

CHAPTER 78.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE VILLAGE OF MONTGOMERY IN THE COUNTY OF LE SUEUR, AND STATE OF MINNESOTA." BEING CHAPTER SIX (6) OF THE SPECIAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878).

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

SECTION 1. That section five (5) of chapter six (6) of the special laws of one thousand eight hundred and seventy-eight (1878) be amended so as to read as follows:

"SEC. 5. The president, the three trustees and recorder shall be the village council of said village, any three of whom shall constitute a quorum for the transaction of any business, and shall have the management and control of the finances, and of all the property of the corporation, and shall also have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, orders, by-laws and regulations for the government and good order of the village, for suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; and 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, rules, by-laws and regulations of said village, which are hereby declared to be and have force of law; *provided*, that they be not repugnant to the constitution of the United States and of the State of Minnesota. And the village council shall have authority by ordinance, rules, by-laws or resolution.

First. To provide for the construction and maintenance of suitable sidewalks and street crossings as they shall deem expedient, at the expense of the owners of the lots or parts of lots respectively opposite to and adjoining such sidewalks or crossings; and to prevent any person or persons from doing damage to the same.

Second. To prevent any riots, noise, disturbance, disorderly conduct or assemblage, to suppress disorderly houses or saloons, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming, and of all spirituous, vinous, fermented, malt or intoxicating liquors of any kind that may be kept for sale or dealt in contrary to any ordinance of said village.

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

Fourth. To restrain the running at large of cattle, horses, mules, swine or poultry, and to authorize the impounding, distraining and sale of the same.

Fifth. 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 leave the same upon his premises or by the person who may have put the same thereon, or from any street, alley or public place, and in default to authorize the removal thereof at the expense of such person so required to remove the same.

Sixth. To prevent open and riotous drunkenness, brawling or obscenity in the streets, alleys or public places, and to provide for the arrest and punishment of any or all persons who may be guilty of the same.

Seventh. To direct and regulate the location and management of slaughter houses and markets in said village, and to regulate the sale, storage, conveying and keeping of gunpowder and other combustible materials.

Eighth. To compel the owners, agents or lessees of any hog-yard or pen, stable, privy, sewer, hide yard, slaughter-house, market, or any other unwholesome, nauseous house or place, to clean, abate or remove the same from time to time, as the village council may deem necessary, for the health, comfort and convenience of the inhabitants of said village.

Ninth. To establish the grades of streets and cause an accurate profile thereof to be made, a copy of which shall be filed in the office of the village recorder.

Tenth. To license public showmen or exhibitions, billiard tables and bowling alleys, and to provide for the collection of the same, and for the punishment of offenders against any ordinance or resolution relating to the same.

Eleventh. To prevent horse racing and immoderate driving in the streets, and to compel persons to fasten their horses or mules attached to vehicles while in the streets; to punish offenders against ordinances, resolutions, by-laws or regulations relating to the same; and to regulate the place of bathing and swimming in waters within the limits of said village.

Twelfth. To organize fire, hook and ladder, and hose companies, and to provide for the due support and regulation of the same; to purchase fire engines and other fire apparatus for the use of such companies; and to disband such companies and cause such apparatus to be delivered up; and to do all things needful to make such companies effective.

Thirteenth. To prevent the dangerous construction, placing and condition of chimneys, fire-places, hearths, stoves and pipes, ovens, boilers and appurtenances used in and about any building or premises, and to cause the same to be removed or placed in secure condition, when considered dangerous, at the expense of the owner or owners, to prevent the deposit of ashes in unsafe places; to prevent and regulate the carrying on and operating manufactories

dangerous to the village by causing or promoting fires within the limits of the village, or otherwise; to prevent and regulate the use of fire-arms or fire-works within the limits of said village, and to provide for the punishment of offenders against any ordinance, by-law, resolution or regulation relating to the same; and to adopt and enforce such regulations as they may deem proper or expedient to prevent the introduction or spread of contagious diseases in said village.

Fourteenth. To make and establish public grounds, pumps, wells, cisterns, hydrants and reservoirs, and to provide for and control the erection of water works, for the supply of water.

Fifteenth. To establish, create, support and regulate a police force and night watch for said village, by ordinance, for permanent or temporary employment, as may be required for the safety and good order of said village; to prescribe the number of such police and night watchmen; and to provide for the appointment and payment of the same.

Sixteenth. To impose fines, penalties and punishments for the breach of any ordinance, by-law, resolution or regulation of said village, not to exceed a fine of one hundred (100) dollars or imprisonment not exceeding sixty (60) days in the village or county jail, at the option of the village justice or both, and in the discretion of such justice, any such offender may be fed on bread and water during the full term of such imprisonment; and such offenders may be required to give security for their good behavior and to keep the peace for a term not exceeding six (6) months, in such sum as the justice may direct, nor exceeding one thousand (1000) dollars.

Seventeenth. To restrain and punish vagrants, mendicants, tramps, street beggars and prostitutes; to cause the arrest of any such person or persons, and cause them or any of them to be brought before one of the justices of the peace of said village for examination and trial, and upon conviction such person shall be fined not less than five (5) dollars nor more than twenty-five (25) dollars, or be imprisoned in the village jail until such fine and the costs of the trial be paid, not exceeding a term of thirty (30) days and to be fed on bread and water during the full term of such imprisonment in the discretion of the village justice. *Provided*, that the village council may provide, that in case of any such male offender, if such cost and fine be not paid, he may be kept at hard labor upon the public streets and improvements of said village, or upon the public highways of the township of Montgomery, in Le Sueur county, until such fine and costs together with the expenses of keeping and boarding such offender shall be paid by said labor, at a rate to be fixed by the village council, and the said village council shall have full power and authority to establish by ordinance all needful regulations for the safe keeping and proper discipline of such person or persons so employed and furnished; *Provided*, that such person or persons shall not be kept at such labor for a longer term than thirty (30) days, for any one offense.

SEC. 2. That section fifteen (15) of said act be amended so as to read as follows:

Section 15. The justices of the peace and constables provided for and elected under this act shall have and may exercise in addition to their powers and authority herein specially granted to such officers, all the power and authority in any case possessed by a justice of the peace or constable elected by the said township of Montgomery. The village justices and constable shall take the same oath of office and execute before entering upon the discharge of their duties the same bonds, and file said bonds with the same officers, as justices of the peace and constable under like circumstances are required to do by the General Laws of this State; and shall receive the same fees for their services as justices of the peace and constables are allowed under the General Laws of this State. The village justices shall have cognizance and jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, regulation or ordinance of said village, or under this act, or for the breach or violation of any such by-law, regulation or ordinance; 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 Montgomery, and the same proceeding shall be had in all civil and criminal suits or prosecutions before the said justices as are established and required to be had in civil and criminal actions, by the General Laws of this State, before justices of the peace, and in case of prosecutions for a breach or violation of an ordinance, by-law or regulation of said village, or of this act, or for an assault, battery or affray not indictable, committed within the limits of said village. All fines, forfeitures and penalties imposed or recovered before said justices in any suit, prosecution or proceeding had or commenced in the name of said village, shall be promptly paid by said justice to the treasurer of said village for the use thereof. The village justices shall take judicial notice of the by-laws, ordinances and regulations of said village, 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, regulations or ordinances shall in said justice's courts be held and deemed to be public law; and all warrants, summonses, writs and processes of every nature issued by such justices, shall be directed to the sheriff or any constable of said county, and for such purposes said sheriff or any constable of said village or county shall have and possess the same power and authority, which by the General Laws of the State, they have and possess in the execution or service of warrants, summonses, writs and other process issued by justices of the peace elected under the General Laws of this State.

SEC. 3. That the said act be further amended by adding thereto the following sections which shall be designated as sections thirty-

four (34), thirty-five (35), thirty-six (36), thirty-seven (37) and thirty-eight (38), respectively, and read as follows :

SEC. 34. The president shall take care that the laws of the State and the ordinances of the village are duly observed and enforced, and that all other executive officers of said village discharge their duties ; he shall from time to time give the village council such information and recommend such measures as he may deem advantageous to said village. The president shall be the chief executive officer and head of the police of said village, and shall appoint such police officers and watchmen as he shall deem necessary for the good order and safety of said village, except when otherwise provided for ; and in case of riot or other disturbance, he may appoint as many special or temporary police as he may deem necessary, and any police or watchman appointed by the president as aforesaid, may be discharged by him, whenever in his opinion, the welfare of the village may demand it, or a reduction of their number is advisable. The president shall preside at all meetings of the village council, and shall sign all ordinances, by-laws or regulations of said village passed by the village council ; and in case of his absence, the balance of the village council, if a quorum be present, may appoint a temporary president, from their number or otherwise, who shall act and preside instead of the president, and have all the powers and authority of the president, while so acting.

SEC. 35. The village recorder shall keep a record of all the proceedings of the village council, at whose meetings it shall be his duty to attend ; copies of all papers filed in his office and transcripts from all records of the village council certified by him shall be evidence in all the courts of this state as if the originals had been produced ; he shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the village council, and keep a full and accurate account thereof in a book to be provided by said council for that purpose. He shall make or cause to be made estimates of the expense of any work to be done by the village, countersign all contracts made in behalf of said village, and certificates of work authorized by any committee of the village council, or by any village officer, and every contract made in behalf of the village, or to which the village is a party, shall be void unless countersigned by the recorder. The recorder shall keep books of account to be furnished by the village council for that purpose, in which he shall enter all indebtedness of the village, and all assets of the same, and which shall at all times show the precise financial condition of said village, the amount of bonds, certificates, orders, or other evidence of indebtedness which have been redeemed, and the amount of each outstanding. He shall keep accounts with all receiving and disbursing officers of said village, showing the amounts they have received from the different sources of revenue, and the amount they have disbursed under the direction of the village council, and such receiving and disbursing officers shall render accurate statements to the recorder of the mon-

eys or other property belonging to said village passing through their hands whenever said recorder shall request them so to do. *The recorder shall, on the last day of November annually make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from whom and on what account received, to whom and on what account expended, together with an accurate statement of the finances of said village at the end of the fiscal year, including all debts and liabilities of every description, and the assets and other means to discharge the same, and shall present the same to the village council for their approval, and such statements shall constitute a part of the report of the village council, and shall be read at the next following election of said village, and shall be open at all times to the inspection of any person or persons interested. He shall keep a list of all certificates issued for work or any other purpose, and before the levy of any special tax by the village council upon the property in said village or any part thereof, shall report to the village council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment; and, also, the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which schedule shall be certified by the affidavit of the recorder, and shall be prima facie evidence of the facts therein stated, in all cases wherein the validity of such special tax or assessment shall come in question.*

The village council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. *If before the first (1st) day of September of any year, the amount expended chargeable to any village fund (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund), shall be equal to three-fourths of the tax authorized to be raised, or revenue estimated for such fund, he shall report the same to the village council at once, and he shall not countersign any contract chargeable to such fund, until the amount of taxes or revenue from other sources actually collected shall be ascertained; and during the remainder of the fiscal year, he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which the expenses are properly chargeable. And he shall keep a record of all his acts and doings, and shall keep a book in which he shall enter all contracts with an index thereto; and such record shall be open to the inspection of all persons interested. He shall not be interested directly or indirectly in any contract or job to which the village is a party, or in which the village is interested, and any such contract in which he may be interested shall be null and void.*

SEC. 36. The village council shall have power at any time to require other and further duties not inconsistent with this act, to be performed by any officer whose duties are prescribed by this act, and to appoint such other officers as may be necessary to

carry into effect the provisions of this act; and to prescribe their duties unless otherwise provided for; *Provided*, that no officer so appointed shall hold his office for longer than one year, or until his successor shall be appointed and qualified. The village council shall have power to fix the compensation of the village recorder, and of all other officers elected or appointed under this act, unless otherwise provided for; and such compensation shall be fixed by resolution of the village council, at the first (1st) meeting of said council following the annual village election of every year hereafter; nor shall the compensation of any officer after having been so fixed be increased or diminished during the term for which such officer was elected; *Provided*, that the village recorder shall not vote upon the resolution fixing his own compensation, and *provided* that the president nor either of the trustees shall receive more than ten dollars compensation for any one year. And no officer elected or appointed under the provisions of this charter shall be a party to or interested in any contract in which the village is interested, while holding such office.

SEC. 37. The president, recorder, trustees, justices of the peace, constables, police officers and watchmen shall be the officers of the peace for said village, with the powers of constables at common law, and may command the peace, suppress in a summary manner all rioting and disorderly conduct, and arrest all persons engaged in the same within the limits of the village, and for such purpose may command the assistance of the bystanders and citizens of the village, and if any person shall refuse to aid in maintaining the peace, suppressing such riotous or disorderly conduct, and in arresting the persons engaged therein, when so required, each and every person so offending shall pay and forfeit a fine of twenty-five dollars (\$25.) to the village treasury; and, in cases where the civil powers may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall command and direct the proceedings.

SEC. 38. That the village council may designate by resolution one of the constables elected under this act, as marshal of said village, and such marshal shall be the ministerial officer of said council, and shall have and possess in addition to his powers as constable, the power to pursue into any county of this State, and arrest and bring back for trial any offender against any ordinance of this village; and such marshal shall be the chief of police of said village, and shall have charge of and be the keeper of the village jail. And the village council may revoke such appointment as marshal, and reappoint the same, at any time, in their discretion.

SEC. 4. Each and every part of said act inconsistent with this amendment thereto, shall be and is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 19, 1881.