

SEC. 4. In addition to the general powers conferred by said chapter one hundred and thirty-nine (139), the village council of said village shall have power.

First, To prescribe such additional duties for the officers of said village as they may by ordinance direct.

Second, To appoint such additional special officers for said village as may be necessary therefor, and to provide for their payment.

SEC. 5. In all respects not herein provided for, said village shall be and remain a part of the town of Benton.

SEC. 6. This act a public act, and need not be pleaded or proven in any court in this State.

SEC. 7. Casper Krouschuable, George Bleichner and Mathias Ertz, are hereby designated as the persons who shall give notice of and for a meeting of the legal voters of said territory, to organize said village and elect officers pursuant to the General Laws aforesaid.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved February 10, 1881.

CHAPTER 6.

AN TO INCORPORATE THE VILLAGE OF BIRD ISLAND.

Be it enacted by the Legislature of the State of Minnesota:

CHAPTER 1.

SECTION 1. That all that part of the township of Bird Island, in the county of Renville and state of Minnesota, known and described as follows, to-wit: The south half of sections eleven (11) and twelve (12), all of sections thirteen (13), fourteen (14), twenty-three (23) and twenty-four (24) and the northeast quarter ($\frac{1}{4}$) of the northeast ($\frac{1}{4}$) of section twenty-six (26), in township one hundred and fifteen (115), north of range thirty-four, west. As the same is designated upon the plat of the United States government survey shall be known as the village of Bird Island; and the inhabitants thereof shall be and form a municipal corporation, and shall have the powers possessed by municipal corporations at common law; and in addition thereto shall possess the powers hereinafter specially granted and be capable of contracting and being contracted with; suing and being sued, pleading and being impleaded in all courts of equity; and may have a common seal and may change and alter the same; and also take, hold, purchase,

lease and convey such real and personal estate within or without the limits thereof as the purposes of the village may require.

SEC. 2 The elective officers of said corporation shall be one president, five councillors, one treasurer, two justices of the peace, one (1) recorder and shall each, except the justices of the peace, hold their respective offices for the term of one (1) year, and until their successors are elected and qualified; the justices of the peace shall hold their offices for two (2) years and until their successors are elected and qualified. In addition to the above mentioned officers, the council shall have power to appoint, and define the duties of, one (1) street commissioner, one (1) village attorney, one (1) village marshal, and such other officers as to said council shall seem necessary. *Provided*, that no member of the village council of said village shall hold any other office under the authority of said village, or of this act, during the term for which he was elected to said council. *Provided further*, that the president and members of the village council shall not receive any salary or compensation whatever for services as such officers.

SEC. 3. Each officer, before entering upon the duties of his office, and within ten (10) days after receiving notice of his election, shall give notice in writing of his acceptance of the same to the recorder of said village, and shall take and subscribe before some officer, by law authorized to administer oaths, an oath to support the constitution of the United States and the constitution of the state of Minnesota, and that he will faithfully perform the duties of his office, in accordance with the law, and the ordinances of said village, and in addition thereto, the treasurer, recorder and marshal shall each give a bond, with sufficient sureties, to be approved by said council, in a sum of not less than two hundred dollars (\$200), to be determined by said council, conditioned for the faithful performance of the duties of their respective offices, which bond shall run to the village council of the village of Bird Island, and be filed with the recorder, excepting that the bond of the recorder shall be filed with the treasurer thereof. The said justices of the peace shall qualify as prescribed by the general laws of this state, except that the village council shall approve their bonds.

SEC. 4. The president and councillors shall constitute the village council, to which body shall belong all the legislative power granted by this act to said corporation. All acts of the council intended to have the force of law shall be by ordinance, under the style of—"Be it ordained by the village council of the village of Bird Island"; but no ordinance shall embrace more than one (1) subject, which shall be expressed by its title. The village council shall meet for the transaction of business at least once in each month, and a majority thereof shall be a quorum. The president, when present, shall preside at all meetings of the council, but in case of his absence, the members present shall choose one (1) of their number to preside during his absence, but no ordinance shall

be passed except by a vote of a majority of the members of the council. A record in book form shall be kept by the recorder, in which he shall record all the proceedings of the council, and ayes and noes upon every ordinance voted upon.

SEC. 5. That to the president shall belong the executive powers granted by this act to said corporation, except such of said powers as are specially vested in, or must from their nature necessarily pertain to the other executive officers of said corporation. He shall have power, and it shall be his duty, to call out and use in such manner as may seem proper, all the police of said corporation when he may deem it necessary to quiet or prevent riot. He shall have power to call a meeting of the council by giving such notice thereof as may have been provided by ordinance, or in default of such provision, in such manner as he may deem meet and proper.

SEC. 6. That the recorder shall be the recording officer of the village, and of the council. He shall have the custody of the seal of said corporation, and all the records thereof, not necessarily and specifically appertaining to the other officers thereof. He shall receive all moneys payable to said corporation, except as herein-after provided, and shall immediately pay the same over to the treasurer, charging him therewith and taking his receipt therefor. He shall keep all the accounts of the corporation, receive all claims against the same, and draw orders upon the treasurer for moneys payable by said corporation; but no such order shall ever be drawn by said recorder, unless the same shall be in full or part payment of a claim against said corporation, previously audited and allowed by the council. He shall also make to the council at the close of each official year a condensed report of all his doings as such officer during said year, which report shall be published in such manner and to such extent as may be provided by ordinance, and he shall with all reasonable dispatch make such other reports, and at such times, as the council shall require.

SEC. 7. That the treasurer shall be the depository of all moneys belonging to said corporation. He shall from such moneys pay on presentation all orders therefor drawn by the recorder and countersigned by the president. *Provided*, that no order shall be paid by him unless first endorsed in writing thereon with the name of the payee and the party receiving the money therefor.

SEC. 8. The justices of the peace provided for and elected under the provisions of this act shall have and possess all the powers and jurisdiction of justices of the peace provided for and elected under the general laws of the State; and in addition thereto shall have cognizance and jurisdiction of all suits, prosecutions or proceedings for violating any of the ordinances, by-laws or regulations enacted under the provisions of this act, or for the recovery and enforcement of any fine, forfeiture or penalty under any by-law, ordinance or regulation; and in all cases of offenses committed against the same. All prosecutions for assaults, batteries and affrays not indictable, and for a breach or violation of any by-law, ordinance or regulation shall be commenced in the name of the

village of Bird Island; and the same proceedings shall be had in all civil and criminal suits or prosecutions before said justices when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the general laws of the State; *provided*, that no change of venue shall be taken excepting to some justice residing in the village. All fines, forfeitures and penalties imposed by, or recovered before said justices or any justice residing within the limits of said corporation in any suit, prosecution or proceeding had before him, shall be, within ten days, paid by such justices to the recorder of said corporation for the use thereof, taking his receipt therefor. The justices of the peace shall take judicial notice of the by-laws, ordinances and regulations of said corporation, and it shall not be necessary in any action, civil or criminal, before said justices, to plead or refer to the same in any manner whatever in any pleading or complaint; but said by-laws or ordinances and regulations shall in said justice's court be held and deemed to be public law. Each justice of the peace shall at least once in three (3) months, make to the council a full report of all moneys received by him for fines, forfeitures and penalties. Any justice of the peace elected in the township of Bird Island under the general laws of the State, and residing within the limits of the corporation, shall have concurrent jurisdiction with the justices of the peace elected under the provisions of this act, and be subject to the same liabilities and restrictions. The fees of the justices of the peace shall be the same as allowed and fixed by the general laws of the state for justices of the peace. All warrants, writs and processes of every nature, issued by such justice, shall be directed to the sheriff or any constable of the county of Renville, and may be executed and served by the marshal appointed under the provisions of this act, or by the sheriff or any constable of said county; and for said purpose said marshal shall have and possess the same power and authority which by the general laws of the state, constables have and possess in the execution and service of warrants, writs and other processes issued by justices of the peace, elected under such general law.

SEC. 9. The marshal appointed under the provisions of this act shall be the ministerial officer of the council, and shall have and possess all the powers belonging to constables elected under the general laws of the state, and his compensation, except as in this section is otherwise provided, shall be fixed by ordinance of the council, and said marshal shall, within the said county, also have and exercise all the powers and perform all the duties of, and when acting as such, receive the same compensation, and be subject to the same liabilities and restrictions as constables elected under the general laws of the State. He shall also be chief of the police force of said village, but as such shall be subordinate to the president.

SEC. 10. There shall be an annual election for the elective officers herein provided for, on the first (1st) Tuesday in April in each and every year; and the polls shall be kept open from ten (10)

o'clock in the forenoon until four (4) o'clock in the afternoon, and ten (10) days previous notice shall be given by the recorder of the time and place of holding such election, and of the officers to be elected, by posting a notice thereof in three (3) of the most public places in the village. At the said elections three (3) members of the council selected by the president, shall act as judges of election, and shall appoint one (1) clerk of election, and the person so appointed and the recorder, shall be clerks of the election, and the persons so acting as judges and clerks of election shall possess all the powers of judges and clerks of election under the general laws of the state, and be subject to the liabilities thereof. At the close of the polls, the votes shall be canvassed and counted in the same manner as is provided for canvassing and counting votes at general elections; and a list containing the names of the persons voted for for each office, and the number of votes cast for each, shall be made and certified under the hands of said judges and *attested* by the clerks, which list shall be sealed up and forthwith delivered by the recorder to the judges of election, and at eight (8) o'clock of the same evening the village council shall meet at the recorder's office, when said returns shall be opened by the judges, and the said council shall proceed to make a final canvass of said votes, and the president or presiding officer present shall thereupon make a public declaration of the true state thereof.

SEC. 11. Whenever a vacancy shall occur in any elective office, the council shall have the power to fill such vacancy by appointment. Any person appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term.

CHAPTER 2.

SEC. 1. The village council shall have the management and control of the finances, and all the property of the corporation; and shall also in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for the government and good order of the village, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient. The village council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule, by-law or regulation passed or ordained by them; and all such ordinances, rules, by-laws and regulations are hereby declared to be, and have the force of, law. *Provided*, that they be not repugnant to the constitution or laws of the United States, or of this state, and for those purposes shall have authority by ordinances, rules, by-laws or regulations.

First. To license and regulate the exhibitions of common showmen and shows of all kinds; of the exhibitions of caravans,

circuses, concerts or theatrical performances, billiard tables, nine or ten pin alleys, bowling saloons; to grant licenses and regulate auctions and auctioneers, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous, fermented or malt liquors.

Second. To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing with cards, dice or other games of chance, for the purpose of gambling in said village, and to restrain any persons from vending, giving or dealing in spirituous, fermented, vinous or malt liquors, unless duly licensed by the village council.

Third. To prevent any riots, noise, disturbance and disorderly assemblages in said village, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly houses and houses of ill fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purpose of gaming.

Fourth. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said village.

Fifth. To direct the location and management of slaughter houses and markets, breweries, distilleries and pawnbrokers' shops.

Sixth. To prevent the encumbering of streets, sidewalks, lanes, alleys or public grounds with carriages, carts, wagons, sleighs, boxes, lumber, fire wood, posts, awnings, or any other material or substances whatever.

Seventh. To prevent and punish horse-racing and immoderate riding in the streets; to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets; and to regulate places of bathing and swimming in the waters within the limit of said village.

Eighth. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.

Ninth. To prevent the running at large of dogs, and may impose a tax on the same, and to authorize the destruction of the same in a summary manner when at large contrary to ordinance.

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

Eleventh. To make and establish public pounds, pumps, wells,

cisterns, hydrants and reservoirs, and to provide for and control the erection of water works for the supply of water to the inhabitants.

Twelfth. To establish and regulate boards of health, and provide hospitals and hospital grounds.

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

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

Fifteenth. To prevent drunkenness and obscenity in the streets or public places of said village, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

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

Seventh. To regulate the place and manner of weighing hay and selling the same, and measuring and selling firewood, coal and lime, and to appoint suitable persons to superintend and conduct the same.

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

Nineteenth. To provide for watchmen, and to prescribe the number and duties, and regulate the same, and to create and establish the police of said village, and to prescribe the number of police officers and their duties, and to regulate the same; to prevent the dangerous construction, placing or continuance of chimneys, fireplaces, stovepipes or any pipes or instruments for the conducting of fire, heat or smoke, ovens, boilers or appurtenances, and to cause the same to be removed or to be made secure, and to prosecute any person depositing ashes in any unsafe place, and to prevent the carrying on of any kind of business or manufactory dangerous in causing and promoting fires, or what might be dangerous to the health of the people of said village.

Twentieth. To provide by ordinance for a standard of weights and measures, for appointment of a village sealer, and to require all weights and measures to be sealed by the village sealer, and to provide for the punishment of the use of false weights and measures.

Twenty-first. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Twenty-second. To remove and abate any nuisance, obstructions,

encroachment upon the streets, alleys, public grounds and high-ways of the village.

Twenty-third. To do all acts and make all regulations which may be necessary or expedient for the preservation of health, and the suppression of disease, and to make regulations to prevent the introduction of contagious or infectious disease into the village, and to make quarantine laws, and to enforce the same within the village.

Twenty-fourth. To restrain and punish mendicants, street beggars and prostitutes.

Twenty-fifth. Fines, penalties and punishments imposed by the council for the breach of any ordinance, by-law or regulation of said village, may extend to a fine not exceeding one hundred dollars (\$100) and imprisonment not exceeding thirty (30) days, or both, at the discretion of the justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

SEC. 2. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the council, by ayes and noes, and published at least once in the official paper before the same shall be in force, and shall be admitted as evidence in any court in the State, without further proof, and shall be recorded by the recorder in books to be provided for that purpose.

SEC. 3. The power conferred upon the council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill fame, disorderly taverns and houses (or places) where spirituous, vinous, fermented or malt liquors are sold without license required therefor, within the limits of said village, are hereby declared, and shall be deemed public or common nuisances.

SEC. 4. The council shall examine, audit and adjust the accounts of the recorder, treasurer, justices, and all other officers and agents of the village, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said village were elected or appointed shall have expired, and the council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and vouchers to said council or a committee thereof, 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 said village who may be found delinquent or defaulting in his accounts, or in discharge of his official duties; and shall make a full record of all such settlements and adjustments.

CHAPTER 3.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act or the ordinances, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the village.

SEC. 2. In all prosecutions for any violations of this act, or of any ordinance of the village, the first process shall be by warrant. *Provided*, that no warrant shall be necessary in any case of the arrest or apprehension of any person or persons while in the act of violating any law of the State of Minnesota or ordinance of the village, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged, in the same manner as if arrest had been by warrant.

SEC. 3. The marshal and other police officers are hereby vested with all the powers of a sheriff or constable in the service of writs as granted to them by the law of the State, and may pursue into any county in this State, and bring back for trial, any offender against the ordinances of said village.

SEC. 4. When any suit or action shall be commenced against said village, the service of process therein shall be made by copy upon the recorder of the village.

SEC. 5. No law of this State contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SEC. 6. The sale of intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said village is hereby declared to be under the exclusive control of the council of said village, and all fines imposed for violation of any ordinance regulating such traffic shall be paid into the treasury of the village for the use thereof. *Provided*, that all moneys collected from residents of said village for county licenses for the year 1881 shall be paid into the treasury of said village by the county treasurer, except such part thereof as is proportional to the part of said year which may have expired prior the passage of this act.

SEC. 7. The council shall have the power and authority to open, lay out or vacate streets and alleys within the limits of said village, which is conferred by the general laws of the State upon the boards of supervisors of townships to open, alter, discontinue, or lay out roads; and in the matter of opening, laying out or vacating streets or alleys, and the assessment of damages, the council shall be governed by and act under the general laws of the State, providing for altering, discontinuing and laying out roads; and appeals may be taken in the same manner as appeals are under the general laws taken from the decisions of township supervisors.

SEC. 8. The cost and expense of building, grading, paving or repairing sidewalks, shall be at the option of the council, chargeable to the lot fronting on said improvements. Whenever the council shall deem it necessary to construct or repair any sidewalk in the village of Bird Island, they may require the street commis-

sioner to notify all owners and occupants of any lot or lots, or parcel of land adjoining such sidewalks, to construct or repair the same at his or their own proper expense and charge, within a certain time designated, by delivering to the owners or occupants of said lot or lots or parcels of land, or by the publication in a newspaper printed and published in said village, for not less than two (2) weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

SEC. 9. If such work is not done, and the sidewalks not built or repaired in the manner and within the time prescribed, the council may order the same to be done by the street commissioner at the expense of the lots or parcels of land adjoining said sidewalks, and said expense shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the council; and such assessment, so made and returned, if approved by the council, shall become a lien upon said lots and parcels of land, as in case of town, county and state taxes.

SEC. 10. If said assessment be not paid to the street commissioner of the village on or before the twentieth (20th) day of August in any year, the village council shall cause a statement of the same to be transmitted with the village taxes levied for that year to the auditor of the county of Renville, on or before the first (1st) day of September in each year; and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced, with and in like manner as county and state taxes are collected and payment enforced.

SEC. 11. The village council may prescribe the width of sidewalks, and may establish different widths in different locations, and may determine the kind of material of which they shall be constructed, having regard to the business and amount of travel in the vicinity of each.

SEC. 12. All property, real and personal, in the village, except such as may be exempt by the laws of this state or is village property, shall be subject to taxation not exceeding one mill (\$.001) on the dollar (\$1) per year for general purposes; such property shall also be liable for such special taxes as the village council are herein authorized to levy.

SEC. 13. The village council shall have power to order and direct the levy and collection, within the time prescribed by law, of taxes sufficient to give full effect to the powers herein conferred.

SEC. 14. The village council shall have the power to provide by ordinance for the manner of assessing and enforcing the collection of all taxes levied under the provisions of this act; but until express provision is made in regard to that subject, all taxes shall be collected as follows: the recorder shall deliver to the county auditor of Renville county a certificate signed by him under the seal of the corporation, setting forth the amount levied upon every

dollar (\$1) in value of the taxable property within the limits of the village of Bird Island as incorporated by this act; it thereupon shall become the duty of the said auditor to add the amount thus levied to the assessment roll of the year in which such levy was made, and it shall become the duty of the county treasurer of said county to collect the amount thus added to the assessment roll, and to enforce the collection of the same in like manner as any other tax of the said county of Renville placed in his hands for collection, and to pay the amount so collected to the treasurer of the village of Bird Island, incorporated by this act.

SEC. 15. In any action brought to recover any penalty or damages under this act, or under any ordinance made by the village council, it shall be sufficient to complain that the defendant is indebted to the village to the amount of said penalty or damages, and to refer to the act or ordinance under which the same is claimed, and to give the special matter in evidence under it. All civil cases shall be under control and direction of the village council; they shall have power to settle, compromise or prosecute all such actions on the part of the village, when said village shall be a party, or be interested in such actions; and no person shall be incompetent as a juror by reason of being an inhabitant of said village, in an action to which the village shall be a party.

SEC. 16. In all respects not herein provided for, said village shall be and continue a part of the township of Bird Island. *Provided*, that the village council shall have the power to assess a poll tax upon each and every male inhabitant thereof of the age of twenty-one (21) and under the age of fifty (50) years, of an amount not to exceed two dollars (\$2) in each year, which said tax, when paid, shall be in lieu of all poll taxes now authorized to be levied by town supervisors for road purposes.

SEC. 17. The corporation is invested with all the powers to carry into full force and effect all and every part of this act; and to carry into execution the same shall have power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof.

SEC. 18. The officers of said village shall be: M. Donohue, president; W. M. Holbrook, J. W. Ladd, Charles C. Ladd, J. W. Barnard, [E. H. Keenan,] councillors; George H. Megguier, village attorney; T. M. Paine, village treasurer; D. D. Williams, village recorder; Jas. Feeter, street commissioner; W. H. Lewis, village marshal; Wesley Moran, Fred. Hodgdon, justices of the peace, who shall immediately qualify and enter upon the duties of their respective offices, and hold said offices until the first (1st) Tuesday in April, 1881, and until their successors are elected and qualified.

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved March 4, 1881.