong to different parties.

SECTION 50b. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage or other incumbrance, if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively from the proposed improvement.

Apportionment of damages.

SECTION 50c. Having ascertained the damages and expenses of the proposed improvements as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate by them deemed benefited in proportion to the benefits resulting thereto from the proposed improvement as nearly as can be, and shall describe the real estate upon which their assessment may be made, and state the amount assessed upon each separate tract; provided, however, that when the lands are used only for the purpose of a sewer or a drain, the damages shall not be assessed upon the lands benefited, but shall be paid by the city as provided by law. The award of said jurors shall be signed by them and returned, together with the testimony taken, to the council within the time limited, in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided.

Damages awarded shall be paid prior to taking the land.

SECTION 51. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or in case said parties or agents cannot be found or are unknown, deposited to their credit in some safe place of deposit to be determined by the council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds hereto-

fore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

SECTION 52. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance, shall be taken or used by virtue of the city charter, all the covenants, contracts or liabilities relating to the same, or any part thereof shall, after the expiration of the time for appeal as herein provided, respectively cease and be absolutely discharged.

Regarding the lease of land or premises.

SECTION 53. When only part of the lot or tract of land or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrances, shall be absolutely discharged as to the part thereof so taken or used, but shall remain valid as to the residue thereof; and the rents, liens and payments due from, or on account of the same, shall be so appropriated that the part thereof justly and equitably payable for such residue, and no more, shall be paid or recoverable for, or in respect of the same.

In case a part only is leased.

SECTION 54. The damages assessed on each separate lot or tract shall be paid, or tendered, or deposited, as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case, as to any lot or tract on which they are so unpaid, shall be void. The benefits so assessed, from the expiration of the time for appeal, shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected. The amount so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

Damages assessed on separate lot shall be paid.

SECTION 55. When any known owner of lands or tenements affected by any proceedings herein provided for, shall be an infant or labor under a disability, the judge of the circuit court of Lincoln county, or the county judge may, upon the appli-

In case of infant.

cation of the council, or such party by his next friend, appoint a guardian for such party, and all notices required by the city charter shall be served upon such guardian in the same manner as if he were the party interested.

Jurors shall take an oath.

SECTION 56. The jurors herein provided for shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Appeal cases.

SECTION 57. The council, or any party interested may, within twenty days from the return of the jurors to the council of the benefits and damages so assessed, appeal to the circuit court of Lincoln county from the decision of said jurors, so far as it affects the interests of said appellants. Notice of such appeal shall be filed by the appellant with the clerk of said court within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct.

In case amount of damages are increased by cost.

SECTION 58. In case the total amount of damages and costs awarded by the jurors and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the council, and founded thereon, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk, under the direction of the mayor and council, upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be collected in the same manner. And in case such damages are not so increased, the costs of such appeal shall be taxed against the appellant and deducted from the damages recovered on such appeal.

Accurate survey shall be made.

SECTION 59. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the council shall cause an accurate survey

and profile thereof to be made and filed in the office of the city clerk.

SECTION 60. No street or alley, or part thereof, shall be vacated except upon the petition of the owners of three-fourths of the front upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by parties interested.

No alley vacated unless upon three-fourths petition of the owners.

SECTION 61. The council shall have power to change the name of any street, and to vacate any plat or portion thereof that may be petitioned for by the proprietors of such plat, or any person interested therein; but no petition for such vacation shall be acted upon, unless notice of such application to the council shall have first been published in the official city paper for at least two weeks prior to the meeting of the council.

Power to change name of streets.

SECTION 62. All the directions given in the foregoing sections from 37 to 61 inclusive, shall be deemed only directory, and no error, irregularity or informality of any of the proceedings thereunder, not affecting substantial justice, shall in any way affect the validity of the proceedings.

Only directory.

STREET AND CITY IMPROVEMENTS.

SECTION 63. Each ward in said city shall make, construct, repair, keep up and maintain all the streets within said ward, and the streets in each ward shall be under the control and supervision of the aldermen and supervisor of said ward.

Street and city improvements.

SECTION 64. The ward supervisor and the aldermen of each ward shall constitute a board of aldermen for their respective wards, any two of whom shall be a quorum to act and transact business. Said board of aldermen shall hold its meetings in the city clerk's office. The city clerk shall be the clerk of each of said boards of aldermen. No aldermen or ward supervisor shall be a party to, or (interested) in, any job or contract with the city or any of the wards except that he may act as a street commissioner for his ward but he shall receive no pay or compensation therefor, and any contract in which any alderman or ward supervisor shall be so interested shall be null and void. And in case any money shall have been paid upon any such contract, the common council may sue for and recover the amount so paid, from the par-

Board of aldermen how constituted.

ties to such contract and the aldermen or ward supervisor interested therein.

Board to hold stated meetings.

SECTION 65. The board of aldermen shall hold stated meetings, the time of which shall be prescribed by the common council by ordinance or resolution. Any meeting of the board of aldermen may be called by any two thereof, by notice personally served on the other, stating the time, place and hour of the meeting, at least twenty-four hours prior to said meeting, and no meeting except the stated meetings of said board of aldermen, consisting of less than the whole number thereof, shall be a legal meeting, unless upon call and previous notice thereof has been given, as herein provided.

Estimate of street tax to be made.

SECTION 66. That the board of aldermen of each ward shall, on or before the first day of October, annually make an estimate in writing of the amount of highway or street tax necessary to keep the streets in their wards in repair for the ensuing year and lay the same before the common council at the general meeting in the month of October annually.

A ward fund to be raised by tax.

SECTION 67. The common council shall, at the time of levying the taxes in each year, levy, upon the recommendation of the board of aldermen of each ward, upon the taxable property in each ward to be collected by the city treasurer at the time of collecting taxes a highway or street tax, which shall constitute a ward fund for said ward which shall be expended under the direction of the board of aldermen of their respective wards upon the streets in their wards to keep the same in repair and may be drawn out of the city treasury upon the order of the board of aldermen.

Power to change the grade of streets.

SECTION 68. The board of aldermen shall have the power, in their respective wards, to establish, alter and change the grade of any street, sidewalk, alley or lane in their respective wards; provided the same is approved by ordinance or resolution of the common council.

Power to order the repair of sidewalks.

SECTION 69. The board of aldermen of the several wards shall have the power in their respective wards, to order the construction or repair of sidewalks on or in any public street, or along the side thereof, and cause them to be lowered or raised, and prescribe the kind and manner of construction, the grade thereof, and the foundation upon

which the same shall rest at the expense of the lot fronting or abutting on such sidewalk or through, or on which the same may, in whole or in part, run or be situated.

SECTION 70. The board of aldermen shall also, Power to pave streets. in their respective wards, have power and authority to grade, gravel, plank or pave with any kind of pavement, or construct or fix with any kind of material, any street or alley in their respective wards, and construct and dig all necessary ditches or gutters, and charge the cost and expense thereof to the center of the street or alley to any lot or lots fronting or abutting on such street or alley, when such improvement is ordered by the common council, after the following requirements, viz.: When the proposition for such improvement shall be approved or recommended by a majority of the board of aldermen of the ward or wards in which it is proposed to be made, and presented at a regular meeting of the common council, and the same shall be approved or ordered at some subsequent regular meeting thereof by the common council, which proposition may be in general terms, and the council may change, alter, modify or fix the same, or the terms thereof, or when the same is ordered by the common council, which it shall have power to do upon the petition of the owners of a majority of the frontage of the land fronting or abutting upon such part or parts of any such street or alley, which it is proposed so to improve at the expense of such lots, or when streets on the dividing line between wards, or extending into or through two or more wards, and the board of aldermen of said wards cannot agree thereon; provided, however, that no action by the council shall be taken under the last provision, if the boards of aldermen of both wards are opposed to it; provided, that the aldermen of any ward shall grade, dig all necessary gutters or ditches on any street in their respective wards at the expense of such ward, for the purpose of graveling, planking or paving such street, at the expense of the lot or lots fronting or abutting such improvements.

SECTION 71. When any such improvement shall be made at the expense of the lots, as provided by sections 69 and 70 of this act, the following shall be substantially the mode of proceedings: Mode of proceeding defined.

1st. The board of aldermen of the ward or wards

in which the improvement is proposed to be made shall file in the city clerk's office, or cause to be entered in a record book in said office, a plan or specification of the work to be done, which shall not be required to be more specific than is necessary to inform parties interested of the work to be done; and such plan and specification may refer to any mark, stakes, stones, or other monuments, and which may be made a part thereof.

2nd. By personally serving upon the owner or owners of such lots, or in lieu thereof, publishing in the official paper of said city, at least ten days before such work is required to be done or improvement made, a notice signed by the clerk officially, requiring the owner or owners of such lots to do such work or make such improvement as per such plans and specifications by a day certain therein to be named, and may also insert in the same notice that on a day therein to be named, to be not less than six days from the last date, that the board of aldermen of said ward will let the contract to do all such work or make such improvements as shall not have been done or made, as so required or ordered, and that sealed proposals will be received accordingly. Such notice, served or published, need not specify the lots or blocks of land by numbers, figures, letters, or by metes and bounds, but may specify that all the lots or parts of lots, parcels or strips of land, fronting or abutting on such street or alley upon a particular side thereof between certain points. The board of aldermen may reject any bid if they think it is not for the interest of the ward and parties interested.

Board may contract for work if no satisfactory bid be made.

SECTION 72. If no satisfactory bid or bids are received to do such work or make such improvements, then the board of aldermen may contract with some person to do the whole or any part thereof, or such board of aldermen for their ward may do such work in whole or in part, all the cost or expense thereof chargeable to such lots and lands as aforesaid, and as herein provided. The board of aldermen may require any bidder instantler to give a satisfactory bond with satisfactory surety, for the faithful performance of the contract on his part. In letting any such work or improvements, different kinds of work may be

let to different persons, or the material required may be let separately from the work.

SECTION 73. Sewers, drains, gutters or ditches may be ordered, dug, made or repaired, by the board of aldermen in their respective wards, at the cost, charge and expense of the lots which they may deem benefited thereby, and they shall apportion such cost, charges and expenses among and on such lots, in such proportion or amount as they respectively shall deem the same benefited thereby; provided that no portion thereof shall be assessed upon any land outside of the ward of the board of aldermen ordering the same. Such work or improvement may be done by the ward or let out by contract to some third party.

Sewers, etc. to be made at expense of lots.

SECTION 74. Whenever a sewer or drain is to be so built or repaired, which runs in more than one ward, or one which it is proposed to charge the cost of construction upon lots situated in more than one ward, or when it is proposed to so improve a street or establish the grade of a street which is located in different wards, then the same shall be done in the same manner under the order and directions of the board of aldermen of the wards in which any lots are situated that are so assessed or charged therefor, or in which grade of street is established, but is hereby understood that the above refers to the board of aldermen of the wards only in which such lots to be so charged the part or parts of the street so to be so graded or so improved, are situated; provided, however, in such case, it shall require a majority of the board of aldermen of each of such wards to act, and in such cases all orders, entries and proceedings may be made or kept in the ward book of either of such wards, or in any separate book that the clerk may provide.

When sewers run through different wards.

SECTION 75. When a sewer or drain is needed running in or through different wards, the board of aldermen of the wards cannot agree to order its construction or cannot agree upon the amount that should be paid by each ward in the construction of the same, or when a street needs grading or other repairs upon it, that is the dividing line between wards or extending into or through two or more wards, and the board of aldermen of said wards cannot agree upon the grade, or when either of the boards of aldermen shall refuse or

In case board of aldermen cannot agree.

neglect to work and grade that portion thereof belonging to said ward, the other board of aldermen having graded, made and worked their portion thereof, then it shall be the duty of the common council, by ordinance, in case the council deem it advisable to construct the same, to order such construction, and to apportion the cost between the different wards, which said cost shall be paid, either out of the ward fund, or by assessment on lots, as hereinafter stated. Or, when a street, sewer or drain is needed, running in or through different wards, and the board of aldermen of the wards cannot agree to order its construction, the same may be ordered by the council; and when, in the construction of any street, sewer or drain, the cost of which is assessable or chargeable upon property in different wards, and the board of aldermen cannot agree upon such assessment, then such assessment may be made by the council.

Money raised to be used for ward purposes only.

SECTION 76. The money raised in each ward for ward purposes shall be appropriated and used for such purposes only.

Common council may order construction by ordinance.

SECTION 77. When a street, sewer or drain is needed, running wholly in one ward, and the aldermen of that ward cannot agree, and do not determine to construct the same, the common council may, by ordinance, order the construction of the same, and order the cost of the same to be charged to the ward fund of the ward in which the same is built, or may order the same to be constructed, and the cost of the same to be paid by assessment on lots in the manner herein provided.

Sidewalks across an alley, how built and paid for.

SECTION 78. A sidewalk across an alley and passage-way into the street shall be built at the expense of the lots abutting such alley, to be apportioned thereon, or such portion thereof, and in such proportions by the board of aldermen, as it shall deem the same respectively benefited.

Lots to be liable.

SECTION 79. Lots shall be liable, as in this act provided, for the improvement of the streets to the center of the street on which they abut or join, and corner lots for all sidewalks up to the crossings or cross-walks.

What wards shall keep in repair.

SECTION 80. The ward shall construct and keep in repair all cross-walks, drains or sewers across the street, from sidewalk to sidewalk, or on that

portion used for a public street, exclusive of what is used or may be wanted for sidewalks, and also that portion of the street lying between the crossing where streets intersect.

SECTION 81. When work is done or improvement made which, under this act, is chargeable to the lots as aforesaid, the board of aldermen, or the common council in such cases as the common council are empowered to act, shall give to the contractor or person doing or performing the same, or his assigns, a certificate, countersigned by the clerk, for the amount due him and containing a description of the land to which the same is chargeable, which certificate shall be transferable by endorsement, and shall draw interest (provided the same is not paid within twenty days from date), until the same is inserted in the tax roll, as hereinafter provided; and if the amount thereof and interest shall not be paid before the clerk makes out the annual tax roll next after the date of its issue, the clerk shall insert and assess the amount thereof with interest as aforesaid to the time of its being so inserted in the tax roll upon and against the lot or parcel of land described therein in such tax roll, and as a part of the tax against such lot, and the same shall be collected as other taxes and assessments for the benefit of the holders of such certificates respectively; and when any such work is done or improvement made by the ward or wards the same shall be inserted in the tax roll and collected in like manner; provided, however, that in no case shall the city be liable for the amount of such certificate or any part thereof, unless the same has been actually paid into the city treasury; and the sale of such land therefor shall not be regarded payment, and the same shall not be regarded as paid, until the parties interested shall have actually redeemed such lots from such sale.

Certificate to be given to contractor by board.

SECTION 82. When, in grading any street, the cost of cutting or filling in front of any lot shall be, in the opinion of the board of aldermen of the ward in which the same is done, or by the common council in such cases as the common council shall be obliged to act by reason of failure or negligence of the board of aldermen to act, greater than such lot is benefited, the board of aldermen

Cost may be apportioned on the lots benefited.

or common council may apportion a portion of such cost among and on such lots, and in such proportion or amount as it may deem to be benefited thereby, as is herein provided for the building of sewers, and upon property in different wards in like cases as is provided in the construction of sewers.

In case there is deep cutting, who shall pay for same.

SECTION 83. When in the construction of any street, drain or sewer, if from deep cutting, digging or filling, or any cause or reason, the board of aldermen or the common council, in such cases as the common council are empowered to act, are of the opinion that the same, in whole or part, should be paid out of the ward or wards' fund, then the same may so, in whole or in part, be paid.

Cleaning sidewalks.

SECTION 84. All sidewalks shall be kept in repair, and clear and free from all obstructions, at the expense of the lot adjoining or abutting thereon, and of the owner or owners thereof; and in case the owner or occupant shall fail to keep such sidewalk in repair, and clear and free as aforesaid, the board of aldermen of the ward may cause the same to be done and charge the expense thereof to such lot respectively; provided, however, that no sidewalk shall be so repaired at the expense of the lot, when the cost of such repair shall exceed one-half of the cost of a new sidewalk of the kind in front of such lot, except in the same manner as required for the building of a new sidewalk; provided, however, that if a sidewalk on or in front of any lot shall become injured or destroyed by the burning of any building or property, and the same shall not, within a reasonable time, be repaired or rebuilt by the owner of such lot, the board of aldermen may repair or rebuild such sidewalk at the expense of the lot, without notice or letting to the lowest bidder.

Stagnant water on lots.

SECTION 85. When the board of aldermen of any ward shall deem any lot injurious to public health, by reason of stagnant water, or from other causes, it may order that such nuisance be abated by draining or filling such lot, or in any other manner, by the owner or occupant; and upon their failure to do so, such board of aldermen may abate or cause to be abated at the expense of such

lot, by taking the same proceedings as are required for the building of a sidewalk.

SECTION 86. When a ward or wards or the city shall do any work or make any such improvement or make any repairs, or do any other work or labor as provided in this act, which shall be a lien or charge upon any lot, a like certificate as is provided to be issued to contractors or other persons, may be issued to such ward or wards or city, and be collectible in the same manner; or the board of aldermen of the ward or wards which are entitled to the same, or the city in such cases as the common council are empowered to act may make a statement or statements and file the same with the city clerk, of the amount or amounts due to such ward or wards or city, for doing any such work or labor, or making any such improvement, and the amount chargeable to each lot, which amount the clerk shall insert and add to the tax chargeable to such lot in the annual tax roll issued, next after the filing of such statement, and the same shall be a lien thereon and collectible as other taxes.

Lien on lots for improvements.

SECTION 87. Whenever the board of aldermen of any ward shall deem it necessary to remove the snow or ice in front of any lot or piece of land in said city, and the owner or occupant shall neglect to remove the same, the board of aldermen of the ward may remove, or cause such snow and ice to be removed, and charge the same to the lot the same as in cases of repairs of sidewalks, which said charge shall be collected by taking the same proceedings against such lot as are required for the building or repairing of sidewalks.

Removal of ice and snow.

SECTION 88. If for any cause any tax or assessment, chargeable to any lot under the provisions of this act, shall not be entered or assessed against such lot at the time therein provided, then the city clerk may enter or assess the same against such lot in any subsequent tax roll.

In case lots are not assessed.

SECTION 89. An order made by the board of aldermen of any ward or wards, fixing or changing the grade of any street, may be revoked, altered, changed or modified by the council. Any order made by the board of aldermen of any ward or wards, changing or fixing the grade of any sidewalk or directing the building of any new side-

Orders of board of aldermen may be revoked.

walk, may be revoked, altered, changed or modified by the common council.

Books to be kept by clerk for all orders, etc.

SECTION 90. There may be kept in the city clerk's office a book or books for each ward, wherein may be entered by the clerk or board of aldermen of the respective wards, all orders, entries or proceedings required to be done or had under any of the provisions of this act or any other matter appertaining thereto, or to ward matters, and a like book may be kept for the entry of all proceedings and orders, when anything is done by different wards together, as herein provided, in doing any work or making any improvements of any kind, and there may be entered in such book or books any fact or item appertaining to such proceedings, and as to the service or publication of any notice required by law to be served, given or published, and that any act was done by the board of aldermen or clerk in making any improvement, and that a notice was served, given or published, as required by law in certain proceedings, or to carry out any order or requirement on the part of the board of aldermen without stating the contents of such notice, and in addition thereto may be entered that due proof of the service of publication of any notice has been made and filed in his office, or there may be pasted in or attached to such book a written or printed, or partly written and partly printed, copy of any notice or proceeding, which shall be admitted in evidence in all courts the same as the original would be entitled to be; and there may also be entered in such book such other matter as may properly appertain to any ward matters. It shall not be necessary for the aldermen to sign any order, memorandum or other entry in any such book, or in lieu thereof, any such orders or proceedings may be signed by the board of aldermen of the respective wards and filed in the city clerk's office, and such book or books, or any of them, shall be received and admitted in evidence in all courts in any proceedings whatever, and shall be *prima facie* evidence and proof of all entries, memoranda, facts, items and matters and things therein contained, and the said orders and proceedings shall be received in evidence in like manner and with like effect.

SECTION 91. Any and all certificates made by

the board of aldermen of any ward or wards of any act done or notice given, served or published under the provisions of this act shall be received and admitted in evidence in all courts of this state, and shall be *prima facie* evidence of all the facts therein contained, and that such acts were done and proceedings had, and such notice served or published as therein certified to. And all proceedings had under the provisions of this act or attempted to be had under the same shall in all courts be deemed, presumed and taken to have been regular, and it shall be taken and presumed that all the provisions of this act were complied with, until the contrary is shown.

Certificates to be secured in evidence.

SECTION 92. If any taxes or assessments chargeable to any lot, under any of the provisions of this act in any suit shall be adjudged void, in whole or in part, for any irregularity in the proceedings, or non-compliance with any of the provisions thereof, the court in which said case was tried shall, any time within one year after such judgment, upon the application of the owner of such tax and assessment and a defendant in such suit, cause an issue to be made up between such owner and defendant and the plaintiff, wherein such plaintiff shall be defendant, and such owner and defendant, plaintiff, as to the value of such improvements, and whether the same were made in good faith, and if the jury find that such improvements were made in good faith, the court shall judge the value thereof as found by the jury to be a lien upon such lot, with costs of suit on such issue, and execution may issue on such judgment, directing the sale of such lot, to pay the same and costs of sale, and the same shall be sold as other real estate is sold on execution. At any time within eight months after such sale, a redemption can be made therefrom, as on the sale of real estate upon other execution, by the payment of the amount for which it was sold, together with ten per cent. interest thereon from time of sale.

Issue shall be made up and tried for irregularity in tax assessment.

SECTION 93. When any taxes or assessments chargeable to any lot, under any of the provisions of this act, shall be set aside or declared void, in whole or in part, by any court, by reason of any irregularity in any of the proceedings, or the non-compliance with any of the provisions of this act, or of the charter of said city, or in ordering or letting the work or

Proceedings in case assessments are set aside.

making contracts in relation thereto, the city council, at any time within two years after the same are declared void, at the request of any party interested in said tax or assessment may order such tax or assessment so declared void, to be recharged or assessed against said lots respectively, and collect the same as any other taxes or assessments; provided, however, if the party avail himself of the remedy to penalty, provided by the preceding section, he shall be deemed to have waived his remedy under this section.

Damages occasioned by defective sidewalks chargeable to ward.

SECTION 94. If the city shall be subjected to any damages hereafter occasioned, in consequence of any sidewalk or street being out of repair or not in safe condition, such ward in which said defective street or sidewalk is situated shall be liable to the city for all damages, costs and expenses which such city shall be subjected to, and such damages, costs and expenses may be assessed by the common council upon the taxable property of the ward in which such defective sidewalk or street is located, and collected the same as other city taxes. If any ward shall be subjected to any tax in consequence of any damages done or permitted by the occupant of any lot to any sidewalk or street on which it abuts or fronts, occasioned by digging in the street, driving over the sidewalk or by permitting snow to accumulate on the walk, such occupant shall be liable to such ward for all damages, costs, expenses and taxes which such ward shall be subjected to, and such damages, costs, expenses and taxes may be recovered by such ward in a court of competent jurisdiction, by a suit in the name of the city of Merrill, and against such occupant.

Real estate liable for taxes and assessments.

SECTION 95. All real estate shall be liable for the taxes and assessments provided for and authorized to be assessed in this act, in manner and form aforesaid.

Provisions regarded only as directory.

SECTION 96. All the provisions of this act, from sections 68 and 102, both inclusive, shall be regarded as directory, except the provision of giving notice as aforesaid, and if such notice is given as herein required, no informality or irregularity or error in the proceedings shall vitiate such assessment of taxes.

City not liable for defective sidewalks.

SECTION 97. The city shall not be liable to or for any damages, arising or growing out of any

sidewalks, streets, drains, sewers, gutters or ditches, or bridges in said city, being in a defective or dangerous condition, or out of repair, unless it be shown that previous to the happening of the same, one of the board of aldermen, of the ward in which the same is located, had knowledge thereof, and no knowledge of such condition of the same shall be presumed, unless the defect out of which the same occurred, existed three weeks before such damages accrued; provided, however, that nothing herein contained, shall be so construed as to mean that knowledge is to be presumed because such three weeks had elapsed.

SECTION 98. Whenever the word, lot, or lots, is used, it shall be deemed to include parts of lots, parcels and strips of land, or any other subdivision of land; and where the word, alley, is used, it shall be deemed to include all lanes; and where the word, street, is used, it shall be deemed to include highways; and whenever the words, board of aldermen, is used in connection with any ward matter, it shall be understood to mean a majority of the board of aldermen of the ward; and all the provisions of the revised statutes relative "of the construction of statutes," shall apply to all the provisions of this act.

Defining the words, lot, alley and board of aldermen.

SECTION 99. Anything required to be done under any of the provisions of this act, by the common council, may be by order, resolution or ordinance.

Order, resolution or ordinance required.

SECTION 100. All streets heretofore or hereafter, once graveled, paved or planked at the expense of the property fronting, adjoining or abutting thereon, such street, so far as the same has been graveled, paved or planked, except (sidewalks), at the expense of the property on the street, to be so maintained and kept in order, at the expense of the ward such street or streets are located in. All the taxes therefor, made necessary to be levied and collected the same as ward taxes upon the taxable property of the ward in which such street is located, anything in this chapter or charter to the contrary, notwithstanding.

Graveled paved or planked streets to be kept in repair by ward in which such street is located.

SECTION 101. All written contracts to be made under sections 68 to 102, both inclusive, of this act, shall be executed in the name of the city of Merrill, and signed by the board of aldermen or a majority of the board of aldermen of the

All contracts shall be executed in the name of the city of Merrill.

ward in which the work or improvement is situated, or by the mayor and city clerk when the common council is empowered and obliged to interfere and act, and let the contracts as herein provided, of the one part and signed by the contractor of the other part. All verbal contracts to be executed in like manner in the name of the city, and all bonds which may be required of contractors to secure the performance of such contracts shall be made and executed to the city.

Certificates issued under this act to be received by county treasurer.

SECTION 102. The certificates issued under this act on the property therein described in such certificate for work or improvement shall be received by the county treasurer of Lincoln county, on sale of land for unpaid or delinquent taxes for the same year and tax named in the street improvement certificates for the land therein described, and to be held by the county until the land is redeemed; and in case the improvement tax should be set aside, or the tax certificate of sale issued by the county treasurer canceled by judgment of court or otherwise, then the holder or legal representative of such certificate of sale issued by the county treasurer, shall receive the street improvement certificate (so received by the county treasurer) from the county, for its face in payment for any claim against the county, for the amount of such tax and charges named in the street improvement certificate, for which the land was sold.

Prisoners may be used in doing public work.

SECTION 103. The council may, with the consent of the sheriff or of the board of supervisors of Lincoln county, use such labor of prisoners under sentence in jail, as the sheriff will furnish, in doing any public work in any part of the city.

Council may require owners of lots to set out shade trees.

SECTION 104. The council shall have power to require the owner of any lot or grounds in said city, to set out ornamental or shade trees, in the street in front of the same, and to protect and preserve them, and in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds, to pay the expense of the same. It shall also have the power to determine the lines on which the trees shall be set, the places where they shall be set, the kind and size of the trees to be set, and the manner of protecting them, and for replanting them, when they have died or been so injured as to fail to answer the purpose for which they were set out, and to

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

SECTION 105. All funds in the city treasury, except school, state, county and ward funds, shall be under the control of the council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they are drawn. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof; and no money shall be paid out of the city treasury except upon the order of the mayor, countersigned by the city clerk.

Funds controlled by council.

SECTION 106. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same, in case it exceeds fifty dollars, shall be entered by ayes and nays upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by the city charter.

No debt shall be contracted or order drawn except by authority of council.

SECTION 107. All forfeitures and penalties accruing to the city for a violation of the city charter, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a part of the general fund, except as otherwise provided by the city charter. No penalty or judgment recovered in favor of the city shall be remitted or discharged except by a vote of three-fourths of all members of the common council.

Money received for licenses to be paid into city treasury.

SECTION 108. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under

Property subject to taxation.

the city charter shall have and possess the same powers, and perform the same duties, as are, or may hereafter be, conferred upon and required of assessors of towns; provided, however, that the council may prescribe the form of assessment roll, and more fully define the duties of the assessors.

Board of supervisors may regard city of Merrill as a town.

SECTION 109. The county board of supervisors shall have the right to regard the city of Merrill as a town in equalizing the assessment roll of the several towns in Lincoln 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.

Supervisors may levy tax.

SECTION 110. The said board of supervisors may levy a tax or taxes, as now is, or may hereafter be authorized by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk in the manner provided by law, in relation to town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Duties of city clerk.

SECTION 111. Upon receiving the statement of the amount of taxes so levied the city clerk shall, upon a uniform percentage, compute and carry out upon said assessment roll, or a copy thereof, in one item, opposite to each valuation in said assessment roll, the amount required to be raised upon such valuation to make the whole amount of taxes so certified, together with such city and other local taxes as are to be levied uniformly upon all the taxable property in the city, except that the amounts for streets and highways, raised for each ward, shall be levied uniformly upon all the taxable property in the ward and carried out in a separate column in said assessment roll, and all other taxes, if any, shall be entered in separate columns, opposite the valuation of the property, to be charged in a separate column, under the head of "taxes unpaid for previous year." The city clerk shall enter opposite each tract of land so returned to him by the county clerk, the year for which such tax remains unpaid. The city clerk shall enter upon said roll a general statement showing the several amounts of taxes levied on

the city or any part thereof, and for what purpose. Said roll, when so completed, shall be the tax roll of the city of Merrill, and shall be preserved by said clerk as a record in his office.

SECTION 112. The tax roll made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done relating to assessing or levying of taxes, from the election of the officers to the completion of the tax roll inclusive, has been done regularly, correctly and as required by law.

Prima facie evidence.

SECTION 113. Immediately after making out the tax roll aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant, signed by the mayor and clerk, and sealed with a corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax roll, in the manner provided by law; and the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax roll preserved in his office.

Further duties of clerk.

SECTION 114. The city treasurer, upon the receipt of such duplicate tax roll, shall proceed to collect the same in like manner, and shall have like power, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise herein provided. All taxes may be paid to the treasurer before the tenth day of January, in each year, without any addition thereto for treasurer's fees. To the taxes paid after the tenth day of January, three 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.

Duties of city treasurer.

SECTION 115. The said treasurer shall make out and return to the treasurer of Lincoln county, at the time required by law, in the case of towns, a list of all lands and lots upon which the taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers. The said treasurer shall also, by the same time make

Further duties of treasurer.

out and deliver to the city clerk, a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalties or fees to such delinquent returns as are allowed or required by law upon delinquent returns from the several towns.

Duties of county treasurer.

SECTION 116. The county treasurer shall sell all delinquent lands and lots returned from the city of Merrill, at the same time and in the same manner as other delinquent lands are sold in the county.

Real estate subject to taxation.

SECTION 117. 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 improvement in streets in front of the same.

Directions given for assessing lands and levying taxes shall be deemed only directory.

SECTION 118. All the directions hereby given for the assessing of lands and the levying, collection and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special tax may be levied when recommended by council and approved by the people.

SECTION 119. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the council and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, 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.

Treasurer may receive city or county orders in payment of city and county taxes.

SECTION 120. The city treasurer shall receive city orders for city tax, and county orders for county tax, but on no other account whatever shall the said treasurer receive as payment anything but coin, coin certificates, treasury notes and national currency.

Council to provide for prompt payment of orders drawn on the city treasury.

SECTION 121. 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 122. 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.

Duty of treasurer when unable to pay any order.

SECTION 123. The council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of its unfinished business, and shall not thereafter, prior to the second Tuesday of March following, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of their term.

Council to meet previous to the charter election.

SECTION 124. All surplus moneys in the city treasury not belonging to the school, and ward funds, may, by direction of the council, be temporarily used for the purpose of paying orders drawn on any other funds, but all funds so used shall be replaced.

Regarding surplus money and ward funds.

SECTION 125. A special tax, not exceeding three thousand dollars in any one year, may be levied by the council, whenever it shall appear necessary, for the building or repairing of bridges, or for any other necessary purpose, which taxes shall be collected as other taxes. Whenever the council shall recommend the issue of bonds, for any lawful purpose, and the people shall vote to issue such bonds, the same may be issued; provided, such bonds shall not draw a greater rate of interest than seven per cent., and shall not be negotiated for less than their face value.

Special tax may be levied to build bridge.

SECTION 126. The council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall be erected, repaired or moved, and to direct that all and any buildings, within the limits prescribed, shall be made and constructed of fire-proof materials, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within said fire limits, to, or on, any other lot or lots within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe

Council to prescribe the limits within which wooden buildings may be erected.

the manner of ascertaining such damages. The council shall have no power to authorize wooden buildings to be moved into the fire limits, or from one point within the fire limits, to another point within the fire limits.

Precaution for preventing fires.

SECTION 127. The council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed, or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time, as it shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs and stairs or ladders leading to the same; to authorize the mayor, aldermen, supervisors, fire-wardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons; to compel bystanders to aid in the extinguishment of fire, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires and the protection of property at fires, as it may deem expedient, and enforce the foregoing provisions and the ordinances by suitable penalties.

May purchase fire-engine and form fire-c. m. panies.

SECTION 128. The council shall have power to authorize the formation of fire-engine, hook and ladder and hose companies, provide for the due and proper regulations of the same, and to disband any such companies at any time, and prohibit their meetings as such, when disbanded; which companies shall be officered and governed by their own by-laws; provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every member in good standing of any such company shall be exempt from serving on juries and from poll tax, and from military duty except in case of war, invasion or insurrection; and whenever a member of a fire, hook and ladder, or bucket

and hose company, shall have served therein for ten years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid.

SECTION 129. The council shall have power to raise a tax each year, not exceeding five mills on the dollar of the taxable property within said city for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom shall be expended under the direction of the council for fire purposes.

Raise tax for fire purposes.

SECTION 130. The council is hereby authorized and empowered to construct reservoirs throughout the city, and provide means for filling the same.

Construct reservoirs.

SUPERINTENDENT OF SCHOOLS.

SECTION 131. The common council shall annually on or before the first Tuesday of July, elect a superintendent of schools; the salary of said superintendent shall be fixed by the common council before his election and shall not be changed during his term of office, and he shall not be a teacher employed in any of the schools of the city, or be employed as a teacher in any of said schools during his term of office. He shall be the president of the board of education. He shall visit the schools at least once a month, and as often as his duties may require, and he shall pay special attention to the interests of the schools and the classification of the pupils therein. He shall carefully observe the teaching and discipline of all teachers employed in the public schools and report to the board of education whenever any teacher is found deficient or incompetent in the discharge of his or her duties. He shall attend all meetings of the board of education and shall keep the board constantly informed of the condition of the public schools, and the changes to be required in the same, and shall do and perform such other duties as are prescribed by this act and as the board of education shall require, but he shall have no vote on said board of education except in case of a tie vote.

Elect superintendent of schools.

SCHOOLS.

School district designated.

SECTION 132. All the district of country within the corporate limits of the city of Merrill shall be known and designated as school district number one of the city of Merrill, for all purposes.

Elect four school commissioners.

SECTION 133. The common council shall annually on or before the first Tuesday of July, elect four commissioners of schools from the city at large, two from the east side and two from the west side, who shall hold their offices for one year from the first Tuesday of July and until their successors are elected, and the council, in case any vacancy occurs in said office, shall elect a school commissioner to fill such vacancy who shall hold said office for the unexpired term for which he was elected to fill and no longer.

Woman eligible to hold office.

SECTION 134. 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.

School commissioners and superintendent shall constitute "board of education."

SECTION 135. The said school commissioners so appointed in conjunction with the superintendent of schools of said city of Merrill, shall constitute a board to be styled, "The board of education of the city of Merrill." Said board shall hold their meetings at the city clerk's office or the council rooms and the board shall hold stated meetings, the time thereof to be fixed by the board and their meetings may be held on call of a majority of the board, notice of which shall be given by the clerk, served on all the members thereof at least twenty-four hours prior to the time of holding the same, and said notice shall state the day, hour and place of the meeting, and a majority thereof shall constitute a quorum for the transaction of business. The superintendent of schools shall be the president, and whenever he shall be absent, a president pro tem. may be appointed. The said commissioners shall not receive any compensation for their services.

Duties of clerk of said board.

SECTION 136. 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.

SECTION 137. The clerk of said board shall in each year, and at the time and in the manner now and hereafter to be required of town clerks, make and transmit to the state superintendent, a report in writing, which report shall be such as is now, or may hereafter be required by law to be made annually by town clerks and transmitted to county superintendents. He shall also make and submit to the council at least ten days before the annual election in each year, a report showing the receipts and expenditures by the board, since the report made to the council at its first meeting in July. Such account need only show the gross amount of receipts from each of the various sources, and gross amount of expenditures for each of the various purposes required to be reported. Such report shall include salaries of teachers, and all other expenses up to the second Tuesday in March following, and all salaries or bills that will be due at that time, may be made 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.

Further duties of clerk.

SECTION 138. The council of said city shall have power to pass such ordinances and regulations, as the board of education may report as necessary and proper for the protection and safe-keeping, care and preservation of school-houses in said city, and lots and appurtenances to the schools, and also to impose penalties for the violation thereof. All such penalties shall be collected in the same way that other penalties authorized to be imposed by said council, under the city charter, are collected.

Protection and preservation of school-houses.}]

SECTION 139. The title of the school-houses, sites, furniture, apparatus and appurtenances, and all other property herein mentioned, shall be

Regarding the title of school-houses and appurtenances.

vested in the city of Merrill, 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.

City treasurer shall demand from county treasurer money for school purposes.

SECTION 140. The treasurer of the city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer of Lincoln county, all moneys appropriated for the use of schools in said city, and all other moneys in possession of said county treasurer at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required, on demand of the said city treasurer, to pay over to him the said moneys without delay or set-off, taking his receipts as such city treasurer therefor, and all such moneys shall be placed to the credit of the school fund of said city. A statement of all school moneys so received shall forthwith be reported to the city superintendent of schools, by said treasurer.

SECTION 141. The said board of education shall have power and it shall be its duty:

Establish schools.

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

Custodian of school houses, etc.

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

Employ teachers.

3d. To contract with and employ in behalf of the city, all teachers in such public schools of the city, who may be duly licensed to teach.

Supervise and manage all schools.

4th. To have in all respects the superintendence, supervision and management of all the public schools in said city, and from time to time adopt, alter, modify and repeal as they may deem expedient, rules and regulations for their organization,

government and instruction, for the reception of pupils and their transfer from one school to another, and generally for the promotion of their good order, prosperity and utility.

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

Dispose of school-houses.

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

Report to council.

7th. In the name of the city of Merrill to contract for the repairs of school-houses and their appurtenances.

Repair school-houses.

SECTION 142. The council of the said city of Merrill shall have power to annually levy and collect a school tax, not exceeding one per cent., on all real and personal property of said city, to meet the expenses of erecting and repairing school-houses, purchasing or hiring sites for school-houses, and supporting and maintaining schools.

Levy school tax.

SECTION 143. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and orders therefor shall be drawn on the city treasurer by the mayor and countersigned by the clerk. The mayor shall draw orders on the city treasurer for salary of teachers and janitors, upon the request of the board of education, and the city clerk shall countersign such salary orders, and for all things necessary or proper for the support and maintenance of schools in said city, and generally to have the entire and exclusive supervision and control of all property belonging to said city, used for said purposes. The board of education shall have the power, by and with the consent of the council of

Duties of board of education.

said city, to erect, construct, hire and purchase buildings suitable for school-houses, buy and lease sites for school-houses, with the necessary grounds, and to furnish the school-houses in said city with the necessary fixtures, furniture and apparatus. No greater amount shall be expended by the board of education in any year, under the provisions of this section, than shall be appropriated by the council for school purposes during such year; provided, however, that the repairs for school-houses, and the appurtenances herein mentioned, shall be construed to mean only such incidental and temporary repairs as are necessary to keep the school-houses and appurtenances in needed and suitable repair and condition, suitable for occupancy by the schools; and all moneys received by, or raised in the city of Merrill, for school purposes, shall be disbursed by the treasurer of said city upon the said orders of the mayor, countersigned by the city clerk, and in no other manner.

Further duties
of board of ed-
ucation.

SECTION 144. The said board of education shall have power to permit the children of persons not residents of said city, to attend in either of the schools therein, under the care and control of said board, upon such terms as said board shall, by resolution, prescribe, fixing the tuition which shall be paid therefor. Permits to so enter the schools shall be issued by the city superintendent, but no such permits shall be issued which will interfere with the proper instruction of resident pupils. He shall report his action under this section to the board of education as often as may be required, and he shall not issue any greater number of permits than may be authorized or sanctioned by the board of education. All permits shall specify the amount to be paid by such non-resident pupil, and no such pupil shall be admitted to any school of the city until he has exhibited the receipt of the city treasurer, that the amount specified in such permit has been paid to him. At the end of each term, and at such other times as may be required by the board, every teacher who has admitted to the school under his charge any non-resident pupil under the superintendent's permit, shall return to the board of education the permit under which the pupil was admitted. All moneys so received for tuition

shall become a part of the school fund of said city. It shall be the duty of the board of education to report to the council, at its first meeting in the month of July of each year, the condition of the several schools of said city, and the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each and all of said schools since the previous report, and the estimated cost thereof to the time of their next succeeding report, as in this section required, specifying the items thereof under their appropriate heads, together with such other matters as they may deem proper, or the council may require; provided, that nothing in this act contained shall be deemed to authorize said board of education, or the council, or both, to appropriate, contract or expend for school purposes, in any one year, any greater sum than is provided for in this charter, 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 145. The council of the city of Merrill, on the application of the board of education, may borrow money for the erection and completion of school-houses in said city, not exceeding in amount the sum of five thousand dollars and may issue the bonds of said city for the payment of the same, bearing an interest not exceeding seven per cent. per annum, payable annually or semi-annually and becoming due within ten years or less, as the council may by ordinance prescribe. In case said bonds are issued, the council of said city shall annually levy and collect a tax on the taxable property of said city, as other taxes are levied and collected sufficient to pay the interest and principal of said bonds as the same may become due; and the money thus raised shall be applied to the purpose for which it was raised and no other; provided, however, that no bonds issued in pursuance to this section shall be sold for less than their par value.

Council may
borrow money.

MISCELLANEOUS PROVISIONS.

Regarding credit of city.

SECTION 146. The credit of the city shall never be given or loaned in aid of any individual, association or corporation, except as provided by the general laws of this state.

Limit of taxes to be levied.

SECTION 147. No tax for general city purposes shall be levied in any year exceeding two per cent. of the assessed valuation of property in the city in that year.

Power to contract debt limited.

SECTION 148. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the fiscal year, which shall commence on the first day of December of each year, except as otherwise herein provided.

Work for city to be let by contract.

SECTION 149. All work for the city or wards which shall be estimated by the council or board of aldermen or the proper officer of the city or wards to exceed one hundred dollars in amount shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract, and the city printing shall be let by the year to the lowest responsible bidder; provided that said city shall never pay for publishing proceedings of the common council.

Regarding extra compensation.

SECTION 150. 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 member of the common council, for their services.

Council shall settle claims and demands against city.

SECTION 151. 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, at least three days before the charter election in each year.

Respecting the violation of city charter.

SECTION 152. In all prosecutions for any violation of any of the provisions of the city charter, for any by-law or ordinance, the first process shall be by a summons, unless oath be made for a warrant, as in other cases.

Form of prosecution.

SECTION 153. All prosecutions for any violation of any of the provisions of the city charter, or any by-law or ordinance, or for the recovery of any penalty prescribed in said charter or any by-law

or ordinance, shall be by civil action and shall be brought in the name of the city of Merrill, and may be brought before any justice of the peace of the county, and the first process shall be by a summons, and the form thereof shall be substantially that prescribed for use in justice court by the statutes of Wisconsin, unless complaint on oath be made, in which case the first process shall be by a civil warrant, and the form thereof shall be substantially that prescribed by the statutes of Wisconsin for use in justices' court. The rules of practice and pleadings in civil actions in justices' court under the statutes of Wisconsin, shall apply to all such actions, and either party may appeal in the same manner as appeals in justices' courts are made and perfected under the statutes of Wisconsin.

SECTION 154. 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, whereof the judgment can be collected, be found to be imprisoned in the county jail of Lincoln county, for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or the defendant be discharged by order of the council. Penalty.

SECTION 155. 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. Shall not work incompetency.

SECTION 156. If any election by the people or council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize or to perform any other act, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had on any subsequent day by order of the council; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city to be done by any officer, at a specified time, be not then done or performed, the council may appoint another time at which said acts may be done or performed. Failure to hold election at specified time shall not invalidate proceedings.

Relating to
suits against
city.

SECTION 157. When any suit or action shall be commenced against said city, the service of summons or process therein may be made by leaving a copy thereof with the mayor, or in the absence of the mayor from the city, or in case he cannot be found, by leaving such copy with the president of the council, or acting mayor, or city clerk, whose duty it shall be, forthwith, to inform the council thereof, or take such other proceedings as by the ordinances or resolutions of said council may in such case provided.

Judgment
against city of
Merrill—how
recovered.

SECTION 158. When a judgment shall be recovered against the city of Merrill, or against any city or ward officer in an action prosecuted by or against such officer in his name of office, where the same should be paid by the city, no execution shall be awarded or issued upon such judgment, except as hereinafter provided. The person recovering such judgment may file a certified copy or transcript thereof with the city clerk, who shall lay the same before the council at its next regular meeting, and unless the council shall determine to appeal from such judgment, it may provide for the payment of the same out of the general fund. Unless so paid the amount of such judgment shall be added to, and included with other city taxes, by the clerk in making the next annual tax roll, and shall be collected as other city taxes, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution, on special application therefor. No real or personal property of any inhabitant of said city, or of any individual or private corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

City may purchase real
estate.

SECTION 159. The said city may lease, purchase and hold real or personal estate sufficient for municipal purposes, and may sell and convey the same, and the same shall be free from taxation while owned by the city; provided that no debt

shall be incurred in any such purchase which cannot be paid out of the revenue of the fiscal year.

SECTION 160. No general law of this state contravening the provisions of the city charter, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Charter not to be amended.

LICENSE — BY WHOM SIGNED.

SECTION 161. Every license issued under the charter or the ordinances of the city, shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk, until the person applying for the same, shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which shall be approved by the council; provided, that the sum to be paid for any such license shall not be less than the amount fixed by the charter, and that all license shall be granted to expire on the first day of April next following, in each year.

Licenses — by whom signed.

USE OF COUNTY JAIL.

SECTION 162. The use of the jail of Lincoln county until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of such county, for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases.

Use of jail.

SECTION 163. The council of said city is hereby authorized and empowered to cause to be made, by some competent person, a plat of all pieces or parcels of land within said city, which are not embraced and described in any of the recorded plate of land in said city, which plats shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat shall be designated by number placed thereon. The said plat, when completed, shall be certified to by the person making

Council authorized to procure further plats.

the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Lincoln county.

Said plats to be known as "assessor's subdivision of lands in the city of Merrill."

SECTION 164. The said plat shall be called and known as "Assessor's subdivision of lands in the city of Merrill," and for the purpose of assessment and taxation, it shall be deemed a sufficient description of any piece of land described and designated in said plat, to designate the same by its number as it appears on said plat, and any deed of any such tract or piece of land which may be executed pursuant to the laws of this state, by reason of the non-payment of any tax hereafter assessed, shall be as valid and effectual to pass the title to the lands therein described as it would be if said premises had been described by metes and bounds, and the said plat, or the record thereof, shall be received in evidence in all courts and places as correctly describing the several pieces or parcels of land therein designated and numbered.

City shall have right of action against employes.

SECTION 165. The city shall have a right of action against any of its officers, agent or employes, and against any person or corporation, to recover all damages which it has been compelled to pay on account of the act, default, tort or neglect of such officer, agent, employe, person or corporation. But the liability of all such officers, agents, employes, persons and corporations shall be ascertained and determined conformably to the general law of the state.

Streets to be named and numbered.

SECTION 166. The common council shall, as soon as possible, name or number all the streets within the city not already named or numbered, upon duly recorded plats, and such names or numbers shall, in all courts and places, be a sufficient designation or description of such streets, and they shall cause to be made and filed in the office of the city clerk, a plat of the city, which plat shall contain the names and numbers of all the streets in the city.

Council authorized to issue bonds.

SECTION 167. The common council of the city of Merrill shall have power to direct the issue of bonds of the city, not exceeding the amount limited by the constitution of this state, drawing not more than seven per cent. interest, and payable at

such times as it may deem proper, to be used in raising money to pay the city's just proportion of the indebtedness of the town of Merrill, and of the judgments against said town, and to provide for the necessary expenditures of the city government for one year; provided, that said bonds shall not be negotiated, or sold, or exchanged for such indebtedness, at less than their face value.

SECTION 168. The laws of this state for the relief and support of the poor in towns shall apply to said city, and the council may make such rules and regulations, ordinances and provisions, relative to the same, as it shall deem proper, and may adopt the county system, in accordance with any resolution of the county board.

Relating to support of poor.

SECTION 169. No action upon any claim or cause of action, for which a money judgment only is demandable, except upon city orders, bonds and coupons, shall be maintained against the city of Merrill, except as hereinafter provided.

Actions against city of Merrill, how maintained.

SECTION 170. A statement or bill of such claim shall first be made, sworn to and filed with the city clerk, as provided in the next section.

File claims with city clerk.

SECTION 171. Such statement or bill shall distinctly specify each item, its nature, date and amount; or if the claim be incapable of being itemized, such statement shall plainly set forth the facts constituting the claim and the amount claimed. Such statement shall be verified by the affidavit of the claimant, his agent or attorney, and such affidavit shall state whether or not any part of such claim has heretofore been paid or presented to the common council for allowance.

Statements to be itemized.

SECTION 172. The city clerk shall lay such claim before the common council at the next regular meeting thereafter, and the common council shall examine and audit every claim presented in the manner above required, at least as soon as the second regular meeting after the meeting at which such statement was first presented to it, and the city clerk shall make and annex to such statement a copy of all the items disallowed therein; or, if disallowed in full, a statement of that fact. But no such claim or demand shall be received or filed by the city clerk, nor acted upon or considered by the common council, unless the statement or bill

Council to examine claims presented.

thereof shall have been made out, verified and filed in the manner above required.

Refusal to consider said claims.

SECTION 173. If such statement or bill shall not be made out, verified and filed as above required, and the council shall for that reason refuse to consider the same, the city clerk shall write upon the back of such statement the words, "statement insufficient," and shall sign such indorsement, and at any time within sixty days after such refusal, the claimant may file a new statement, which shall be made out and verified as above required.

When claims are disallowed may appeal to circuit court in time limited.

SECTION 174. When the claim of any person against the city shall be disallowed in whole or in part by the council, such person may appeal to the circuit court of the county of Lincoln within ninety days after such disallowance, by serving a notice of such appeal upon the mayor or city clerk, and executing and filing with the city clerk a bond to the city, with sufficient sureties, to be approved by the city clerk, county judge of Lincoln county, or a court commissioner of said court, conditioned for the diligent prosecution of said appeal, and the payment of all costs and damages which may be adjudged against the appellant upon such appeal. The city clerk shall thereupon file with the clerk of the circuit court a duly certified copy of such claim, and of the record of its disallowance, and within twenty days after the filing of the appeal bond and the service of the notice of appeal, the city shall file with the clerk of the circuit court, its answer or demurrer to the claim, or its objection thereto.

Appeals, how tried.

SECTION 175. The appeal shall be brought to trial and tried in the circuit court, as cases originally brought in said court.

Relating to the recovery upon such appeals.

SECTION 176. If the recovery upon such appeal shall not exceed the amount allowed by the city council, exclusive of interest upon such allowance, the appellant shall pay the costs of such appeal, which costs shall be taxed before the entry of judgment, and deducted from the amount recovered, and judgment shall be entered for the balance; and when the amount of costs exceeds the sum recovered, judgment shall be entered against the appellant and his sureties for such excess.

SECTION 177. The determination of the council disallowing any such claim in whole or in part,

shall not be final, but the claimant may appeal as in this act provided for, or may bring an action to recover the same within the time limited by law. In case action is brought by such claimant, and on the trial thereof he shall not recover a sum exceeding the amount allowed by the council, and interest thereon to the time of trial, the city shall recover costs in such action, to be ascertained and collected in the manner provided for in the preceding section, when costs are recovered by the city in cases tried on appeal.

Determination of council disallowing any claim shall not be final.

SECTION 178. The city of Merrill shall build, erect, construct, keep up, maintain and repair all city bridges and approaches thereto, and the same shall be under the control and management of the common council, and all costs and expenses incurred in building, erecting, constructing, keeping up, maintaining and repairing the city bridges and approaches thereto shall be paid by the city.

Bridges to be built and kept in repair.

SECTION 179. The common council may by ordinance prohibit riding or driving of any horse or horses or other animal or animals on, over or across any bridge in the city faster than a walk and may prescribe proper penalty or penalties for the violation thereof.

Prohibit riding or driving faster than a walk across bridges.

SECTION 180. Chapter 5, of the laws of 1883, entitled, "An act to incorporate the city of Merrill," and chapter 191, of the laws of 1883, entitled "An act relating to and amendatory of the charter of the city of Merrill," are hereby repealed. All officers of said city and the several wards thereof, heretofore elected or appointed, shall hold their respective offices until such time as their successors are elected and qualified pursuant to this act; provided the repeal of said acts shall not affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under, or by virtue, or in pursuance of said acts or either of them, but the same shall exist and be in force and be carried out as fully and effectually to all intents and purposes, as if this act had not been passed.

Repealing sections.

Officers to hold their offices until successors are elected.

SECTION 181. This act shall be considered a public act and shall be construed liberally and favorably in all courts and places.

Public act.

SECTION 182. This act shall take effect and be in force from and after its passage and publication.

Approved March 4, 1885.