

to said canvassers as provided herein, then in such case this act shall be and remain in full force and effect, the same as would have been the case had not this proviso been inserted in this act. But if a majority of votes should be "Against village charter," then in such case all rights, privileges and powers provided for in this act shall be forfeited, and no further election or action under or by virtue of it shall be taken or be valid. No irregularities in the proceedings or election in this proviso provided for, shall affect or default this act. The polls of the election in this section provided for, shall be opened at ten o'clock in the forenoon, and closed at four o'clock in the afternoon of said day, as provided for annual elections in section ten of chapter one of this act.

Approved March 8, 1873.

CHAPTER IX.

AN ACT TO INCORPORATE THE VILLAGE OF BYRON, IN OLMSTED COUNTY, MINNESOTA.

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

SECTION 1. All that part of Olmsted county in the state of Minnesota included within the following described limits, description and boundaries, to-wit: All of section number thirty-two, (32) the west half of section number thirty-three, (33) the south half ($\frac{1}{2}$) of section number twenty-nine, (29) and the south-west quarter ($\frac{1}{4}$) of section number twenty-eight, (28) all in township one hundred and seven (107) north of range number fifteen (15) west, shall be a village by the name of "The village of Byron," and the people now inhabiting and those who shall hereafter inhabit the district of country herein described shall be a municipal corporation by the name of the village of Byron, and shall have all the powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted and the authorities thereto shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, and in all courts, may have a common seal and change the same at pleasure, and may also take, hold, purchase and lease such

real, personal and mixed estate within or without the limits thereof as the purposes of said village may require.

SEC. 2. The said village of Byron shall be and constitute one election district for all purposes of general and special elections under the election laws of this state, and the councillors of said village of Byron shall be and act as judges at all elections held in said village and shall have power to appoint clerks of such elections, and administer the necessary oaths. Such elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of election filled as required by the election law of this state. The recorder of said village shall give notice of all elections in the same manner as required by law of town clerks, and the councillors of said village shall perform all the duties pertaining to the registry list in the same way that township supervisors are required to do under the general election law of this state, and chapter one of the general statutes of this state shall apply to and govern the judges and clerks of election at all elections in all cases wherein the same does not conflict with the provisions of this act, and the common council shall determine in what place in said election district elections shall be held, at least ten days before any election shall be held.

SEC. 3. The elective officers of said village shall be one president of the common council, one recorder, one treasurer, one justice of the peace, two councillors, one assessor, and one constable, who shall each, except the justice of the peace, hold his respective office for the term of one year and until his successor is elected and qualified. The justice of the peace shall hold his office for the term of two years and until his successor is elected and qualified.

SEC. 4. The president, the two councillors and recorder, shall constitute the common council of the village of Byron, a majority of whom shall constitute a quorum to do business. The common council shall have power to determine the rule of its proceedings, compel the attendance of its members under such penalties as it may prescribe. It shall meet once in six months at such time and place as shall be prescribed by rule. Special meetings may be called by the president or the two councillors, whenever they shall deem it for the interest of the corporation. The common council shall have power to appoint such officers as may be in their opinion necessary for the government of said village, and define their duties and fix their compensation.

SEC. 5. Every person elected or appointed to any office under this act shall before entering upon the duties of his office take and subscribe to the oath of office prescribed by general law and file the same with the recorder of the village. The treasurer and constable shall execute to the village of Byron a bond in the sum of five hun-

dred dollars, with sufficient surety to be approved by the common council conditioned for the faithful performance of the duties of their respective offices, which bond shall be filed with the recorder of said village, and the justice of the peace of said village shall qualify as prescribed for justices of the peace under the general law of the state, except such bond shall be executed to said village of Byron, and be approved by the president of the common council of said village, who shall endorse his approval thereon.

SEC. 6. It shall be the duty of the president to preside at all meetings of the common council, but in case of his absence or inability to act the members present shall choose one of their number to preside during his absence. The president of the council shall see that all the ordinances of said village and the laws of this state are duly observed, and that all other [executive] officers of said village discharge their respective duties, and shall be the chief executive officer of said village.

SEC. 7. That the recorder shall be the recording officer of said village, and of the common council. He shall have the custody of the seal of said corporation (if any), and of all records thereof, not necessarily and specifically appertaining to the other officers thereof. He shall receive all moneys payable to said corporation, except as hereinafter provided, and shall immediately pay the same over to the treasurer, charging him therewith and taking his receipt therefor. He shall keep all the accounts of the corporation, receive all claims against the same, and draw orders upon the treasurer for moneys payable by said corporation; but no such order shall ever be drawn by said recorder unless the same shall be in full or part payment of a claim against said corporation previously audited and allowed by the common council. He shall also make to the common council, at the close of each official year, a condensed report of all his doings as such officer during such year, which report shall be published in such manner and to such extent as may be provided by ordinance, and he shall, with all reasonable dispatch, make such other reports and at such times as the common council may require; and said recorder shall also receive and file and keep record of all chattel mortgages presented to him for such purposes, in the same manner and way as prescribed by law for town clerks, and all chattel mortgages filed in the office of said recorder shall have the same effect, and be notice to the same extent, as chattel mortgages filed in the office of the township clerks; and the election district herein created shall, so far as chattel mortgages are concerned, be construed to mean town or city; and sections two, three and four, chapter thirty-nine, statutes of Minnesota, shall apply to the election district herein created and mentioned, and the aforesaid recorder shall be governed by the next above-named sections in said chapter thirty-nine, in his

official duties as to chattel mortgages; and the said recorder shall have power to administer oaths and affirmations and take the acknowledgment of deeds and all other writings in like manner and to the same extent that town clerks now are or may be hereafter authorized to do by general law.

SEC. 8. The treasurer shall be the depository of all moneys belonging to the said corporation. He shall from such moneys pay upon presentation all orders therefor drawn by the recorder and countersigned by the president. *Provided*, That no order shall be paid by him unless first endorsed in writing thereon, with the name of the payee therein, and the party receiving the money therefor.

SEC. 9. The justice of the peace provided for and elected under the provisions of this act, shall have and possess, and may exercise all the powers and jurisdiction of justices of the peace provided for and elected under the general laws of the state, and in addition thereto, shall have cognizance and jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of said corporation, or under this act or for the breach or violation of any such by law, ordinance or regulation, and in all cases of offenses committed against the same, all prosecutions or assaults, batteries and affrays, not indictable, and for a breach or violation of any by-law, ordinance or regulation, shall be commenced in the name of the village of Byron, and the same proceedings shall be had in all civil and criminal suits or prosecutions before said justice when not otherwise herein directed as are established and required to be had in civil and criminal actions by the general laws of this state, before justices of the peace. All fines, forfeitures and penalties imposed by or recovered before said justice in any suit, prosecution or proceeding had or commenced in the name of said village shall be promptly paid by said justice to the recorder of said corporation for the use thereof. The justices of the peace shall take judicial notice of the by-laws, ordinances and regulations of said corporation, and it shall not be necessary in any action, civil or criminal, before said justice to plead or refer to the same in any manner whatever in any pleading or complaint, but said by-laws, ordinances and regulations shall, in said justice's court, be held and deemed to be public law. The justice of the peace shall at least once in six months make to the common council a full report of all moneys received by him for fines, forfeitures and penalties, and shall pay them into the hands of the recorder, taking his receipt therefor. The fees of the justice of the peace shall be the same as are allowed and fixed by the general laws of the state for justices of the peace, and all warrants, summons, writs, and processes of every nature, issued by such justice of the peace shall be directed to the sheriff or any constable of Olmsted county, and may be executed and served by the consta-

ble elected under the provisions of this act, or by the sheriff or any constable of said county, and for such purpose said sheriff or any constable of said county shall have and possess the same power and authority, which, by the general laws of the state they have and possess in the execution or service of warrants, summons, writs and other processes issued by justices of the peace elected under the general laws of this state.

SEC. 10. The constable elected under the provisions of this act, shall be the ministerial officer of the council, and shall have and possess, and may exercise, all the powers belonging to constables elected under the general laws of the State; and said constable shall, within the county wherein he resides, also have and exercise all the duties of and when acting as such receive the same compensation as constables elected under the general laws of the state; shall also be chief of the police force of said village, but as such shall be subordinate to the president.

SEC. 11. The assessors of said village shall qualify in the same manner, and perform the same duties within said village as are prescribed for town assessors by general law.

SEC. 12. The term of all officers elected under the provisions of this act shall commence on the third Tuesday of March of each year (unless elected or appointed to fill a vacancy). All officers shall be residents of the village, and there shall be an annual election for the election of the officers herein provided for, on the second Tuesday of March in each year, and the polls shall be kept open from ten o'clock in the forenoon until four o'clock in the afternoon, and ten days' previous notice shall be given by the recorder of the time and place of holding such election and the officers to be elected, by posting notices in three of the most public places in said village. At the close of the polls the votes shall be counted and a true statement thereof proclaimed to the voters present by one of the judges, and the recorder shall make a true record thereof, and shall without delay notify all persons so elected of their election.

SEC. 13. Whenever a vacancy shall occur in any elective office, such vacancy shall be filled by a new election, which shall be ordered by the common council, and notice of the time and place of holding such election shall be given as hereinbefore provided for other elections. Any person elected to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term.

SEC. 14. All persons entitled to vote for county and state officers, and who shall have resided in said village for ten days next preceding the day of the election, shall be entitled to vote for any elective officer under this act, and to hold any office hereby created.

SEC. 15. The treasurer of Olmsted county shall retain in his hands all taxes collected off from property within the corporate

limits of said village, and pay over the same to the treasurer thereof, except such taxes as are assessed for state and county purposes.

SEC. 16. The common council shall have the management and control of the finances, and all the property of the corporation, and shall also, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, orders, by-laws and regulations, for government and good order of the village, for suppression of vice and intemperance and for the prevention of crime, as they shall deem expedient. The common council shall have full power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rules, by-laws, and regulations, which are hereby declared to be and have the force of law; *Provided*, That they be not repugnant to the constitution of the United States or of this state, and for those purposes shall have authority, by ordinances, rules, by-laws or resolution:

First—To license and regulate the exhibitions of common showmen and shows of all kinds, or the exhibitions of caravans, circuses, concerts or theatrical performances, billiard tables, nine or ten pin alleys, bowling saloons; to grant licenses and regulate auctions and auctioneers, and groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors.

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

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

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

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

Sixth—To prevent encumbering of the streets, sidewalks, lanes, alleys, or public grounds, with carriages, carts, wagons, sleighs, boxes, firewood, posts, awnings, or any other materials or substances whatever.

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

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

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

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

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

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

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

Fourteenth—To prevent the shooting of fire-arms, or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council as dangerous to the village, or any property therein, or annoying any citizen thereof.

Fifteenth—To prevent open or notorious drunkenness and obscenity in the streets or public places of said town, and to provide for the arrest and imprisonment [punishment] of all persons who shall be guilty of the same.

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

Seventeenth—To regulate the place and manner of weighing hay and selling the same, and the measuring of and selling fire-wood,

coal and lime, and to appoint suitable persons to superintend and conduct the same.

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

Nineteenth—To provide for watchmen, and to prescribe their numbers and duties and regulate the same, and to create and establish the police of said village, and to establish the number of police officers, and their duties, and to regulate the same.

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

Twenty-first—To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds, and to protect native shade trees.

Twenty second—To remove and abate any nuisance, obstruction, or encroachment upon the streets, alleys, public grounds and highways of the village.

Twenty-third—To remove and abate any nuisance injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

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

Twenty-fifth—To restrain and punish vagrants, mendicants, street beggars and prostitutes.

Twenty-sixth—To raise money for opening, building, grading, paving or repairing streets and cross-walks, the expense of which shall be charged to all property alike within the incorporated limits of said village.

Twenty-seventh—The style of all ordinances shall be: The common council of the village of Byron do ordain, and no ordinance shall be passed except by a majority of all the members of the common council. A record in book form shall be kept by the recorder in which he shall record all the proceedings of the common council, and the ayes and noes on every ordinance voted upon shall be entered therein. The fine and imprisonment which the common council are authorized to impose for the violation of any ordinance or by-law

shall not exceed one hundred dollars and imprisonment in the jail of Olmsted county until such fine is paid not exceeding ninety days, and for such purpose the said village shall have the use of the jail of Olmsted county, and persons thereto committed shall be under the charge of the sheriff of Olmsted county.

SEC. 17. All ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the common council by ayes and noes, and shall be admitted as evidence in any court in the state without further proof; they shall be recorded by the recorder in books to be provided for that purpose.

SEC. 18. The power conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor within the limits of said village are hereby declared and shall be deemed public or common nuisances.

SEC. 19. The council shall examine, audit and adjust the accounts of the recorder, treasurer, justice and all other officers and agents of the village, at such times as they may deem proper, and also at the end of each year and before the term for which the officers of said village were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their said duties in pursuance of this section, or shall neglect or refuse to render his account or present his books and vouchers to said council or to a committee thereof, it shall be the duty of the common council to declare the office of such person vacant, and the common council shall order suits and proceedings at law against any officer or agent of said village who may be found delinquent or defaulting in his accounts or in the discharge of his official duties and shall make a full record of all such settlements and adjustments.

SEC. 20. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the village. In all prosecutions for any violation of this act, or of any ordinance of the village, the first process shall be by warrant. *Provided*, That no warrant shall be necessary in any case of the arrest or apprehension of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance of the village, but the person or persons so arrested may be proceeded against, tried and convicted, and punished or discharged, in the same manner as if the arrest had been by warrant.

SEC. 21. When any suit or action shall be commenced against said village, the service therein shall be made by copy left with the recorder of said village.

SEC. 22. The sale of all intoxicating, vinous, spirituous, malt or fermented liquors within the limits of said village, is hereby declared to be under the exclusive control of the common council of said village, and all fines imposed for violation of any ordinance regulating such traffic, shall be paid into the treasury of the village for the use thereof; and the common council of said village may prohibit the sale of all intoxicating, vinous, spirituous, malt, or fermented liquors within the limits of said village, and enforce such prohibition by appropriate penalties.

SEC. 23. The common council shall have the power and the authority to open, lay out or vacate streets and alleys within the limits of said village, which is conferred by the general laws of the state upon the boards of supervisors of townships to open, alter, discontinue, or lay out roads, and in the matter of opening, laying out, or vacating streets or alleys, and the assessment of damages, the common council shall be governed by and act under the general laws of the state providing for altering, discontinuing and laying out roads; and appeals may be taken in the same manner to the county commissioners as appeals are under the general [laws] taken from the decisions of township supervisors.

SEC. 24. The common council may prescribe the width of sidewalks, and may establish different widths in different locations, and determine the kind of material of which they shall be constructed, having regard to the business and amount of travel in the vicinity of each. Whenever the common council of said village shall deem it necessary to construct or repair any sidewalk in said village, they shall by resolution require the overseer of the road district in which such sidewalk is to be constructed or repaired, to notify all owners or occupants of any lot or parcel of land adjoining such sidewalk to construct or repair so much of such sidewalk as adjoins their several lots, at his or their own proper expense, within a certain time, to be designated in such notice, which shall not be less than twenty days after the service of such notice. If any such work, or any part thereof, is not done in the manner prescribed by ordinance, and within the time designated in said notice, the common council may order the same to be done at the expense of the lots adjoining such sidewalks, and the expenses thereof shall be assessed upon such lots so chargeable in such manner that each lot shall be charged with the whole expense of the sidewalk adjoining thereto, and such assessment shall be a lien upon said lot or lots as in the case of other taxes, and the said common council shall cause a statement of such assessment to be returned to the auditor of said Olmsted county at

the same time with the village taxes levied by them, and such assessment shall be collected and payment thereof enforced, in like manner as county taxes are collected and payment thereof enforced. No error or informality in the proceedings shall vitiate the assessments made by virtue of this section. *Provided*, The notice hereinbefore provided for, shall have been given.

SEC. 25. All property, real and personal, in the village, except such as may be exempt by the laws of this state or is village property, shall be subject to taxation not exceeding two and a half mills on the dollar per year, for general purposes. Such property shall also be liable for such special taxes as the common council are herein authorized to levy.

SEC. 26. The common council shall have full power to order and direct the levy and collection, within the limitation prescribed by law, of taxes sufficient to give full effect to the powers herein conferred.

SEC. 27. The common council shall have power to provide by ordinance for the manner of assessing and enforcing the collection of all taxes levied under the provisions of this act, but until express provision is made in regard to that subject all taxes shall be collected as follows: The recorder shall deliver to the county auditor of Olmsted county a certificate signed by him under the seal of the corporation setting forth the amount levied upon every dollar in value of the taxable property within the limits of the village of Byron as incorporated by this act, it thereupon shall become the duty of the said auditor to add the amount thus levied to the assessment rolls of the year in which such levy was made, and it shall become the duty of the county treasurer of said county to collect the amount thus added to the assessment roll, and to enforce the collection of the same in like manner as any other tax of the said county of Olmsted placed in his hands for collection and to pay the amount so collected to the treasurer of the village of Byron incorporated by this act.

SEC. 28. In any action brought to recover any penalty or damages under this act, or under any ordinance made by the common council, it shall be sufficient to complain that the defendant is indebted to the village for the amount of said penalty or damages, and to refer to the act or ordinance under which the same is claimed, and to give the special matter in evidence under it. All civil cases shall be under the control and direction of the common council, they shall have power to settle, compromise or prosecute all such actions on the part of the village, when said village shall be a party or be interested in such action.

SEC. 29. The corporation is vested with all powers to carry into full force, virtue and effect all and every part of the charter of said village and the acts amendatory thereof, and to carry into execution

the same; shall have power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof.

SEC. 30. The village of Byron shall be constituted one or more road districts, to be defined by the common council, and the highway labor and taxes shall belong to the general fund, but shall be expended in the road district where the same is levied and raised. The common council shall appoint one overseer of each road district, and they shall issue a warrant to him containing the whole amount of highway labor and taxes assessed and levied in his district, which said warrant shall be returned by him to the treasurer of said village. The laws of the state shall apply to warning, working, suing for and collecting highway taxes and returning delinquent taxes, and in all respects except as herein expressly provided. The common council shall have full power to direct the overseer when, where and how to expend said labor and tax and to remove him, and may direct him to expend the labor in the manner to be directed by them at any point beyond the limits of the village. The common council shall perform the duties imposed by law upon the supervisors of towns in levying highway taxes, and shall be governed and restricted in the amount so levied by the same laws applicable to the supervisors of said towns in levying highway labor and taxes.

SEC. 31. This act shall not be so construed as to exempt any property or person within the incorporated limits of said village from a just proportion of any indebtedness or taxation heretofore contracted by or on account of the town of Kalmar, as constituted prior to the incorporation of said village.

SEC. 32. That for the purposes of the first election under this act, D. Sinclair, F. C. Whitcomb and Thomas Kesson shall be judges of election and board of canvassers for such election, and shall perform all the duties and possess all the powers of judges of election prescribed by this act. They shall appoint the place of holding such election, and post notice thereof in three public places within said village ten days prior to said election.

SEC. 33. This act is a public act and [need] not be pleaded nor proven in any court in this state, and shall take effect and be in force on and after its passage.

Approved February 18, 1873.