

GENERAL STATUTES <sup>36</sup>  
OF THE  
STATE OF MINNESOTA

IN FORCE

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COMPLETE IN TWO VOLUMES.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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## CHAPTER 10.

## TOWNSHIP ORGANIZATION.\*

## § 2. Fraction of township.

See note to c. 8, § 114, *ante*.

## § 11. (Sec. 10.) Proceedings to be in name of town.

An action against P., I., and S., "supervisors of the town of Newport," is not an action against the town, but against them personally. The addition "supervisors," etc., is *descriptio personarum*. *Holton v. Parker*, 13 Minn. 333, (Gil. 355.)

## § 13. (Sec. 12.) When annual town meeting to be held.

The citizens of the several towns of this state, qualified to vote at general elections, shall annually assemble and hold town meetings in their respective towns on the second Tuesday of March, at such place in each town as the electors thereof, at their annual town meetings, from time to time appoint; and notice of the time and place of holding such meetings shall be given by the town clerk, by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting: *provided*, that before any change of place of holding town meetings is made, notice of such contemplated change may be given by any member of the town board to the town clerk, who shall, in his regularly printed or written notices, as provided hereinabove, incorporate the special notice of the contemplated change of place of holding said town meeting. (*As amended* 1870, c. 99, § 1; 1879, c. 47, § 1.)

## § 14. (Sec. 13.) Officers to be elected at town meetings.

See *State v. Gurley*, 35 N. W. Rep. 179.

## § 16. (Sec. 15.) Powers of electors at town meetings.

The electors of each town have power, at their annual town meeting—

*First.* To determine the number of pound-masters, and the location of pounds.

*Second.* To select such town officers as are required to be chosen.

*Third.* To direct the institution of defense or actions, in all controversies where such town is interested.

*Fourth.* To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary.

*Fifth.* To make all rules and regulations for ascertaining the sufficiency of fences in such town, and for impounding animals.

*Sixth.* To determine the time and manner in which cattle, horses, mules, asses, and sheep are permitted to go at large: *provided*, that no cattle, horses, mules, nor asses be allowed to go at large between the fifteenth of October and the first of April.

*Seventh.* To impose such penalties on persons offending against any rule or regulation established by said town, except such as relate to the keeping and maintaining of fences, as they think proper, not exceeding ten dollars for each offense, unless herein otherwise provided.

*Eighth.* To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.

\* For the duties of assessors in relation to the state census, see *post*, c. 124. Same, in relation to drainage and timber culture, see *post*, c. 124. Duties in 1881, to return information concerning the Sioux massacre, see Gen. Laws 1881, c. 121.

For provisions of Gen. Laws 1885, c. 187, appropriating a portion of the tax on insurance companies to cities, villages, and towns having organized fire departments, see *post*, c. 34, \*§ 298a *et seq.*

*Ninth.* To vote to raise such sums of money for the repairs and construction of roads and bridges as they deem necessary, and to determine the amount thereof to be assessed by the supervisors as labor tax, and the amount thereof to be assessed and collected as other town taxes; also to vote such sums of money for the support of the poor and for other necessary town charges as they deem expedient: *provided*, that they may, at their annual town meeting, direct such an amount of the poll and road tax of the town to be expended on the highways in an adjoining town, as they deem conducive to the interests of the town, which labor and tax shall be expended under the direction of the supervisors of the town furnishing the same: *provided, further*, that where more than one entire congressional township is included within an organized town, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township, unless raised to be expended outside of such organized town in an adjoining town. (*As amended* 1869, c. 28, § 1; 1887, c. 20.)

Subd. 6. This is in affirmance of the common-law rule in force in this state, that every man is bound to keep his cattle on his own land, and in the absence of action by the town, under such statute, it is as unlawful for cattle to be abroad in summer as in winter. *Locke v. First Div. St. P. & P. R. Co.*, 15 Minn. 350, (Gil. 283)

As to fees and duties of pound-masters, see § 87, and note, *post*.

Subd. 9. Towns cannot levy taxes or issue bonds to indemnify persons for money paid by them as bounties to volunteers. *Cover v. Town of Baytown*, 12 Minn. 124, (Gil. 71.) The town meeting levies the tax upon the district by determining the purposes for which taxes shall be levied at a particular time, and the amount of money to be raised therefor. *Libby v. Town of West St. Paul*, 14 Minn. 248, (Gil. 181, 184.)

As to the effect of non-compliance with the second proviso, see *Town of Clayton v. Town of Bennington*, 24 Minn. 14.

#### § 17. (Sec. 16.) Special town meetings.

The question whether the persons subscribing a written statement for a special town meeting are legally freeholders, is one of fact for the town clerk to determine, before giving notice of the meeting, and his decision is conclusive upon any town officer upon whom is imposed any act or duty consequent upon the result of such meeting. *State v. Supervisors Town of Lime*, 23 Minn. 521.

#### § 18. (Sec. 17.) Recording statement—Notice.

After such special meeting has been held, pursuant to notice given by the town clerk the requisite length of time, it will be presumed that such notice was properly posted, and in the requisite number of places, in the absence of any clear proof to the contrary. *State v. Town of Lime*, 23 Minn. 521.

#### § 34. (Sec. 32.) Notice to persons elected.

#### § 40. (Sec. 38.) Treasurer's bond.

#### § 41. (Sec. 39.) Same.

§§ 34, 40, 41, cited. *State v. Town of Lime*, 23 Minn. 521, 525.

#### § 42. (Sec. 40.) Constable's oath and bond.

See *Litchfield v. McDonald*, 35 Minn. 167, 28 N. W. Rep. 191.

#### § 45. (Sec. 43.) Omission to take oath—Penalty.

A justice elect who has not taken his oath of office has no authority to act as justice. He is liable to a penalty if he does so act. In *re Arctander*, 26 Minn. 25, 27, 1 N. W. Rep. 43.

#### § 48. (Sec. 45.) Vacancies.

#### § 49. (Sec. 46.) Same.

The justices and supervisors can act under this section only when met together as a board. Every member has a right to notice of a meeting of the board; and if such notice be omitted, although a majority meet and concur in appointing to fill the vacancy, their action is illegal. *State v. Guiney*, 26 Minn. 313, 3 N. W. Rep. 977.

**§ 62. (Sec. 58.) Contagious diseases.**

The liability of the county to which the sick person belongs for the expense of "nurses, medical attendance," etc., does not at all depend upon the fact that the town has paid or issued its orders for them. The fact that the town has *provided* them is all that is necessary to entitle it to present its claim to the county for allowance and payment. *Town of Montgomery v. County of Le Seuer*, 32 Minn. 532, 21 N. W. Rep. 713.

**§ 65. (Sec. 61.) Prosecutions by supervisors.**

See *Holton v. Parker*, cited in note to section 11 of this chapter.

**§ 66. (Sec. 62.) Supervisors—Quorum.**

Applied, *Grinager v. Town of Norway*, 33 Minn. 127, 130, 22 N. W. Rep. 174.

**\*§ 79a. Unpaid town orders—Record—Interest.**

That each and every town treasurer in this state shall keep a suitable book, to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders, when presented, shall be indorsed by such treasurer by putting upon the back of the same [the] words: "Not paid for want of funds;" giving the date of such indorsement, signing the same as town treasurer; which orders, when so indorsed, shall bear interest from that date until paid. (1881, c. 114, § 1.)

**\*§ 79b. Same—Order of payment.**

That all town orders shall be paid in the order that they are registered, out of the first moneys that come into the town treasurer's hands for such purposes. (*Id.* § 2.)

**§ 87. (Sec. 83.) Pound-masters.**

This section governs proceedings under section 16, *supra*, (subd. 6.) and is not inconsistent with the provisions of c. 19, § 1, etc., in reference to estrays, or with §§ 23, 32, 33, same chapter, respecting the impounding of animals found doing damage. *Johnston v. Kirchoff*, 31 Minn. 451, 18 N. W. Rep. 315.

It is incumbent upon a party, claiming title to an animal under a pound-master's sale to show that it was liable to be impounded, and that the proceedings are authorized by law, in order to divest the owner's title. *Id.*

**§ 88. (Sec. 84.) Actions by and against towns.**

When an individual creditor may sue a town for his debt instead of being limited to the remedy by *mandamus*, see *Guilder v. Town of Otsego*, 20 Minn. 74, (Gil. 59.)

**§ 89. (Sec. 85.) Same—To be in town name.**

See *Holton v. Parker*, cited in note to § 11 of this chapter.

**§ 104. (Sec. 100.) What are town charges.**

Cited, *Libby v. Town of West St. Paul*, 14 Minn. 248, 251, (Gil. 181, 184.)

**§ 111. (Sec. 107.) Limit of town debts.**

No town can contract a debt for any one year, for a specified purpose, in any larger sum than the amount of taxes assessed for such year for such purpose. The assessment for township purposes is based upon the vote at the town meeting. *Evans v. Town of Stanton*, 23 Minn. 368, 370.

**§ 112. (Sec. 108.) Chapter not applicable to cities.**

Word "town," when means "city," see *Odegaard v. City of Albert Lea*, 33 Minn. 351, 23 N. W. Rep. 526.

See *State v. Gurley*, 35 N. W. Rep. 179.

**\*§ 113. Places for posting notices.**

This section does not apply to notice of a meeting of electors to decide upon the question of organizing a school-district. *State v. Sharp*, 27 Minn. 38, 43, 6 N. W. Rep. 403.

**\*§ 119. Duties of such board—Neglect—Penalty.\***

It shall be the duty of the health officer to make, once in every three months, and oftener if necessary, a thorough sanitary inspection of said town, village, borough, or city, and present a written report of such inspection at the next meeting of the board of health, and he shall forward a copy of his monthly report, as soon as rendered, to the state board of health; and all local boards of health and health officers shall make such investigations and reports, and obey such directions as to infectious diseases, as shall be directed by the state board of health. And any member of any board of health, or health officer, who shall neglect to perform the duties required of him under the provisions of this act, or any other act relating to the duties of boards of health, or health officers of this state, or who shall neglect or refuse to obey any reasonable directions as to infectious diseases as shall be directed by the state board of health, shall be liable, upon conviction in any court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars or more than one hundred dollars, and shall become disqualified from holding the office of a member of a board of health. (1873, c. 8, § 3, as amended 1881, *Ex. Sess.* c. 11.)

**\*§ 121. Duties relative to certain diseases.**

It shall be the duty of any and every member of all boards of health within this state, whenever they are informed that there is a case of scarlet fever, diptheria, or small-pox within the territory over which the board of health of which he is a member has jurisdiction, to notify a majority of such supposed facts within six hours after such information is received by said member of said board, and they shall immediately examine into the facts of the case, and if the disease appears to be scarlet fever, diptheria, or small-pox, they shall adopt such quarantine and sanitary measures as may in their judgment tend to prevent the spread of said disease in its locality. (1877, c. 137, § 1, as amended 1883, c. 31, § 1.)

**\*§ 122. Same—Penalties.**

And said board of health shall have power to forbid, by notices posted upon the entrances to premises where there may be a patient sick with scarlatina, diptheria, or small-pox, any person, except the medical attendant and his advisers, from going to or leaving said premises without their permission, or carrying or causing to be carried any material whereby said disease may be conveyed, until said disease has abated, and the premises, dwelling, and clothing have been rendered free from disease by such disinfecting means as the board may direct; and if said board shall be informed that the above, or any reasonable and sanitary measures which they have adopted and made public, is or has been violated, then the said board may cause said offenders against this act to be apprehended and brought before an officer having jurisdiction; and said offenders shall, upon conviction, be liable to a fine in the sum of not less than five dollars nor more than twenty-five dollars for any violation under this act. Any member of any board of health who shall neglect his duties under the provisions of this act shall be liable, upon conviction in a court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars nor more than one hundred dollars for the first offense, and for conviction for violation of this act the second time, shall, in addition to the fines already provided, become disqualified from holding the office of, or to which is attached the duties of, a member of a board of health. (1877, c. 137, § 2, as amended 1883, c. 31, § 1.)

\* See *post*, c. 124, Health Code.

## CITIES.

<sup>411.10</sup>  
 \*§ 124. Organization—Powers.

The duty and power imposed and conferred on judges of probate by this section are not judicial, and the statute is not unconstitutional as conferring on probate courts, or the judges thereof, judicial power beyond that authorized by the constitution. *State v. Ueland*, 30 Minn. 29, 14 N. W. Rep. 58.

\*§ 162. Ordinances—Meetings of council—Quorum.

This and the following sections in this group are substantially a transcript from the charter of St. Paul. *State v. Lee*, 29 Minn. 445, 457, 13 N. W. Rep. 913.

<sup>411.39</sup>  
 \*§ 163. Meetings of council.

A meeting held at any other time than that fixed for a regular meeting under a resolution of the council, or for a special meeting under the call of the mayor, is a legal meeting, if all its members actually attend and participate in its proceedings, and it is otherwise regular. *State v. Smith*, 22 Minn. 218.

\*§ 164. Powers of council—Licenses—Police regulations.

Subd. 2. As to control over liquor traffic, see *State v. Deusting*, 33 Minn. 103, 22 N. W. Rep. 442.

Subd. 6. That "encumbering" is used in the sense of "obstructing," see *Fox v. City of Winona*, 23 Minn. 10.

Subd. 19. This provision is within the power of the legislature to delegate to the municipality, and the amount of the license fee to be exacted by the city is within the discretion of the legislature. *City of St. Paul v. Colter*, 12 Minn. 41, (Gil. 16.)

\*§ 172. Manner of levying taxes.

See *Minnesota Linseed Oil Co. v. Palmer*, cited in note to Const. art. 1, § 9, *supra*.

<sup>411.51</sup>  
 \*§ 177. Care and control of streets.

This duty extends to sidewalks. *Furnell v. City of St. Paul*, 20 Minn. 117, (Gil. 101;); *Erd v. City of St. Paul*, 22 Minn. 443.

A city is liable for neglect to keep streets in safe condition if the means for doing so are provided or placed at its disposal, as where it has power to levy taxes for the purpose. *Shurtle v. City of Minneapolis*, 17 Minn. 308, (Gil. 284.) And it will be presumed, until proven to be otherwise, that the city has sufficient means for this purpose. *Id.*

As to liability of city for excavations or obstructions in streets, notice to city, etc., see *Cleveland v. City of St. Paul*, 13 Minn. 279, (Gil. 255;); *Lindholm v. City of St. Paul*, 19 Minn. 245, (Gil. 204;); *Moore v. City of Minneapolis*, 19 Minn. 300, (Gil. 258;); *O'Leary v. City of Mankato*, 21 Minn. 65.

<sup>411.57</sup>  
 \*§ 178. Laying out and opening streets.

Under a general power to lay out and open streets, the city council has no authority to lay out and open a street through the depot grounds of a railroad company, in such manner as to destroy, or essentially impair, the value of the company's easement therein, theretofore acquired under and in pursuance of an express legislative grant for that purpose. *Milwaukee & St. Paul Ry. Co. v. City of Faribault*, 23 Minn. 167.

No appeal to supreme court from the judgment of the district court upon an appeal to it under the charter of Minneapolis from an assessment of damages for taking land for streets. *Jones v. City of Minneapolis*, 20 Minn. 491, (Gil. 444.)

<sup>411.67</sup>  
 \*§ 188. Grade of streets.

Unless expressly so declared by charter or statute, a municipal corporation, clothed with full power to grade and improve its streets, is not liable to property owners for consequential damages necessarily resulting from the action of its governing body in establishing the grade of a street, and causing it to be improved in conformity therewith. *Lee v. City of Minneapolis*, 22 Minn. 13.

<sup>411.74</sup>  
 \*§ 200. Jurors, etc., where city is party.

Tax-payers are competent jurors. *McClure v. City of Red Wing*, 28 Minn. 186, 196, 9 N. W. Rep. 767.

## VILLAGES.

[The village act of 1883 (c. 73\*) declared unconstitutional. *State v. Simons*, 32 Minn. 540, 21 N. W. Rep. 750. But the incorporation of villages thereunder, and the election and official acts of officers of such villages, are legalized by Gen. Laws 1885, c. 231, and c. 236, and c. 231 is constitutional. *State v. Spaude*, 34 N. W. Rep. 164. Chapter 145, Gen. Laws 1885, is applicable to such villages. *Id.*] 37-322

## \*§ 204. Existing villages—Reincorporation.

Every village which has heretofore been incorporated under a special act of the legislature therefor, shall continue to exist under such act and amendments thereto; and the provisions of this chapter shall in no manner affect or apply to the same, unless adopted as provided in this section. The trustees thereof may, by resolution, submit at a special village election the question whether such village will so continue, or will become reincorporated under the General Statutes. They shall give notice thereof in the manner required in this chapter for notifying special elections. Ballots shall be written or printed "For reincorporation," and "Against reincorporation," and the election shall be conducted and result canvassed as provided for an annual village election by such village. If a majority vote for reincorporation, the trustees shall make a certificate setting forth the fact of such submission, and the vote thereon in detail, and the result thereof, and cause the same to be recorded in the office of the register of deeds, and thereupon the special act of incorporation shall be deemed surrendered, and such village become incorporated under the General Statutes, but shall, until the next annual village election herein provided to be held in January following, be governed by the officers then in office. (1885, c. 145, § 1.†)

The provisions of c. 145, Laws 1885, apply to villages mentioned in c. 231, Laws 1885, (note *supra*.) and supersede the provisions of c. 10, Gen. St. 1878, relating to the incorporation, government, and status of villages. *State v. Spaude*, 34 N. W. Rep. 164, 166. 37-322

As to a village reincorporated under this act, which, as previously constituted, remained for certain purposes a part of the town in which it was situated, see *Bradish v. Lucken*, 36 N. W. Rep. 454.

Villages, under this act, do not constitute election districts for state and county elections separate from the townships in which they are situated. *Stemper v. Higgins*, 37 N. W. Rep. 95.

## \*§ 205. Uniformity of village government.

Every village which has been or shall be organized or incorporated under the General Statutes shall be hereafter governed according to the provisions of this chapter, to the end that uniformity of village government and equal privileges to all may be secured. (*Id.* § 2.)

See *State v. Cornwall*, 35 Minn. 176, 28 N. W. Rep. 144.

## \*§ 206. What territory may be incorporated.

Any district, sections, or parts of sections, not in any incorporation village, and in the state of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this state, and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not less than one hundred

\* §§ 46, 49, 54, amended by Gen. Laws 1885, c. 65 and c. 109.

§§ 16 and 18 of the village act of 1875 (Gen. St. 1878, c. 10, § 219, 221) were amended by Gen. Laws 1879, c. 6 and c. 47.

† "An act to provide for the incorporation of villages, and to define their duties and powers, and to repeal certain laws in relation thereto." By § 58 "all acts or parts of acts inconsistent with this act are hereby repealed."

and seventy-five, may become incorporated as a village under this act in the following manner: (*Id.* § 3, *as amended* 1887, *c.* 62.)

**\*§ 207. Petition for election.**

Thirty or more of the electors then residents upon the lands so to be incorporated, may petition the county commissioners of the county in which the whole or larger part of said lands are situated, to appoint a time and place when and where the electors actually residing upon said lands may vote for or against such incorporation, and such petition shall set forth the boundaries of such territory, with their courses and distances, the quantity of land therein embraced, the name of such proposed village, and the number of persons actually residing in said territory, which shall have been duly ascertained by said petitioners, or under their direction, by a census taken of the resident population as it may be on some day not more than eight weeks previous to the time when said petition is presented to said commissioners, and said petition shall be verified by at least three of said petitioners, to the effect that such census has been accurately taken, and that all the facts in said petition contained are true. (1885, *c.* 145, § 4.)

**\*§ 208. Posting petition and notices—Inspectors—Election.**

On delivery of said petition to the county commissioners, or to any one of them, it shall be their duty, within ten days therefrom, to post, or cause to be posted, in five of the most public places within said territory, three copies of such petition, together with notices attached thereto, stating the time and place within the limits of said proposed village when and where the electors thereof will vote for or against such incorporation; which time shall be at least thirty days from the posting of said notices; and said commissioners shall appoint, by resolution, three inspectors, residents of said proposed village, who shall preside and act as inspectors at such meetings, and all the laws of this state relating to the election of town officers shall apply to said meeting, so far as the same are applicable and not inconsistent with this act. (*Id.* § 5.)

**\*§ 209. Publishing petition and notice.**

If there be a newspaper printed within said territory, the said petition, verification thereof, and the notice, as hereinbefore provided, shall be printed in full therein for three successive weeks previous to the day specified in said notice for voting upon the proposed incorporation. (*Id.* § 6.)

**\*§ 210. Electors—Ballots.**

Every elector residing in such territory, and qualified to vote for town officers in the town in which such lands or some part thereof lie, may vote at such meeting, by a ballot having thereon the words, "For incorporation, yes;" or "For incorporation, no." (*Id.* § 7.)

**\*§ 211. Returns to county commissioners.**

Within three days after such meeting the inspectors presiding thereat shall file with the said county commissioners, or some one of them, a certificate showing that the said meeting was held at the time and place specified in said notice; that they have canvassed the ballots cast thereat, giving the whole number of votes cast, the number of those having thereon the word "yes," and the number having thereon the word "no;" which said certificate shall be signed by said inspectors, and by them duly verified to the effect that the statements therein contained are true. (*Id.* § 8.)

**\*§ 212. Incorporation—Powers and duties of village.**

Within five days after receiving said certificate, as in the previous section provided, if the same shows a majority vote for incorporation, it shall be the



duty of the said commissioners to file the same, together with the original petition and a true copy of the notice of election, as provided in section five of this act, in the office of the register of deeds in and for the county wherein lie the whole or the greater part of said lands, and thereupon the said territory mentioned in said petition shall be an incorporated village within the intent of this act from the date of filing said papers in the office of the said register of deeds; and shall, under the name set forth in said petition, be endowed with all the rights, powers, and duties incident to municipal corporations at common law, with perpetual succession; and shall, by said corporate name, be capable of contracting and being contracted with, of suing and being sued, and of pleading and being impleaded in all courts of law and equity, and have a common seal which may be altered at the pleasure of the village council; and shall have power to take, hold, purchase, lease, and convey real estate, or personal property, or mixed estate, as the purposes of the corporation may require, either within or without the limits of said corporation. (1885, c. 145, § 9.)

**\*§ 213. Recording papers—Effect as evidence.**

It shall be the duty of said register of deeds to record said papers in full, and the papers so filed, or the record thereof, shall be *prima facie* evidence in all courts of law and equity that said village is a duly-incorporated village under the provisions of this act. (*Id.* § 10.)

**\*§ 214. Organization—Election of officers.**

Within three days of the filing said papers with said register the said commissioner shall post notices in three of the most public places in the village, giving at least ten days' notice to the legal voters residing in said incorporated village, to meet to organize under the provisions of this act, and elect officers for the ensuing year. The action of a majority of said persons shall be considered the action of the whole number, and the electors present at the time and place designated in said call may organize such meeting by choosing *viva voce*, two judges of election and one clerk, who, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them; and said judges and clerk, being duly qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner provided by the statutes of the state for the election of township officers, and the judges of election shall give to each person elected a certificate of his election, and such officers shall, after having qualified according to law, forthwith enter upon the discharge of their duties. (*Id.* § 11.)

**\*§ 215. Annexing territory.**

Added and adjacent territory may be annexed to any village, either originally incorporated or reincorporated under the provisions of this act, by a petition of at least five of the legal voters, residents of such adjacent lands, to the county commissioners, in the same manner as hereinbefore provided for the incorporation of villages; and it shall be the duty of such commissioners to proceed thereupon as in sections five, six, seven, eight, and nine of this act, [\*§§ 208–212, *supra*,] to give notices of the time and place within the territory so to be annexed, when and where the electors thereof will vote for or against such annexation; and the ballots used shall have thereon the words, "For annexation," or "Against annexation;" and if the majority of the ballots cast shall be "For annexation," then the said commissioners shall file with the register of deeds the original petition, notice of election, and inspector's certificate, as provided in section nine of this act. [\*§ 212, *supra*.] (*Id.* § 12.)

**\*§ 216. Same—Serving petition—Election.**

It shall be the further duty of said commissioners, on receiving said petition, to serve a copy thereof upon the president or recorder of the village to which such annexation is proposed; and it shall be the duty of the village council thereof, within ten days, to call a special election in said village by posting, in three of the most public places therein, notices thereof, which shall contain a description of said territory so to be annexed, and stating the time and place when and where the electors of said village will vote for or against such annexation. Said election shall be held within thirty days from the time said petition is served on the president or recorder, and ten days' notice thereof shall be given. The ballots used shall have upon them the words, "For annexation," or "Against annexation," and the same laws shall apply in said election as apply in the election of the officers of said village. And if the judges of election shall find, on canvassing said ballots, that a majority thereof are "For annexation," then they shall make a certificate containing a description of the territory as set forth in the notice of said election, stating the whole number of votes cast, the number "For annexation," and the number "Against annexation," which said certificate shall be signed by said judges, and by them verified, to the effect that the statements therein contained are true; and they shall cause the same to be filed with the said register of deeds within ten days after such election. (*Id.* § 13.)

**\*§ 217. Same—Adoption of proposition.**

Upon filing with the said register the certificate hereinbefore mentioned showing a majority of votes cast both in the territory to be annexed as well as in the said village to be for annexation, then and thereupon the said territory shall be a part of said incorporated village; and all the necessary and proper expenses and charges incident to such annexation, and the records thereof, shall be paid by such village. (*Id.* § 14.)

**\*§ 218. Recording papers—Evidence.**

It shall be the duty of the register with whom said papers are filed to record the same together in full; and the original papers so filed, or the records thereof, shall be *prima facie* evidence in all courts of law and equity that the territory therein described is a part of said incorporated village. (*Id.* § 15.)

**\*§ 219. Annual village elections.**

After the first election of officers, the village council, or any two of them being present, shall act as judges of election; and the annual meeting shall be on the second Tuesday of March, for the election of officers, and at such place as may be directed by the village council, after giving ten days' notice thereof, either by posting written notices in three of the most public places in the village, or by publishing such notice in a newspaper printed in such village. The polls shall be open at ten o'clock A. M., and close at four o'clock in the afternoon of said day. At the close of the polls, the votes shall be counted, and a true statement thereof proclaimed to the voters by some one of the judges of election, and the recorder shall make a true copy thereof in a book kept for such purposes, and, within five days, notify, in writing, the persons so elected of their election. All elections shall be by ballot, and all votes for elective officers and all questions to be submitted to the people thereof at any election, shall be upon one ballot, and be deposited in one ballot-box. A plurality of votes shall elect, and if two or more persons receive an equal number of votes for the same office, the election shall be forthwith determined by lot, in the presence of the judges of election, in such manner as they shall direct; and every qualified elector, then actually resident in such village, may vote at any election: *provided*, that no candidate for office shall act as judge or clerk at such election. (*Id.* § 16.)

See State v. Cornwall, 35 Minn. 176, 28 N. W. Rep. 144.

**\*§ 220. Elections—Regulations—Special elections.**

Special elections may be ordered by the council, but no special election shall be held unless ten days' notice thereof is given, nor shall any subject or question be considered or acted upon unless its objects are clearly set forth and stated in the notice for the call of such meeting. All village elections shall be, except as hereinbefore provided, conducted and the result canvassed and certified as in the case of town meetings; and, except as modified in this chapter, every statute relating to holding town meetings, canvassing and certifying the result thereof, and relating or applicable to the duties of judges of election and clerks, the challenging of votes, and to voting thereat, and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, corruption, official delinquency, or other offense, at or concerning elections, which is applicable to town meetings, is hereby extended and applied to village elections. (1885, c. 145, § 17.)

**\*§ 221. Assessor—Assessment.**

The village council shall, at their first meeting in the month of April in each year, elect an assessor who shall be styled the "village assessor," who shall perform all the duties in relation to the assessing of property for the purpose of levying of all city, county, and state taxes, and upon the completion of the assessment roll he shall return the same to the village council, who may alter, revise, and equalize the same as they may deem it just and proper. Said village assessor shall hold his office for one year, and until his successor is elected and qualified; *provided*, that, unless said village is a separate election district, the assessor of the township in which said village is situated shall assess the property in the village in the same manner as property situated in the township. (*Id.* § 18, *as amended* 1887, c. 62, § 2.)

412.10 The election district mentioned in the amendment of 1887 has reference to general elections. *State v. Spaude*, 34 N. W. Rep. 164. 37-326

**\*§ 222. Village officers—Oath—Bond—Treasurer's duties.**

The inhabitants of said village having the qualification of electors of members of the legislature of the state of Minnesota, as hereinafter provided, may elect a president, three trustees, a treasurer, and a recorder, who shall hold their respective offices for one year, or until their successors are elected and qualified; also two justices of the peace, and two constables, who shall hold their respective offices for two years, or until their successors are elected and qualified; and, before entering upon the duties of their respective offices, they shall each take an oath or affirmation to support the constitution and laws of the state of Minnesota, and faithfully discharge the duties of his office. The treasurer shall give such bonds as the village council may require. The treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided for that purpose, and shall exhibit such account, together with his vouchers, to the village council at its annual meeting, or at any time when called for by resolution of said council for adjustment, and shall deliver all books and papers belonging to the office, and the balance of all moneys, as such treasurer, to his successor in office; *provided, further*, that the treasurer shall not pay out any moneys in his hands except upon the written order of the president of the council, attested by the recorder. The treasurer shall, from time to time, draw from the county treasurer such moneys as may be due said corporation, for the use of said village, and, on receipt of said moneys, give proper vouchers therefor. (1885, c. 145, § 19, *as amended* 1887, c. 53, § 1.)

**\*§ 223. Treasurer—Annual statement.**

The treasurer shall, one week previous to the annual election of village officers, make a detailed statement in writing of the moneys received by him, and the sources from which the same were received, and their respective

amounts; and also the amounts paid out by him, and the purposes for which they were paid. Such statement shall be filed by him in his office, for the inspection of any tax-payer residing within the corporate limits of said village. (1885, c. 145, § 20.)

o \*§ 224. **Village council—Powers—Ordinances.**

The president, the three trustees, and the 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 full power and authority to enact, adopt, modify, enforce, and, from time to time, amend or repeal all such ordinances, rules, and by-laws as they shall deem expedient, for the following purposes, viz.:

*First.* To regulate the mode of, and establish rules, for their proceedings.

*Second.* To adopt a corporate seal, and alter the same at pleasure.

*Third.* To receive, purchase, and hold for the use of the village any estate, real and personal, and to sell and convey the same.

*Fourth.* To limit and define the duties and powers of officers and agents of the village, fix their compensation, and fill vacancies when no other provision is made by law; to call special elections, and to designate trustees to act as judges of elections.

*Fifth.* To procure the books and records required herein to be kept by village officers, and such other furniture, property, stationery, and printing as shall be necessary for village purposes.

*Sixth.* To provide for the prosecution or defense of all actions or proceedings in which the village is interested, and employ counsel therefor.

*Seventh.* To appoint a village attorney, a pound-master, one or more sextons or keepers of cemeteries, one or more fire-wardens, and one or more street commissioners, whenever they deem necessary. Every street commissioner, when, by resolution, the village board shall require it, shall take and file his oath of office, and execute a bond, conditioned for the faithful discharge of his duties, and the proper application and payment of all moneys that may come into his hands by virtue of his office.

*Eighth.* To control and protect the public buildings, property, and records, and insure the same.

*Ninth.* To renumber the lots and blocks of the village, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

*Tenth.* To establish a fire department; to appoint the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire-engines and all necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water-mains, reservoirs, or other water-works; to erect engine-houses; to compel the inhabitants of the village to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fire as shall be directed by them, or any two of them, who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire-buckets, which shall be appurtenances to the realty, and exempt from seizure and forced sale; and after reasonable notice to such owner or occupant, and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such village; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove-pipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fire-works and fire-arms in the village,

or any part thereof; to authorize fire-wardens at all reasonable times to enter into and examine all dwelling-houses, lots, yards, inclosures, and buildings of every description, in order to discover whether any of them are in dangerous condition, and to cause such as may be dangerous to be put in safe condition; and, generally, to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

*Eleventh.* To lay out, open, change, widen, or extend streets, lanes, alleys, sewers, parks, squares, or other public grounds, and to grade, pave, improve, repair, or discontinue the same, or any part thereof, or to establish and open drains, canals, or sewers, or alter, widen, or straighten water-courses; to make, alter, widen, or otherwise improve, keep in repairs, vacate, or discontinue sidewalks and cross-walks; to prevent the incumbering of streets, sidewalks, and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood, or other substances or materials; to prevent horse racing or immoderate riding or driving in the streets of the village; to prevent the riding or driving of animals, or the driving of vehicles of any kind, on the sidewalks of the village, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and, in default thereof, to authorize the removal of the same at the expense of such owner or occupant.

*Twelfth.* To restrain the running at large of cattle, horses, mules, sheep, swine, poultry, and other animals, and to authorize the distraining, impounding, and sale of the same; to establish pounds, and regulate and protect the same; to require the owners or drivers of horses, oxen, or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of such village; to prohibit the hitching of horses, teams, or animals to any fence, tree, or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the village, and rate of speed of the same; to prevent the running at large of dogs, and authorize the destruction of the same in a summary manner when at large contrary to the ordinances; and license public porters, solicitors, or runners, cartmen, hackmen, omnibus drivers, and guides, and to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

*Thirteenth.* To establish and regulate markets, and restrain sales in the streets.

*Fourteenth.* To purchase and hold cemetery grounds within or without the village limits; inclose, lay out, and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, inclose, improve, and ornament the same, and prevent the incumbering or obstruction thereof; and provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the village; and for the protection thereof.

*Fifteenth.* To prevent, or license and regulate, the exhibition of caravans, circuses, theatrical performances, or shows of any kind; to prevent, or license and regulate, the keeping of billiard-tables, pigeon-hole tables, and bowling saloons; to suppress and restrain, or license and regulate, monte-banks and auctioneers; and in all such cases they may fix the price of such license and prescribe the term of its continuance, and may revoke the same at pleasure; but the term of no such license shall extend beyond the annual election of officers next after the granting thereof.

*Sixteenth.* To provide for the planting and protection of shade-trees and monuments in said village.

*Seventeenth.* To restrain and prohibit gift enterprises, all description of gaming, and all playing of cards, dice, and other games of chance, for the purpose of gaming; and to license, or restrain and prohibit, any person from

selling, bartering, disposing of or dealing in spirituous, malt, fermented, vinous, or mixed intoxicating liquors of any kind, and to punish any violation of law, or of the village ordinances relating thereto, and to revoke, for any cause, any license for the sale of intoxicating liquors granted by the village council, whenever the council, after a hearing of the case, shall deem proper.

See *State v. Deusting*, 33 Minn. 102, 22 N. W. Rep. 442.

*Eighteenth.* To choose a village marshal, and to remove him at will; to prescribe his duties, and to fix his compensation for services.

*Nineteenth.* To establish and maintain public libraries and reading-rooms, purchase books, papers, and magazines therefor, and make all needful rules and regulations for the safe-keeping and handling of the same.

*Twentieth.* To appoint a street commissioner, regular and special policemen, and a chief of police, and to fix their compensation, and prescribe their duties.

*Twenty-first.* To remove any officer appointed or elected by such council, whenever, in the judgment of such council, the public welfare will be thereby promoted.

*Twenty-second.* To purchase, build, or lease, and maintain and regulate, a watch-house, or place for the confinement of offenders against the ordinances and by-laws, and for temporary detention of suspected persons.

*Twenty-third.* To appoint a board of health, which shall have all the powers of such boards under the general laws of the state; to provide hospitals, and regulate the burial of the dead, and return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow-chandler's shop, factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house, building or place, to remove or abate the same, or to cleanse it as often as may be deemed necessary for the public health; to direct the location and management of slaughter-houses, and to prevent the erection, use, or occupation of the same, except as authorized by them; to prevent persons from bringing, depositing, or leaving within the village any putrid carcass, or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome substance from their premises, and to provide for the cleaning and removal of obstructions from any river, stream, slough, or water-course within the limits of the village, and to prevent the obstruction or retarding of the flow of waters therein, or the putting of anything into the same which may be prejudicial to the health of the village.

*Twenty-fourth.* To make and regulate the use of public wells, cisterns, and reservoirs.

*Twenty-fifth.* To erect lamp-posts and lamps, and provide for lighting any portion of the village or streets thereof, by gas or otherwise.

*Twenty-sixth.* To establish harbor and dock limits, and to regulate the location and construction and use of all piers, docks, wharves, and boat-houses on any navigable waters, and fix rates of wharfage.

*Twenty-seventh.* To levy and provide for the collection of taxes, including poll-tax and assessments, audit claims and demands against the village, and direct orders to issue therefor in the manner prescribed in this chapter; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the village to be issued in the cases provided by law; and, generally, to manage the financial concerns of the village; and they shall cause to be prepared and read, at each annual village election, a true detailed and itemized statement by them of the finances of the village, showing the amount in the treasury at [the] commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when, and to whom, and for what purpose all money paid from the treasury during the same period was paid, and the whole amount thereof,

with the balance then in treasury; which statement shall be recorded in the minute-book, and filed and preserved in the clerk's office.

*Twenty-eighth.* To ordain and establish all such ordinances and by-laws for the government and good order of the village, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States, or of this state, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove, in order to make out a *prima facie* case of violation of any ordinance.

See State v. Lee, 29 Minn. 445, 13 N. W. Rep. 913.

*Twenty-ninth.* To prescribe penalties for the violation of any ordinance or by-law, to be not less than one dollar, nor more than one hundred dollars, in any case, besides the cost of suit in all cases; and in default of payment provide for committing the person convicted to the watch-house or place of confinement in the village, or to the county jail, until payment be made, but not to exceed ninety days in all; and to modify, amend, or repeal any ordinances, resolution, by-law or other former determination of the board. (1885, c. 145, § 21.)

**\*§ 225. Claims against village—Pledging village's credit.**

No account or demand against such village shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items, and verified by affidavit indorsed or annexed, that the same is just and correct, and no part thereof paid. After auditing, the board shall cause to be indorsed by the clerk, over his hand, on each account, the words "Allowed," or "Disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the board shall show the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the clerk, and those of each year consecutively numbered, and have indorsed the number of the order on the treasurer issued in payment; and the clerk shall take a receipt thereon for such order. No village, or any officer thereof, shall have power to issue at any time any negotiable order, or borrow money, except in the manner and for the purposes expressly declared by statute. (*Id.* § 22.)

**\*§ 226. Eminent domain—Exercise of right.**

Whenever the village council shall intend to lay out and open, change, widen, or extend any street, lane, alley, public grounds, square, or other places, or to construct and open, alter, enlarge, or extend drains, canals, or sewers, or alter, widen, or straighten water-courses therein, or take ground for the use or improvement of a harbor, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the recorder, and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the village for such use or in fee; but otherwise they shall, by resolution, declare their purpose to take the same, and therein describe by metes and bounds the location of the proposed improvements, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by each distinct owner, mentioning the names of owners or occupants so far as known, and therein fix a day, hour, and place, when and where they will apply to a justice of the peace, resident in such village, for a jury to condemn and appraise the same. They shall thereupon cause to be made by the recorder a notice of the adoption of such resolution embracing a copy thereof, and notifying all parties interested that the council will, at the time and place named, apply to the justice named

for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable on the owner of each such parcel of land to be taken, if known and resident within the county; such service to be made in the manner prescribed for serving a summons in a justice court, and the return of the officer shall be conclusive evidence of the fact stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published, once in each week for three successive weeks, in a newspaper published in such village or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served, and such publication made, for three weeks, complete, at least one week before the time fixed therein for such application. If any person so served with notice [shall] be a minor, or of unsound mind, the justice, before proceeding, shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate, and act for such ward. (*Id.* § 23.)

**\*§ 227. Same—Procedure—Jury.**

At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four competent jurors, not interested, but residents of the village shall not be disqualified. He shall hear and decide any challenges for cause or favor, made to any one, and, if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party—the village council, by its representative, on one side, and owners of land, or their agents, present, or if none be present, or they disagree, a disinterested person appointed by the justice, on the other—shall challenge six names, one at a time, alternately, the village council beginning. To the twelve jurors remaining, such justice shall issue a *venire*, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named. Such *venire* shall be served by any constable, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family. The jurors summoned shall appear at the time and place named; and if any be excused by the justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law. (*Id.* § 24.)

**\*§ 228. Same—Evidence—Damages—Verdict.**

Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof, for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisalment for damages, specifying therein the damages of each owner, and, separately, the value of the land taken



for each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisal of damages, and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon discharged, and their verdict filed by the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn, and proceed in the same manner. (1885, c. 145, § 25.)

**\*§ 229. Same—Appeal—Procedure—Costs.**

Within ten days after verdict any land-owner whose land has been found necessary to be taken may appeal from the award of damages to him, in such verdict, to the district court, and the village may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and if a part, what part, and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisal. Upon an appeal being taken, the magistrate shall transmit to the clerk of the district court, within ten days, the notice of appeal and undertaking, and thereto annexed a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing is expired, file with the village recorder, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, the land-owner as plaintiff, the village as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if more favorable verdict be not obtained; otherwise, against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the village recorder. (*Id.* § 26.)

**\*§ 230. Same — Verdict for village — Discontinuance — Costs.**

If the verdict of the jury first called find it necessary to take such land, or any part thereof, the village board may, upon return thereof to the recorder, enact an ordinance [in accordance] therewith, for laying out, changing, widening, or extending and opening any such street, lane, alley, public ground, square, or other public place, or constructing and opening, altering, enlarging, or extending any such drains, canals, or sewers, or altering, widening, or straightening any such water-course, or for the use or improvement of a harbor, but shall not enter upon any such land therefor until the owner be paid in full, or the damages be set apart for him in the hands of the treasurer, and an order therefor, lawfully executed to him, be deposited with the clerk to permanently remain subject to his order. At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the village board may discontinue all proceedings theretofore taken, and the village shall, in such event, be liable for the costs only. All the costs of every such proceedings shall be paid by the village, except when it recover costs in the district court. (*Id.* § 27.)

**\*§ 231. Assessments—Notice—Hearing—Delinquent taxes.**

For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property, and of making any improvement mentioned in the last preceding section, the village council may, by resolution, levy and assess the whole, or any part not less than half, of such expenses as a tax upon such property as they shall determine is specially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the president and recorder, shall be published once in each week for two weeks in a newspaper printed regularly in such village, or, if there be no such newspaper, three copies thereof shall be posted by the recorder in three of the most public places in such village, and a notice therewith that at a certain time therein stated the said council will meet at their usual place of meeting, and hear all objections which may be made to such assessment, or to any part thereof. At the time so fixed, the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day not more than three days, and may, by resolution, modify such assessment in whole or in part. At any time before the first day of September thereafter, any party liable may pay any such tax to the village treasurer. On such first day of September, if any such tax remains unpaid, the recorder shall certify a copy of such resolution to the county auditor, showing what taxes thereby levied remain unpaid; and the county auditor shall put the same upon the tax-roll, in addition to and as a part of all other village taxes therein levied on such land, to be collected therewith. (*Id.* § 28.)

**\*§ 232. Vacating streets, etc.—Petition—Notice.**

Upon the petition in writing of all the owners of lots or land on any street or alley in such village, and not otherwise, the board of trustees may discontinue such street or alley, or any part thereof. At least one week before acting on such petition, the council shall cause a written or printed notice to be posted in three public places in such village, stating when the petition will be acted on, and what street, or part thereof, is proposed to be vacated. (*Id.* § 29.)

**\*§ 233. Public improvements—Petition—Assessments.**

The village council may cause any street, or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one-half the frontage of such street or part of street to be improved; or order any sidewalk or gutter on one side of a street to be built, on the petition of a majority of such owners, and of the owners of at least one-half the frontage on such side; and may order any sidewalk or gutter previously built to be put in repairs, when necessary, without petition. For the purpose of so improving any street or building, or repairing any sidewalk or gutter, the village council may levy and cause to be collected upon the lots, tracts, or parcels of ground on such street or part of street improved, or on the side thereof, where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement as ordered opposite such property to the center of the street, or such proportion thereof, not less than one-half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed, in which case the remainder shall be paid from the village treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to

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such property, the village council may levy an additional tax thereon to make good such deficiency. (1885, c. 145, § 30.)

## \*§ 234. Same—Collecting tax—Street commissioner's account.

Whenever the council shall levy any such tax as specified in the preceding section, they shall make out and deliver to a street commissioner of such village a list of the persons and a description of the property taxed, together with a warrant for the collection and expenditure of said tax, and thereupon the street commissioner shall notify the persons named in such tax-list by publishing a notice two weeks in some newspaper published in said village, if there be one, or by posting up notices in three or more public places in such village, and shall specify in such notice a time or times, not less than twenty days, nor more than forty days, from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials, or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials: *provided*, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction. The street commissioner shall be provided with a book or memorandum by the village recorder, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office; the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as a street commissioner. The book containing the account so kept shall, at all times, when required, be furnished for the inspection of the village council, and, ten days before the expiration of his term of office, shall be handed to the village recorder, to be filed in his office for the inspection of the tax-payers in his district. (*Id.* § 31.)

## \*§ 235. Same—Delinquent taxes.

At the expiration of forty days from the date of said notice given by the said street commissioner, he shall make out and deliver to the recorder of such village a certified list of the lots, pieces, or tracts of land in said village upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of said lots or parcels of land; and, at any time before the first day of September, any party liable may pay any such tax to the village recorder, who shall thereupon pay the same over to the village treasurer, taking his receipt therefor. And such recorder, on the first day of September, or within five days thereafter, if any such tax remains unpaid, shall certify a copy of such delinquent taxes to the county auditor of his county, and the said auditor shall, upon the receipt of said statement and list, enter and carry out the same upon the proper tax-lists, and they shall be collected the same as other taxes are collected, and, when collected, pay over the same to the village treasurer. Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes shall pay the same to the treasurer of the proper village, and take duplicate receipts therefor, and file one of said receipts with the recorder of said village. (*Id.* § 32.)

## \*§ 236. Streets and highways—Control of.

No part of the streets or highways of any village shall be in any road-district established by the town board, nor be under the control of town officers. Nor shall the town be liable for any damages occasioned by any insufficiency or want of repair thereof; and all bridges in such village shall be built, maintained, and repaired by the village in which the same are situated. No overseers of highways shall be elected in or for any such village, but the poll-tax shall be collected as hereinafter provided, and shall be expended, and the

streets, highways, and public places governed, by the village council and officers of their appointment. (*Id.* § 33.)

**\*§ 237. Corporation taxes — Submission to vote — Certifying to auditor.**

The village council shall, on or before the fifteenth day of August in each year, by resolution, to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such village for the current year, which shall not exceed in any one year two per centum of the assessed valuation of such property. Before levying any tax for any specific purpose, the board may, in their discretion, submit the question of levying the same to the village electors, at any special or general election, and in such manner as they may prescribe; when so submitted they shall be bound by the vote thereon. On or before the first day of September in each year, the village recorder shall deliver to the county auditor a copy of all such resolutions, certified under his hand and the corporate seal of such village, and such auditor shall enter such taxes upon the tax-books in the same manner as he is required to do in levying town taxes. (*Id.* § 34.)

**\*§ 238. Prosecutions by village — Procedure — Process — Pleading ordinances.**

All prosecutions for violating any of the ordinances, rules, or by-laws enacted under the provisions of this act, shall be brought in the corporate name of said village, and shall be commenced by warrant, upon complaint being made, as required by law in criminal cases, before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace: *provided*, that no warrant shall be necessary in any case of the arrest of the person or persons while in the act of violating any law of the state of Minnesota, or ordinance of said village; but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to warrant in other cases; and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant. All processes issued by the justice of the peace of said village shall be directed to any constable of said village or county, or to the marshal of said village: *provided*, that said marshal shall serve said process only within the limits of said village. It shall be a sufficient pleading of the by-laws or ordinances of said village to refer to the chapter and section thereof, which are hereby declared to have all the force and effect of general laws within the jurisdiction of said village, and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil. (*Id.* § 35, *as amended* 1887, c. 82.)

**\*§ 239. Same—Judgment—Commitment.**

Judgment shall be given, if for the plaintiff, for the amount of fine, penalty, or forfeiture fixed by such ordinance, resolution, or by-law, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases further adjudge and order that in default of payment thereof the defendant be committed to the common jail of such county for such time, not exceeding ninety days, as the court shall think fit. If such payment be not forthwith made, the justice shall make out a commitment, stating the amount of judgment and costs, and the time for which committed, and in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time; but he shall be released by order of the justice on payment to him of such fine and costs or by due course of law. (*Id.* § 36.)

**\*§ 240. Same—Appeal—Bond.**

Appeal may be taken to the district court in the same manner as from judgments in civil actions by justices of the peace, except that, if taken by the defendant, he shall, as a part thereof, execute a bond to the village, with surety to be approved by such justice, conditioned that if judgment be affirmed, in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed, in whole or in part, execution may issue against both defendant and his surety. Upon perfection of such appeal, the defendant shall be discharged from custody. (1885, c. 145, § 37.)

**\*§ 241. Fines, license fees, etc.—Disposition.**

All fines, forfeitures, and penalties, recovered for the violation of any ordinance, rule, regulation, resolution, or by-law of any such village, and all moneys paid for licenses and permits, shall be paid into the village treasury for the use of such village. The justices of the peace shall report and pay into the treasury quarterly all moneys collected by them belonging to such village, which reports shall be verified by affidavit, and filed in the office of the treasurer; and such justice shall be entitled to duplicate receipts for such moneys, one of which such justice shall take and file with the village recorder. (*Id.* § 38.)

**\*§ 242. Judgment against village—Assessment for.**

Whenever a final judgment shall be obtained against any village, the judgment creditor, his assignee or attorney, may file with the village recorder a certified transcript of such judgment, or of the docket thereof, together with his affidavit, showing the amount due thereon and all payments, if any, and that the judgment has not been appealed from or removed to another court, or, if so appealed or removed, has been affirmed; and thereupon the village council shall assess the amount thereof, with interest from date of its rendition to the time when the same shall be paid, as near as may be, upon the taxable property of such village, and the village recorder shall return and certify the amount of such tax to the county auditor to be collected the same as other taxes levied upon said village. (*Id.* § 39.)

**\*§ 243. Fines and penalties—Disposition.**

All fines and penalties imposed under or by virtue of the provisions of this act shall belong to the village, and shall constitute a fund to pay the expenses incurred under the provisions of its charter. (*Id.* § 40.)

**\*§ 244. Justices and constables—Oath—Bond—Powers—Fees.**

The justice of the peace and constables of said village shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority, and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county or counties in which such village is situated. The village justices and constables shall take the same oath of office, and execute, before entering upon the discharge of their duties as such officers, the same bond, as township justices of the peace and constables, and file their bonds with the same officers as justices of the peace and constables elected elsewhere in the state are now or hereafter may be required to do, and shall receive the same fees for their services as justices of the peace and constables, elected elsewhere in the state, are allowed under the general statutes of the state, now or hereafter in force; and in all cases where a village is situated in more than one county, the justice of the peace and constables of such village shall have and possess all the powers and jurisdiction conferred by this act in each of the counties in which such

village is situated, and shall file their bonds in each of said counties. (*Id.* § 41, *as amended* 1887, c. 53, § 2.)

**\*§ 245. Vacancies.**

Should a vacancy occur in any of the offices other than justices of the peace provided for in this act, the village council, or the remaining members thereof, may fill the same by appointment. (1885, c. 145, § 42.)

**\*§ 246. Road-district—Street commissioner—Road tax.**

The village so organized shall constitute one road-district, and the street commissioner or road-master thereof be appointed by the village council, and all taxes raised within the limits of said village for road purposes shall be expended under the direction of the village council. (*Id.* § 43.)

**\*§ 247. Board of auditors—Report.**

The village council shall constitute a board of auditors for the purpose of auditing all accounts payable by said village. Said board shall draw up a report, stating in detail the items of accounts audited and allowed, the nature of each account, and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said village, two weeks before such election. (*Id.* § 44.)

**\*§ 248. Taxes—Levy—Collection.**

The legal voters of said village may, at any annual or special meeting, authorize the village to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five mills upon the dollar valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state for the levying and collection of township taxes: *provided*, that the village council shall, on or before the first day of September in each year, make and certify to the county auditor of the county in which any of the lands or village lots within the corporate limits of such village are situate, a statement of all taxes levied and assessed by them, and shall also, at the same time, make and certify to the auditor of the proper county a list of the names of the owners of personal property subject to taxation within such village; and the county auditor shall, upon the receipt of said statement and list, enter and carry out the said tax or taxes against the property within such village, and the same shall be collected as other taxes are collected, and, when collected, paid over to the village treasurer. (*Id.* § 45.)

**\*§ 249. Recorder—Bond—Powers and duties.**

The village recorder may administer oaths and take acknowledgments, and he shall give a bond in form similar to that required of town clerks. It shall be his duty:

*First.* To perform the duties of clerk of election, and keep a record of all proceedings at the annual and special elections of the village, to give notice of such elections as required by law, and to notify persons elected or appointed to offices thereof.

*Second.* To transmit to the clerk of the district court, within ten days after election and qualification, a certified statement of the name and term for which elected of all the officers elected at such election; and in case of the appointment or election of any justice of the peace, constable, treasurer, or recorder of said village to fill a vacancy, a like notice shall be so filed within ten days after such election or appointment.

*Third.* To attend all meetings of the village board; to record and sign the

proceeding thereof, and all ordinances, rules, by-laws, resolutions, and regulations adopted, and to countersign and keep a record of all licenses, commissions, and permits granted or authorized by them, and for such purposes to keep the following books: A minute book, in which shall be recorded, in chronological order, all the papers mentioned in section twenty-two [\*§ 225, *ante*] of this act; full minutes of all elections, general or special, and the statements of the judges thereof; full minutes of all proceedings of the village council; the titles of all ordinances, rules, regulations, and by-laws, with a reference to the book and page where the same may be found. An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations, and by-laws. A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount, and source thereof, and the disbursements, with the date, amount, and object for which paid out; and to enter in it such other matters as the council shall prescribe; and keep such other books as the council direct.

*Fourth.* To countersign and cause to be published or posted every ordinance, by-law, or resolution, as required by law, and to have proper proof thereof made and filed.

*Fifth.* To be the custodian of the corporate seal, and to file, as required by law, and to safely keep, all records, books, papers, or property belonging to, filed, or deposited in his office, and deliver the same to his successor when qualified; to permit any person, with proper care, to examine and copy any of the same, and to make and certify a copy of any thereof, when required, on payment of the same fees allowed town clerks therefor.

*Sixth.* To draw and countersign all orders on the village treasury ordered by the council, and none other.

*Seventh.* To file, when presented, all chattel mortgages and affidavits relating thereto, and to enter at the time of filing, in a book properly ruled and kept therefor, the names of all the parties, arranging mortgages alphabetically; the date of each mortgage, and the date of filing the same and of each affidavit relating to it; for which he shall receive the same fees allowed town clerks.

*Eighth.* To perform all other duties required by law or by any ordinance or other directions of the village council. (1885, c. 145, § 46.)

**\*§ 250. Constable—Bond—Powers and duties—Fees.**

The constable shall give a bond similar to that required of constables elected by towns, and shall be deemed included and governed in every respect by the law prescribed to them. It shall be his duty to obey all lawful written orders of the village council; to arrest with or without process, and with reasonable diligence to take before the village justice, every person found in such village in a state of intoxication, or engaged in any disturbance of the peace, or violating any law of the state or ordinance of such village. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance, he shall forfeit not exceeding ten dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village, such compensation as the council may fix. (*Id.* § 47.)

**\*§ 251. Intoxicating liquors—Local option—License.**

The legal voters of any incorporated village shall have the power and authority to vote upon and determine for themselves, the question whether license for the sale of intoxicating liquors as a beverage shall be granted by the council of said village or not; and it shall be the duty of the recorder of any such village, upon receiving a petition for that purpose of ten or more legal voters of his village, at any time not less than fifteen days before any annual election of such village, to give at least ten days' notice that the ques-

tion of granting license for the sale of intoxicating liquors as a beverage in said village, will be submitted to the legal voters thereof at the next ensuing annual election, which question shall be determined by ballots containing the words, "In favor of license," or "Against license," as the case may be: *provided, however*, that the neglect of the recorder to give the required notice shall not invalidate the vote and determination made under the provisions of this act, if the petition named shall have been duly filed. The votes upon said question shall be taken, canvassed, returned and announced in the same manner as is prescribed by law for taking, canvassing, returning, and announcing the votes for the election of village officers, which determination so made shall continue until the same shall be reversed at a subsequent annual election in the same manner; and, if such returns show that a majority of the votes cast at such election on said question shall be "Against license," no license for the sale of intoxicating liquors shall be granted by the authorities of such village, except for medicinal or mechanical purposes, but if such returns show that a majority of the votes cast at such election, on said question, shall be "In favor of license," then the village council may grant license to any suitable person of lawful age for the sale of intoxicating liquors. The village council shall have the exclusive right to license persons vending, dealing in or disposing of intoxicating liquors within the limits of such village, and persons so licensed shall not be required to obtain a license from the board of county commissioners, nor shall said commissioners have authority to license any person to vend, deal in or dispose of, or sell intoxicating liquors in any such village. And no person shall be licensed by such village council to deal in or sell intoxicating liquors as a beverage in such village, unless he shall fully comply with all the requirements, and be subject to all the penalties, as provided in the General Statutes of the state, relating to the sale of intoxicating liquors, except as herein provided: *and provided*, that no license shall be granted by such village for a less sum than one hundred dollars, nor for a greater sum than five hundred dollars, at the discretion of the village council, and that previous to granting any such license, a bond shall be executed with the same conditions, and with the same penal sum, as required by the General Statutes of this state; and the moneys received for such license shall be paid to the village treasurer for the use of such village; and all licenses granted by any such village council shall expire May first, after the annual election in and for said village. (*Id.* § 48.)

See *post*, c. 16.

**\*§ 252. Ordinances—Enactment—Effect.**

All ordinances, rules, and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the president, attested by the recorder, and published once in a newspaper published in the county in which said village shall be situated; and if there be no newspaper published in said county, then by posting them conspicuously in three of the most public places in said village for ten days, and shall be recorded in a book kept for that purpose. Proof of such publication by the affidavit of the printer or foreman in the office of such newspaper or of such posting, by the certificate of the village recorder, shall be attached to and filed with such ordinance or by-laws, and noted on the record thereof, and shall be conclusive evidence of the facts stated. All ordinances shall be suitably entitled, and in this style: "The village council of \_\_\_\_\_ do ordain as follows." All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed. (*Id.* § 49.)

**\*§ 253. Village council—Power to impose penalties.**

Said village council shall have 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, or by-



law enacted by them; and all such ordinances, rules, and by-laws are hereby declared to have the force of law: *provided*, they are not repugnant to the constitution and laws of the United States and the state of Minnesota. (1885, c. 145, § 50.)

**\*§ 254. Village contracts—Officers not to be interested.**

No member of the village council shall become a party to or interested, directly or indirectly, in any contract made by the village council of which he may be a member; and every contract or payment voted for, or made contrary to the provisions hereof, is void; and any violation of the provisions of this section, hereafter committed, shall be a malfeasance in office, which shall subject the officer so offending to removal from office. All contracts for village improvements, except expenditures of road and poll-tax, shall be let to the lowest responsible bidder, after public notice of time and place of receiving bids therefor. (*Id.* § 51.)

**\*§ 255. Peace officers—Powers.**

The president and each trustee shall be officers of the peace, and may suppress in a summary manner any riotous or disorderly conduct in the streets or public places of the village, and may command assistance of all persons under such penalty as may be prescribed by the by-laws and ordinances. (*Id.* § 52.)

**\*§ 256. Officers to surrender property to successors.**

Every village officer shall deliver to his successor; when qualified, all the books, records, papers, property, and money in his hands as such officer; and if a vacancy happen before such successor is appointed or elected and qualified, then to the village clerk, who shall demand and receive all such property, and deliver the same to the person who shall be selected to fill such vacancy, when qualified. (*Id.* § 53.)

**\*§ 257. Village council—Meetings—Powers—Compensation.**

The trustees of each village shall constitute a council, designated the village council of (name of village,) in which shall be vested all the powers of the village not specifically given to some other officer. Three trustees shall constitute a quorum, but a less number may adjourn from time to time. The president shall preside at all meetings when present. In his absence the council may select another trustee to preside. Regular meetings shall be held at such times as may be prescribed by their by-laws. Special meetings may be called by any two trustees in writing, filed with the recorder, who shall thereupon seasonably notify all the trustees of the time and place thereof, in the manner directed by the by-laws. All meetings shall be open to the public. The council shall keep a record of all its proceedings, shall have power to preserve order at its meetings, compel (the) attendance of trustees, and punish non-attendance; and it shall be judge of the election and qualification of its members. The president and trustees shall be entitled to receive as compensation the sum of one dollar each per day for time actually employed as such officers, not to exceed ten dollars each in any one year. (*Id.* § 54.)

**\*§ 258. Execution of instruments.**

Every contract, conveyance, commission, license, or other written instrument, shall be executed on the part of the village by the president and clerk, sealed with the corporate seal, and in pursuance only of authority therefor from the village council. (*Id.* § 55.)

**\*§ 259. Dissolution of corporation—Petition—Election.**

Whenever an application, in writing, signed by one-third as many electors of any such village as voted for village officers at the last preceding election.

therefor, shall be presented to the village council, praying for a dissolution of the village corporation, such council shall submit to the electors of such village, at an annual election, or special election called by them therefor, the question whether or not such village corporation shall be dissolved. The form of the ballot shall be "For dissolution," or "Against dissolution." Said ballots shall be deposited in a separate box, and such election shall be conducted, the votes thereat canvassed, and a statement thereof made, filed, and recorded as in other cases. (*Id.* § 56.)

**\*§ 260. Same—Adjusting village affairs.**

If a majority of the ballots cast at such election, on such proposition, shall be for dissolution, such village shall, at the expiration of six months from the date of such election, cease to be an incorporated village. Within six months the village council shall dispose of the village property, and settle, audit, and allow all just claims against the village. They shall settle with the village treasurer and other officers of the village, and shall cause the assets of the village to be used in paying the debts thereof. If anything remain after paying the village debts, they may designate the manner in which the same shall be used. If they have not sufficiency of funds to pay the debts of the village, they may levy a tax to cover such deficiency, which shall be collected as other taxes and shall be paid out by the town treasurer in payment of the outstanding village orders or bonds. (*Id.* § 57.)

GENERAL PROVISIONS—POLICE REGULATIONS.

[Gen. Laws 1881, Ex. Sess. c. 82, providing for the licensing of dogs, was repealed by Gen. Laws 1883, c. 109.]

**\*§ 261. Employment bureaus—License.**

No person shall engage in the business of keeping an employment bureau or office, or agency for the purpose of hiring men to work for others, and receive a compensation for such hiring, without first having obtained a license so to do, as hereinafter provided; and any person who shall engage in such business, without such license, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding ninety days, or both. (1885, c. 205, § 1.\*)

**\*§ 262. Same—License fee—Bond.**

Any person who desires to engage in said business may apply to the common council, if such business is to be carried on in a city, or to the village council, if in a village, or to the county commissioners of the county in which such business is to be carried on, if in the country, for such license; and upon paying into the treasury of such city, village, or county the sum of one hundred dollars, and upon executing and delivering to such common council, village council, or county commissioners, a bond in the penal sum of ten thousand dollars, with sufficient sureties, to be approved by such common or village council, or county commissioners, he shall be entitled to such license. (*Id.* § 2.)

**\*§ 263. Same—Condition of bond—Effect of license.**

The bond shall run to the state of Minnesota, and shall be conditioned for the payment of any damage which any person secured or engaged to labor for others by the obligor may sustain by reason of any unauthorized act, fraud, or misrepresentation on the part of such agent, for such hiring. The bond shall be filed with the city clerk, if approved by the common council, with the

\* "An act to regulate employment bureaus or offices." Approved February 28, 1885.

village recorder if approved by a village council, and with the county auditor if approved by the board of county commissioners. Any person licensed and having given bond as herein provided, may, while continuing to reside or maintain his office at the place mentioned in such license, prosecute his said business in any part of the state. (1885, c. 205, § 3.)

**\*§ 264. Same—Action on bond.**

Any person hired or engaged to work for others, by one so licensed as aforesaid, who shall fail to get employment according to the terms of such contract of hire or engagement, by reason of any unauthorized act, fraud, or misrepresentation on the part of such agent, may bring an action upon said bond, and may recover in such action against the principal and sureties the full amount of his damages, sustained by reason of such unauthorized act, fraud, or misrepresentation, together with his cost and disbursement in such action. (*Id.* § 4.)

**\*§ 265. Offensive trades—Assigning locality.**

The board of health of each town, village, or city in this state shall, from time to time, assign certain places within such town for the exercise of any trade or employment which is a nuisance, or hurtful to the inhabitants, or dangerous to the public health, or the exercise of which is attended by noisome or injurious odors, or is otherwise injurious to the estates of such inhabitants; and may prohibit the exercise of such trade or employment in places not so assigned. Said board may also forbid such exercise within the limits of the town or particular locality thereof. All such assignments shall be entered in the records of the town, and may be revoked when said board shall think proper. (1885, c. 222, § 1.)\*

**\*§ 266. Same—Permit—Action for penalty.**

It shall not be lawful for any person or corporation to exercise within any town, village, or city any trade or employment mentioned in section one of this act [\*§ 265] without having first obtained from the board of health of such town, village, or city permission so to do, and the assignment provided in said section; and any person or corporation violating the provisions of this section shall forfeit and pay the sum of fifty dollars for each and every day that any such trade or employment is exercised or carried on, to be recovered in any court having jurisdiction thereof and sitting within the county where any such trade or employment is exercised or carried on. Such action shall be commenced and prosecuted by such board in its name and for its benefit. (*Id.* § 2.)

**\*§ 267. Same—Revoking assignment.**

When any assignment mentioned in section one hereof [\*§ 265] shall be revoked, said board shall serve upon the occupant, corporation, or person having charge of the premises where such trade or employment is exercised, a written notice of such revocation. If the person or corporation upon whom such order is served, for twenty-four hours after such service, refuses or neglects to obey the same, said board shall take all necessary measures, by injunction or otherwise, to prevent such exercise; and the person or corporation so refusing or neglecting shall forfeit and pay the sum of one hundred dollars for each and every day that such trade or employment shall be exercised after the service of such notice, to be recovered in the manner and by the party and for the benefit as provided in section two hereof [\*§ 266.] (*Id.* § 3.)

**\*§ 268. Appeal—Procedure—Judgment.**

Any person or corporation aggrieved by any order of such board may appeal therefrom to the district court of the county in which such trade or em-

\*"An act to regulate offensive trades and employments." Approved March 7, 1885.

ployment is exercised. Such appeal shall be taken by the filing of such aggrieved person or corporation within five days after the service of such order, in the office of the clerk of said court, of a notice of such appeal, together with a bond in the sum of not less than five hundred dollars, with two or more sureties, to be approved by the judge of said court, conditioned for the prosecution of such appeal to judgment, and for the payment of all costs and expenses that may be awarded against such appellant, and by the service of a copy of such notice and bond upon such board. If such appeal be taken within twenty days next before the time appointed for holding a general term of said court within said county, the same shall be heard at such time as other civil causes, and, at the request of either party, shall be tried by jury. If such appeal is taken more than twenty days before any such term, the judge shall, by order, appoint a time and place for the hearing of such appeal, and shall, if the appellant demand a trial by jury, direct the sheriff of such county to summon a jury of twelve persons, having the qualifications of jurors, to appear at the time and place named in said order, to serve as jurors in said cause. Any person so summoned may be challenged as in civil actions. If a sufficient number of such persons so summoned do not appear, the court shall require talesmen to be called as in other cases, and said appeal shall be tried as other civil causes. During the pendency of such appeal such trade or employment shall not be exercised contrary to the order of said board, and upon the violation of any such order the appeal shall forthwith be dismissed. Upon the return of the verdict of the jury the court may either alter or amend the order of the board, or affirm or amend it in full, to conform to such verdict. If the matter be tried by the court it shall have and exercise the same power. (*Id.* § 4.)

**\*§ 269. Private action for nuisance.**

Any person injured, either in his comfort or the enjoyment of his estate, by the exercise of any such trade or employment, may have and maintain an action for the damages sustained thereby. (*Id.* § 5.)

**\*§ 270. Assignment—Revocation by district court.**

When it appears on a trial before the district court for the proper county, upon a complaint made by any person, that any place or building assigned as provided in section one of this act [\*§ 265] has become a nuisance, by reason of offensive smells or exhalations proceeding from the same, or is otherwise hurtful or dangerous to the neighborhood, or to travelers, said court may revoke such assignment, and prohibit the further use of such place or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented. (*Id.* § 6.)

**\*§ 271. State board of health—Powers—Appeal.**

When any building or premises within any city, village, or town, are occupied or used for the exercise of any trade or employment aforesaid, the state board of health shall, upon application made to it for that purpose, appoint a time and place for hearing the parties, and give notice of not less than ten days thereof to the complainant and the party against whom such application is made, and after such hearing may, if in its judgment the public health or the public comfort and convenience so require, order any person to desist and cease from further carrying on such trade or occupation in such building or premises; and any person or corporation thereafter continuing to occupy such building or premises shall forfeit and pay the sum of one hundred dollars for every day of such occupancy or use, to be recovered in any court having jurisdiction thereof, by action commenced and prosecuted in the name of the board of health of such city, village, or town, and for its use and benefit. Any person or corporation, aggrieved by any such order, may appeal therefrom, and said appeal shall be taken, prosecuted, and determined in the same

manner provided in section four of this act, [\*§ 268.] During the pendency of such appeal such trade or employment shall not be exercised contrary to the orders of said state board, and upon the violation of [any] such order the appeal shall forthwith be dismissed. (1885, c. 205, § 7.)

**\*§ 272. Same—Enforcing orders.**

The district court, or the judge thereof, may issue an injunction, or other proper writ, to enforce the orders of said state board issued under the provisions of this act. (*Id.* § 8.)

**\*§ 273. Other remedies preserved.**

Nothing in this act contained shall be so construed as to impair any other remedies which may exist in cases of nuisance. (*Id.* § 9.)

**\*§ 274. Infected animals—Isolation—Expenses.**

The local board of health of towns, villages, and cities, in case of existence in this state of the disease called pleuro-pneumonia among cattle, or farcy or glanders among horses, or any other contagious or infectious disease among domestic animals, shall cause the animals in their respective towns, villages, or cities, which are infected, or which have been exposed to infection, to be secured or collected in some suitable place or places within their respective towns, villages, or cities, and kept isolated; and when taken from the possession of their owners one-fifth of the expense of their maintenance shall be paid by the town, village, or city wherein the animal is kept, and four-fifths by the state; such isolation to continue as long as the existence of such disease or other circumstances may render it necessary. (1885, c. 200, § 1.\*)

**\*§ 275. Same—May be killed.**

The said local boards of health, when any such animal is adjudged by a veterinary surgeon or physician, by them selected, to be infected with any contagious or infectious disease, may, in their discretion, order such diseased animal to be forthwith killed and buried at the expense of such town, village, or city. (*Id.* § 2.)

**\*§ 276. Damages to owner—Appraisal—Payment.**

The said local boards of health may cause all such animals that have been within the state for six months next preceding the adjudication mentioned in section two [\*§ 275] to be appraised by three competent and disinterested men under oath, at the value thereof at the time of the appraisal, and in making such appraisal the appraisers shall take into consideration the fact of the existence of such disease in such animals, and the amount of the appraisal shall be paid as provided in section one, [*ante*, \*§ 274,] except as provided in section fifteen [*post*, \*§ 288] of this act. (*Id.* § 3.)

**\*§ 277. Infected animals—Prohibiting departure, etc.**

The said local boards of health may, within their respective towns, villages, and cities, prohibit the departure of animals from any inclosure, or exclude animals therefrom. (*Id.* § 4.)

**\*§ 278. Local board of health—Powers.**

The said local boards of health may make regulations in writing to regulate or prohibit the passage from, to, or through their respective towns, villages, or cities, or from place to place within the same, of any cattle or other domestic animals, and may arrest and detain, at the cost of the owners thereof, all animals found passing in violation of such regulations, and may take all

\*"An act for an act to prevent the spread of contagious or infectious diseases among cattle, horses, and other domestic animals." Approved March 7, 1885.

necessary measures for the enforcement of such prohibition, and also for preventing the spread of any disease among the animals to their respective town, village, or city, and the immediate vicinity thereof. (*Id.* § 5.)

**\*§ 279. Local regulations—Recording—Publication.**

Such regulations shall be recorded upon the records of their respective towns, villages, and cities, and shall be published in such towns, villages, and cities in such manner as may be provided in such regulations. (*Id.* § 6.)

**\*§ 280. Same—Violation—Penalty.**

Any person disobeying the orders of said local boards of health, made in conformity with the preceding provisions, or driving or transporting any animals contrary to the regulations made, recorded, and published as aforesaid, shall be punished by a fine of not less than one hundred dollars, nor exceeding five hundred dollars, or by imprisonment of not less than thirty days, nor exceeding one year. (*Id.* § 7.)

**\*§ 281. Notice of infection—Failure to give—Penalty.**

Whoever knows or has reason to suspect the existence of any such disease among the animals in his possession, or under his care, shall forthwith give notice thereof to the said local boards of health of the town, village, or city where such animals are kept, and for failure so to do shall be punished by a fine of not less than fifty dollars, nor exceeding five hundred dollars, or by imprisonment of not less than thirty days, nor more than one year. (*Id.* § 8.)

**\*§ 282. Local board of health—Neglect of duty—Penalty.**

Any member of any local board of health, who neglect or refuse to carry into effect the preceding provisions, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, for each day's neglect. (*Id.* § 9.)

**\*§ 283. Local regulations—Superseded, when.**

When the state board of health make and publish any regulations concerning the extirpation, care, or treatment of animals infected with, or which have been exposed to, any contagious disease, such regulations shall supersede those made by the local boards of health; and said local boards of health shall carry out and enforce all orders and directions of the state board of health to them directed. (*Id.* § 10.)

**\*§ 284. State board of health—Powers.**

The state board of health shall have all the power and authority herein conferred upon local boards of health. (*Id.* § 11.)

**\*§ 285. Local boards to notify state board.**

The local boards of health, within twenty-four hours after they have notice that any domestic animals in their respective towns, villages, and cities are infected with or have been exposed to any such disease, shall give notice thereof in writing to the state board of health. (*Id.* § 12.)

**\*§ 286. State board—Regulations—Violation—Penalty.**

The state board of health may make all necessary regulations for the quarantine of such animals and extirpation of such disease, and may direct local boards of health to enforce and carry into effect all such regulations as may from time to time be made for that end; and any member of any local board of health who refuses or neglects to enforce or carry out any regulation of the state board of health, shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, for every offense. (*Id.* § 13.)

**\*§ 287. Same—May order animals killed—Damages.**

The state board of health, when, in their judgment, the public requires it, may cause to be killed and buried any domestic animals which are infected with or have been exposed to such disease; and except, as provided in the following section, shall cause such animals to be appraised in the manner provided above, and the appraised value of such animals shall be paid, one-fifth by the town, village, or city in which such animals were kept, and the remainder by the state. (1885, c. 200, § 14.)

**\*§ 288. Same—In case of glanders.**

In all cases of farcy or glanders, the state board of health, having condemned the animal infected therewith, shall cause such animal to be killed, without an appraisal or compensation to the owner thereof, but may pay the owner an equitable sum for the killing and burial thereof. (*Id.* § 15.)

**\*§ 289. Regulations of state board — Violation — Penalty.**

Any person who fails to comply with the regulation made, or an order given by the state board of health, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year. (*Id.* § 16.)

**\*§ 290. Appraisements.**

All appraisements made shall be in writing, and signed by the appraisers, and certified by the local boards of health or state board of health, respectively, to the governor and to the treasurer of the several towns, villages, and cities wherein the cattle appraised were kept. (*Id.* § 17.)

**\*§ 291. Investigations by state board.**

The state board of health may examine, under oath, all persons believed to possess knowledge of material facts concerning the existence or dissemination or danger of dissemination of disease among domestic animals; and for this purpose shall have all the power vested in justices of the peace to take depositions, and to compel witnesses to attend and testify. All costs and expenses incurred in producing the attendance of such witnesses shall be certified by the state board of health, and paid from the treasury of the state, upon being certified to and approved by the governor. (*Id.* § 18.)

**\*§ 292. Slaughtered animals—When to be sold.**

Whenever animals are exposed to contagious diseases, or killed by an order of the state board of health, and upon a *post mortem* examination are found to have been entirely free from disease, the state board of health shall cause the same to be sold under their direction, first giving to the purchaser notice of the facts, and if said purchaser, or any other person, shall sell said slaughtered animals, or any part thereof, he shall, in like manner, give notice to the parties to whom such sales are made, and the proceeds of the sales, made by order of the state board of health, shall be applied in payment of the appraised value of said animals. (*Id.* § 19.)

**\*§ 293. Violating last section—Penalty.**

Whoever violates any of the provisions of the preceding section shall be punished by fine not exceeding one hundred dollars, and the cost of prosecution. (*Id.* § 20.)

**\*§ 294. State board—Proceedings—Report.**

The state board of health shall keep a full record of their doings, and report the same to the legislature, unless sooner required by the governor. (*Id.* § 21.)

**\*§ 295. Same—May order joint action by local boards.**

The state board of health may, by order, require any two or more local boards of health to act together for the purposes of this act. (*Id.* § 22.)

**\*§ 296. Appropriation.**

The sum of three thousand dollars, or so much thereof as necessary, is hereby annually appropriated for the payment of expenses incurred by the state in enforcing this act; said expenses to be approved by the state board of health and by the governor. (*Id.* § 23.)

## PUBLIC LIBRARIES AND READING-ROOMS.\*

**\*§ 297. Power to establish—Library fund.**

That the city council of any incorporated city, or village council of any incorporated village, shall have power to establish and maintain a public library and reading-room, or either of them, for the use and benefit of the inhabitants of such city or village, and may levy a tax, not to exceed one mill on the dollar annually, and in cities of over thirty thousand inhabitants not to exceed one-half of one mill on the dollar annually, on all the taxable property in the city; such tax to be levied and collected in like manner with other general taxes of said city or village, and to be known as the "Library Fund." (1879, c. 106, § 1.)

**\*§ 298. Directors—Appointment.**

When any city or village council shall have decided to establish and maintain a public library and reading-room, or either of them, under this act, the mayor of such city or president of such village shall, with the approval of the city or village council, proceed to appoint a board of nine directors for the same, chosen from the citizens at large, with reference to their fitness for such office, and not more than one member of the city or village council shall be at any time a member of said board. (*Id.* § 2.)

**\*§ 299. Same—Term of office—Removal.**

Said directors shall hold office one-third for one year, one-third for two years, and one-third for three years from the first of May following their appointment, and at their first regular meeting shall cast lots for the respective terms, and annually thereafter the mayor of such city, or president of such village, shall, before the first day of May in each year, appoint as before three directors to take the place of the retiring directors, who shall hold office for three years, and until their successors are appointed. Such mayor or president may, by and with the consent of the council, remove any director for misconduct or neglect of duty. (*Id.* § 3.)

**\*§ 300. Same—Vacancies—Compensation.**

Vacancies in the board of directors occasioned by removals, resignations, or otherwise, shall be reported to the city or village council, and be filled in like manner as original appointments, and no director shall receive compensation as such. (*Id.* § 4.)

**\*§ 301. Same—Powers and duties.**

Said directors shall, immediately after appointment, meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules, and regulations for their own guidance, and for the government of the library and reading-room, or either of them, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected and placed to the credit of the library fund, and of the construction of any library building, and of the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart

\*"An act to provide for the establishment and maintenance of free public libraries and reading-rooms." Approved March 4, 1879.



for that purpose: *provided*, that all moneys received for such library shall be deposited in the treasury of said city or village to the credit of the library fund, and shall be kept separate and apart from other money of said city or village, and shall be paid out only upon the properly authenticated vouchers of the library board. Said board shall have power to lease and [provide] appropriate rooms for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall in general carry out the spirit and intent of this act. Said board shall have power, when approved by such city or village council, to purchase ground, and erect thereon a suitable building for the use of said library. (1879, c. 106, § 5.)

**\*§ 302. Libraries to be free.**

Every library and reading-room, or either of them, established under this act, shall be forever free to the use of the inhabitants of the city or village where located, always subject to such reasonable rules and regulations as the library board may adopt in order to render the use of the said library and reading-room, or either of them, of the greatest benefit to the greatest number; and said board may exclude from the use of the said library and reading-room, or either of them, any and all persons who shall willfully violate such rules. (*Id.* § 6.)

**\*§ 303. Annual report of directors.**

The said board of directors shall make, on or before the first day of April in each year, an annual report to the city or village council, stating the conditions of their trust on the first day of March of that year; the various sums of money received from the library fund and other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift, or otherwise, during the year; the number lost or missing; the number of persons attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information, and suggestions as they may deem of general interest. (*Id.* § 7.)

**\*§ 304. Municipal ordinances.**

The council of said city or village shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library or other property thereof, and for injury to or failure to return any book belonging to such library. (*Id.* § 8.)

**\*§ 305. Donations for library.**

Any person desiring to make donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title to the money, property, or real estate so donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property; and as to such property the board shall be held and considered to be special trustees. (*Id.* § 9.)

**\*§ 306. Transfer of libraries to directors—Reading-rooms in cities.**

Any library already existing or hereafter established in any city or village, which shall establish a free library and reading-room, or either of them, under the provisions of this act, may be transferred by the society, association, or individuals owning the same, to the board of directors created under this act, on such terms, not inconsistent with the objects of this act, as may be mutually agreed upon; and as to such property the said board of directors shall be held and considered to be special trustees: *provided, also*, that any

incorporated city may establish one or more reading-rooms to accommodate the inhabitants thereof, in different parts of said city, under the provisions of this act. (*Id.* § 10.)

MUNICIPAL BONDS FOR PUBLIC BUILDINGS.\*

**\*§ 307. Authority to issue bonds.**

Whenever the council of any city, borough, or village in this state, having a population not exceeding ten thousand inhabitants, and who are authorized to erect buildings therefor, and levy taxes to pay for the same, shall determine that it is for the interest of such city, borough, or village to erect a building for the purpose of a city hall, market-house, engine-house, city offices, or city prison, or one building for all or several of these purposes combined, it shall be lawful for them, and they are hereby authorized and empowered, to issue for that purpose, at any time, the bonds of such city, borough, or village, as hereinafter stated, with interest coupons attached, to an amount not exceeding two per cent. of the total assessed valuation thereof, as the same appears by the assessment of the preceding year, and with the proceeds of such bonds to erect any such hall, market-house, engine-house, city offices, or city prison, or building for all or several of these purposes combined: *provided*, that whenever the council of any city, borough, or village in this state contemplating the erection of any such building, the proposition shall first be submitted to the legal voters within the limits of such city, borough, or village for their approval or rejection; and if a majority of the electors present and voting is in favor of such proposition, then such council shall proceed as herein provided; but if such majority is opposed, then it shall be illegal for such council to issue any bonds or other evidences of indebtedness for any such purposes. (1881, c. 93, § 1.)

**\*§ 308. Public hall—Authority to erect—Rents.**

Any such council is hereby authorized and empowered, if desired by them, to so erect and construct any such building that there may be therein a hall suitable to be used by the public for exhibitions, lectures, or other public entertainments or purposes; and to fix the rate of and collect rent for the use of the same from parties renting and using the same for any such exhibitions, entertainments, or purposes. All rents, revenues, or income received by any such city, borough, or village, for or on account of the use or rent of said hall, shall be set apart in the treasury of said city for the exclusive purpose of paying the interest upon said bonds; and if, at the end of each year, when said bonds become due, there is found to be a greater sum derived from said rent than is required to pay the interest due upon said bonds, the said council shall cause such excess to be invested in unquestioned securities, or unquestioned bonds of such city, borough, or village, or of the state of Minnesota, or some city or county therein, to create a sinking fund to pay said bonds at maturity. After the interest and principal of said bonds have been paid, the revenue derived thereafter from the rent of said hall shall belong to and be a part of the general revenue fund of such city, borough, or village. (*Id.* § 2.)

**\*§ 309. Form of bonds.**

Said bonds shall be issued in such sum as said council shall determine, by resolution, not exceeding five hundred dollars each, with interest coupons attached, and payable in not less than five nor more than twenty years from the date of issue, as such council shall determine, with interest at a rate not to exceed seven per cent. per annum, payable semi-annually. (*Id.* § 3.)

\*"An act to authorize certain cities, boroughs, and villages to issue bonds for the erection of public buildings, and provide for the payment of the same. Approved March 7, 1881."

**\*§ 310. Payment of interest—Sinking fund.**

The council of any such city, borough, or village, in case there is not sufficient revenue derived from the rent of any public hall as aforesaid, shall annually levy and include in the general tax thereof an amount sufficient to pay all the interest on such of said bonds as may be issued, and before the principal, or any part thereof, becomes due, a sufficient amount to pay such principal, or to create a sinking fund to pay the same, or any part thereof. (1881, c. 93, § 4.)

**\*§ 311. Execution—Record.**

The bonds and coupons issued under this act shall be signed by the mayor or other chief executive officer of such city, borough, or village, and be attested by the recorder or clerk thereof; and said bonds shall be sealed with the seal of such city, borough, or village; and such recorder or clerk shall keep a true record of all the bonds issued under the provisions of this act. (*Id.* § 5.)

**\*§ 312. Negotiation.**

Such council shall not have authority to negotiate said bonds at less than their par value. (*Id.* § 6.)

## PROCESS AND JUDGMENTS.

**\*§ 313. Process, notices, etc.—Service on municipalities.**

Every summons, process, and notice whatever, affecting any city or other municipal corporation, shall be served upon the mayor or chief executive officer of such corporation, and in his absence upon the president of the council, and in the absence of both upon the clerk; and if there is no mayor or president of the council in such city or municipal corporation, then by leaving a certified copy at the office of such clerk, if any; and if there is no such clerk, then by posting the same in a conspicuous place within the limits of such municipality: *provided*, that the court in which any complaint may be filed, or any judge thereof, may, in his discretion, direct such other or further notice of the pendency of such action to be given by publication or otherwise, as to the court or any judge thereof may seem meet and proper, and shall, upon the request of five property holders of such corporation, appoint counsel to defend any such action. (1885, c. 153.\*)

**\*§ 314. Judgment against municipality — Provisions for payment.**

When a judgment is recovered against any city, village, or borough in this state, no execution shall issue on such judgment, but the same, if for the recovery of money, shall be paid by the treasurer of such city, village, or borough upon demand, and the delivery to him of a certified copy of the docket of such judgment, from any moneys in his hands belonging to such city, village, or borough, and which has not been otherwise appropriated, and if such treasurer shall not have sufficient of such moneys in his hands to pay such judgment, then such treasurer shall pay upon such judgment so much of such moneys as shall be in his hands, and such treasurer shall hereafter retain all such moneys as he may receive, and pay the same to the owner of such judgment on demand, until such judgment be fully paid, and if such treasurer fails so to pay such judgment, he and his bondsmen shall be personally liable for the amounts not so paid, unless the collection of such judgment is stayed on appeal: *provided*, that the treasurer of said city, village, or borough shall retain of the

\*An act to provide for service of summons or other process upon municipal corporations." Approved February 28, 1885.

moneys belonging to the same a sum sufficient to pay the necessary current expenses of said city, village, or borough. (1885, c. 196, § 1.\*)

**\*§ 315. Same—Levy of tax.**

Whenever a judgment against a city, village, or borough remains unpaid at the time required by law for the officers of any city, village, or borough to levy taxes, to be collected in such city, village, or borough for the ensuing year, it shall be the duty of such officers to levy the amount of such judgment, in addition to any other taxes levied by them, and to certify the same and the purpose thereof to the county auditor, who shall extend the amount of such judgment upon the taxable property of such city, village, or borough, and the same shall be collected with the other taxes for that year, and the amount so collected shall not be used or appropriated for any other purpose: *provided*, that if such officers refuse or neglect for the space of thirty days after being requested by the owner of such judgment to set apart and provide sufficient funds so that said judgment shall be paid before the time for the collection of the next tax levy, it shall then and thereupon become the duty of such officers, and they shall levy the amount of such judgment and certify the same and the purpose thereof to the county auditor, and such amount shall be extended in the tax duplicate, and collected as hereinbefore provided. (*Id.* § 2.)

**\*§ 316. Same—Execution.**

If payment of such judgment is not made within twenty days after the time fixed by law for the county treasurer to pay over to the treasurer of such city, village, or borough of the moneys in his hands belonging to such city, village, or borough, next, after the rendition of such judgment, execution may be issued on such judgment, but only the property of such city, village, or borough shall be liable thereon. (*Id.* § 3.)

**\*§ 317. Application of act.**

This act shall apply to any city, village, or borough organized or created under any general or special law of this state, except where the act under which any city, village, or borough is organized and created shall provide some other mode for the collection of judgments. (*Id.* § 4.)

**\*§ 318. Judgments against municipality—Officer to levy taxes—Vacancy—Appointment.**

Whenever a judgment shall be entered in any action against a city or other municipal corporation in any court of record having jurisdiction of such action, and there shall be no officers in such city or municipal corporation authorized by law to levy taxes for the payment of such judgment, it shall be the duty of the governor to appoint suitable persons, residents of the state, who will accept the offices, officers of such city. (1885, c. 154, § 1.†)

**\*§ 319. Same—Authority of appointee.**

Such officers so appointed shall be known and designated by the same names, respectively, and have the same powers, rights, and privileges, respectively, as officers duly elected, pursuant to the provisions of the charter of such city or municipal corporation, and it shall be the duty of such officers to assess, levy, and collect such taxes as may be necessary to pay such judgment, and such counsel fees for the defense of the action in which judgment is rendered as may be allowed by the court in which said judgment is rendered. (*Id.* § 2.)

\*"An act relating to the collection of judgments." Approved March 4, 1885.

†"An act to provide for the collection of judgments against municipal corporations." Approved February 28, 1885.