

actually employed, to be ascertained and audited by the ward committee.

SECTION 3. This act shall take effect from and after its passage and publication.

Approved March 13, 1878.

[No. 344, A.]

[Published March 19, 1878.]

CHAPTER 157.

AN ACT to amend chapter one hundred and twenty-seven of the laws of 1874, entitled "An act to incorporate the city of Menasha," and the several acts amendatory thereof.

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

Amended.

Improvement
of streets.

SECTION 1. Section two of chapter eight of said chapter one hundred and twenty-seven is hereby amended so as to read as follows: "The common council shall have power and authority, by a majority vote, to order any street or alley to be graded, gravelled, planked, improved or paved, at the expense of the lots fronting on such street or alley, upon the petition of the owners of a majority of the frontage of the lots fronting or abutting upon such part or parts of any such street or alley, which it is proposed to improve at the expense of such lots, or it may order said improvement without said petition, upon an affirmative vote of three-fourths of all its members.

Amendment.

SECTION 2. Section three of chapter eight of said chapter one hundred and twenty-seven is hereby amended by striking out all after the word "charge," in the sixth line of said section.

Amended.

Improvement
at expense of
lots.

SECTION 3. Section four of said chapter eight is hereby amended so as to read as follows: When any such improvement shall be made at the expense of the lots, as provided by sections one, two and three of this chapter, the following shall be substantially the mode of proceedings:

Plan and speci-
fication.

First. The street committee to be appointed by the mayor or the common council, as the council may determine, from the aldermen, to consist of three members, shall file in the city clerk's office, or cause to be entered in a record book in said office a plan and specification of the work to be done, which need not be more specific than is necessary to inform parties interested of the work to be done.

Second. By personally serving upon the owner or owners of such lots, if residents of said city, or in lieu thereof, publishing in the official paper of said city, if there be one, if not then in some other newspaper published in said city, or posting up in five of the most public places in said city, at least one week before such work is required to be done or improvement made, a notice signed by the clerk officially, requiring the owner or owners of such lots to do such work or make such improvements as per such plans and specifications by a day certain therein to be named, and may also insert in the same notice that on a day therein to be named, to be not less than six days from the last date, that the street committee will let the contract to do all such work or make such improvements as shall not have been done or made as so required or ordered, and that sealed proposals will be received accordingly. Such notice served and published need not specify the lots or blocks or land by numbers, figures or letters, but may specify that all the lots or parts of lots, parcels or strips of land fronting or abutting on such street or alley, upon a particular side thereof, between certain points. The street committee may reject any bid if they think it is not for the interest of the city and parties interested. If no satisfactory bid or bids are received to do such work or make such improvements, then the street committee may contract with some person to do the whole or any part thereof, or said committee for the city may do such work, in whole or in part, all the cost and expense thereof being chargeable to such lots and lands as aforesaid, and as herein provided. In letting any such work or improvement, different kinds of work may be let to different persons, or the materials required may be let separately from the work.

Notice to owner

Street committee to let contract.

SECTION 4. Section seven of said chapter eight, is hereby amended so as to read as follows: When work is done or improvement made which under this chapter is chargeable to lots as aforesaid, the street committee shall give to the contractor or person doing or performing the same, or his assigns, a certificate, countersigned by the clerk, for the amount due him, and containing a description of the land to which the same is chargeable, which certificate shall be transferable by endorsement, and shall draw interest at the rate of fifteen per cent. per annum from date of issue (provided the same is not paid within twenty days from date) until the same is inserted in the tax roll as hereinafter provided. And if the amount thereof and interest

Amended.

Certificates issued for work.

shall not be paid before the clerk makes out the annual tax roll, next after the date of its issue, the clerk shall insert and assess the amount thereof with interest as aforesaid to the time of its being so inserted in the tax roll, upon and against the lot or parcel of land described therein in such tax roll and as a part of the tax against such lot, and the same shall be collected as other taxes and assessments are collected, for the benefit of the holders of such certificate; and when any such work is done or improvement made by the street committee for the city, which shall be a lien or charge upon any lot, said committee may make a statement or statements, and file the same with the city clerk of the amount or amounts due to the city for doing any such work or making any such improvements and the amount chargeable to each lot, which amount the clerk shall insert and add to the tax chargeable to such lot in the annual tax roll issued next after filing of such statement, and the same shall be a lien thereon and collectable as other taxes are collected.

Amended.

Sidewalks to be kept in repair, etc.

SECTION 5. Said chapter eight of chapter one hundred and twenty-seven is hereby further amended by adding this and the two following sections thereto: All sidewalks shall be kept in repair, and clear and free from all obstructions, at the expense of the lots adjoining or abutting thereon, and of the owner or owners thereof, and in case the owner or occupant shall fail to keep such sidewalk in repair and free and clear as aforesaid, the street committee shall serve a written notice upon the owner or occupant of the lot adjacent to which such defective sidewalk shall be, if a resident of said city, to immediately repair the same, and if the owner or occupant fails to repair the same forthwith, then, in that case, the same shall be repaired by the street committee at the expense of the lot adjoining said defective sidewalk: *provided, however*, that no sidewalk shall be so repaired at the expense of the lot when the cost of such repairs shall exceed one-half of the cost of a new sidewalk of the kind in front of such lot, except in the same manner as required for the building of a new sidewalk. Service of such written notice to the owner to repair such sidewalk at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with the agent of the owner, shall be deemed service upon such owner or occupant, and in case the owner is not a resident of said city, or his residence is unknown, and such owner has no agent in said city known to the said

committee, then, and in that case, it shall be the duty of the street committee to forthwith repair the same, without notice to the owner of the adjoining lot, at the expense of such lot as herein provided. All repairs to sidewalks by the owner shall be done to the satisfaction of the street committee, and the same proceedings shall be had in collecting taxes for repairs to sidewalks as in building new sidewalks, so far as the same can be made applicable.

SECTION 6. All the provisions of this chapter shall be regarded as directory, except the provision of giving notice as aforesaid; and if such notice is given as herein required, no informality, or irregularity, or error in the proceedings shall vitiate such assessment or taxes. Directory.

SECTION 7. Anything required to be done under any of the provisions of chapter eight of said chapter one hundred and twenty-seven, by the common council, may be by order, resolution or ordinance. All written contracts to be made under said chapter eight shall be executed in the name of the "city of Menasha," and signed by the street committee, or a majority of said committee, of one part, and the contractor of the other part. All verbal contracts to be executed in like manner in the name of the city. Contracts to be made in name of city.

SECTION 8. Section nine of said chapter eight is hereby amended so as to read as follows: Every male inhabitant of the city of Menasha over twenty-one years of age and under fifty, except active members of the fire department, not exceeding fifty to each engine company and twenty-five to each hook and ladder company, and disabled soldiers who served in the late war, shall be assessed to pay a poll-tax of one dollar. Said taxes may be paid to the superintendent of streets in cash, or commuted for in labor. It shall be the duty of the assessors of the city of Menasha to make out, during the month of May in each year, lists of persons liable to pay such poll tax as aforesaid. Such lists shall be made out by wards, subscribed by said assessors and delivered by them to the city clerk on or before the first Monday in June in each year; said clerk shall file the same in his office, and as soon as may be shall make duplicates thereof and annex to said duplicates a warrant to be signed by him and the mayor of said city, which may be in substance as follows: Amended.
Poll tax.

To ———, superintendent of streets of the city of Menasha. You are hereby required to collect from the several persons named in the annexed tax list, the

taxes set opposite such persons, within the time limited by law, or by ordinance or resolution of the common council of the city of Menasha and apply the taxes by you collected, and make due returns as prescribed by the charter of the city of Menasha, or ordinance or resolution of the common council of said city.

Dated ——— day of ——— 18 ———

————— Mayor.
————— City Clerk.

Amendment.

SECTION 9. Chapter eight of said chapter one hundred and twenty-seven is hereby further amended by adding thereto the following sections, which shall stand for sections ten, eleven, twelve, and thirteen in said chapter eight.

List to be corrected.

SECTION 10. The names of persons left out of any such lists and who ought to have been included therein, and of new inhabitants who have not in the same year been assessed in some other place for a poll tax, and paid the same, shall be from time to time added to the several lists and assessed by said superintendent of streets on their polls as others are assessed, subject to appeal to the common council.

May pay tax in work.

SECTION 11. It shall be the duty of said superintendent to give at least three days' notice to all persons on his lists, assessed to pay a poll tax therein, either personal or in writing, left at their usual place of abode, of the time when, and place where, they may appear and pay their poll tax in labor. And all persons assessed to pay said poll tax may appear at such time and place, and work in person or by an able bodied substitute, and every person who shall, upon the notice given him by said superintendent, appear and work one full day of ten hours, either in person or by substitute, as aforesaid, according to the directions of said superintendent, shall be credited by said superintendent with payment in full of his poll tax. And every person assessed to pay poll tax who shall not appear, and work pursuant to said notice, given him by said superintendent, shall not be entitled to pay said poll tax in labor, but shall pay the same in money.

Shall collect tax.

SECTION 12. Whenever any person shall become liable to pay his poll tax in money, as herein prescribed, it shall be the duty of the street superintendent to call upon the person taxed once, or at the place of his residence, if in said city, and demand payment of the tax charged to such person, and if said tax shall not be paid upon said demand being made, the said superintendent shall collect the same, and he shall have the same

powers and proceed to collect the said taxes in the same manner, and be entitled to the same costs and fees in the collection of said taxes, as in the collection of general taxes by the treasurer of said city, and in case he shall be unable to collect any portion of said taxes by the first Monday in November in each year, he shall on that day make out and deliver to the city clerk of said city, a list of all such unpaid taxes, containing the names of all persons who have not paid their taxes, and the amount so unpaid, which list shall be sworn to by said superintendent before some officer authorized to administer oaths, by which day said superintendent shall make and file in the office of the city clerk, a detailed statement of his doings by virtue of and under said tax list and warrant.

SECTION 13. Upon the receipt of said list, the city clerk shall at the time of making out the general annual tax roll of said city for that year, place in a separate column in said roll, the amount of such delinquent tax, against the name of the proper person, which shall be collected in the same manner as general taxes are collected. All poll taxes collected shall be expended on the streets in the wards where collected, in the manner in this act provided. Poll tax—how expended.

SECTION 14. Section forty-two of chapter thirteen of said chapter one hundred and twenty-seven, is hereby amended so as to read as follows: The common council shall annually elect at its first regular meeting, or as soon thereafter as may be, one superintendent of streets, who shall hold his office for one year, unless sooner removed; and the common council shall have power to fill, from time to time, any vacancy that may exist in said office. The said superintendent of streets shall, before entering upon the duties of his office, execute to the city a bond in such sum as the council may determine, with sufficient sureties, to be approved by the council, conditioned for the faithful performance of the duties of his office, and for such other duties as may be required of him by the council, and for the proper expenditure of all money which may be collected by him or come into his hands by virtue of his office. He shall superintend all repairs and improvements of streets, alleys, lanes, public grounds, wells, reservoirs, gutters, sewers and sidewalks, under the general direction of the street committee, except as herein otherwise provided, and perform such other duties as the common council may prescribe. He shall expend the poll tax and all moneys realized from the same, in each ward, Amended.
Superintendent of streets—his duties.

at such places and in such manner in each ward, as the aldermen in the several wards shall direct. He shall, on or before the first Monday in March, in each year, and at such other times as the council may require, report to the council in writing under oath, a true and correct statement of all moneys received by him by virtue of this act, and from whom received, and how and when and where expended, and all work done under and by virtue of his office. And the council may at any time remove him from office, for neglect of duty, or official misconduct, and appoint another man in his place. The superintendent of streets, shall receive for his services, for each day actually and necessarily occupied by him in the discharge of his duties, such sum as the council may determine, not exceeding two dollars per day.

Records to be kept.

SECTION 15. There may be kept in the city clerk's office a book or books wherein may be entered by the clerk or street committee, all orders, entries or proceedings required to be done or had, under any of the provisions of chapter eight of said chapter one hundred and twenty-seven, or any other matter appertaining thereto, and there may be entered in such book or books any fact or item appertaining to such proceedings, and as to the service or publication of any notice required by law to be served, given or published, and that any act was done by the street committee or clerk, in making any improvement, and that a notice was served, given or published, as required by law, to carry out any order or requirement on the part of the street committee or clerk, without stating the contents of such notice; and in addition thereto may be entered that duepro of of the service or publication of any notice has been made and filed in his office, all of which shall be admitted in evidence, in all courts the same as the original would be entitled to be, and such book or books, or any of them, shall be received and admitted in evidence in all courts, in any proceedings whatever, and shall be *prima facie* evidence and proof of all entries, memorandum, facts, items, and matters and things therein contained, and the said orders and proceedings shall be received in evidence in like manner and with like effect.

Evidence.

SECTION 16. Any and all certificates made by the street committee of any act done or notice given, served or published, under the provisions of said chapter eight, shall be received and admitted in evidence in all courts of this state, and shall be *prima facie* evidence of all the

facts therein contained, and that such acts were done and proceedings had, and such notice served or published as therein certified to. And all proceedings had under the provisions of said chapter eight, or attempted to be had under the same, shall in all courts be deemed, presumed and taken to have been regular, and it shall be taken and presumed that all the provisions of said chapter were complied with until the contrary is shown.

SECTION 17. All certificates issued by the street committee, under the provisions of said chapter eight, for work or improvements, if not paid by the owner of the lot described therein, on or before the time when the city clerk shall make out the annual tax roll of the city for that year, may be returned by the holder of said certificate, to the city clerk, and said clerk shall issue to him a city order for the amount named in said certificate, which order shall be received by the holder of said certificate instead of the certificate, or the said holder may retain said certificate until the amount of said tax shall be collected from the owner, in which case he shall receive the whole amount collected.

Orders to be issued to redeem certificates.

SECTION 18. The mayor of the city of Menasha shall annually appoint one alderman from each ward of said city, to constitute a member of a committee to be known as the "auditing board." And said mayor shall in case of any vacancy in said board have power at any time to fill such vacancy by appointment, provided that the aldermen so appointed shall have been elected from the same ward as the member whose place he is appointed to fill. The mayor shall constitute a member of said board, and may preside over the same. Said board may elect a chairman to preside in the absence of said mayor. The city clerk shall act as the clerk of said board, and shall keep a record of its proceedings.

Auditing board—how created.

SECTION 19. Whenever, for any reason, vacancies shall occur in the common council so there are not enough aldermen to constitute a quorum for the transaction of business, the said auditing board shall be empowered to audit and allow accounts against said city for the current expenses thereof; and when allowed, orders shall be drawn on the treasurer therefor to be signed and paid in the manner and form as now provided in case of city orders: *provided*, that it shall require the affirmative votes of three (3) members of said board to pass any measure involving an expenditure of any money. Said board is also authorized to canvass the returns of all votes cast at any election when

Duties of auditing board.

a canvass is now required by law of the common council, and shall determine and declare the result of such election, and in case of the election of city or ward officers, the city clerk shall issue certificates of election to the persons so declared by said board to have been elected; said board shall also have all the powers conferred by law upon the common council of said city in relation to the police, fire department, nuisances, pauper affairs, streets, bridges, excise and the public health; and a majority of said board may compel the attendance of absent members, and may have the same powers as the common council to order a special election for city and ward officers.

Power limited. SECTION 20. Said auditing board shall have none of the powers hereinabove enumerated at any time when there is a quorum of the common council in existence.

Not to levy tax. SECTION 21. Said auditing board shall have no power to levy any tax for any purpose whatever.

**Judgments—
how satisfied.** SECTION 22. Whenever a final judgment shall be rendered against said city of Menasha it shall be the duty of the common council, upon proof by a certified copy of such judgment being filed with the city clerk, and before the next tax roll is completed, to levy a tax upon the real and personal property of said city for the amount of said judgment with interest, and to cause such amount to be placed in said next tax roll for the collection of city taxes, in a separate column; and such tax shall be collected in the same manner as other taxes: *provided*, that no such tax to pay any judgment shall be levied or placed in the tax roll except by a vote of the common council of said city of Menasha.

Repealed. SECTION 23. Anything contained in said chapter one hundred and twenty-seven of the laws of Wisconsin for 1874, or in any act amendatory of said chapter, inconsistent or conflicting with the foregoing amendments, are hereby repealed.

SECTION 24. This act shall take effect and be in force from and after its passage and publication.

Approved March 13, 1878.