

~~ly previous to an election therein, shall be entitled to vote at any election or meeting authorized by this act.~~

~~SEC. 39. [38.] This act shall be considered a public act, and may be altered, amended or repealed by any future Legislature.~~

~~Approved Feb. 3, 1846.~~

AN ACT to incorporate the City of Milwaukee.

BE IT ENACTED by the Council and House of Representatives of the Territory of Wisconsin:

SECTION 1. That the district of country included within the following limits and boundaries in township numbered seven, of range numbered twenty-two east, in the county of Milwaukie, to wit: Beginning on the Lake shore, in the northerly part of Milwaukie Bay, where it is intersected by the section-line running east and west on the north line of section numbered twenty-two, thence west along said section line and the north line of section numbered twenty-one and section twenty, to the quarter post on the north line of section numbered twenty; thence south along the quarter section line to the center of said section numbered twenty; thence west along the quarter section line in said section numbered twenty and section numbered nineteen, to the west line of said township and range; thence south along the said range line to the north boundary line of township numbered six; thence east along said north line to the lake shore in the southerly part of Milwaukie Bay; and the north and south boundaries as herein described are to extend from the two points of intersection with the lake, respectively, in lines running due east to the eastern boundary of the Territory of Wisconsin in Lake Michigan shall be a city by the name of "Milwaukie," and the people now inhabiting, and those who shall hereafter inhabit within the district of country hereinbefore described shall be a municipal corporation by the name of the "City of Milwaukee," and shall have

Boundary of
the corpora-
tion.

the general powers possessed by cities at the common law; and in addition thereto shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

SEC. 2. For the better government of the said city the district of country comprised in the limits described in the first section of this act shall be divided into five wards, as follows: All that part of the said district which lies east of the middle of Milwaukie river and north of the middle of Wisconsin street shall be the first ward; all that part of the said district which lies west of the middle of Milwaukie river, and north of the middle of Cedar street, and its extension to the west line of the city shall be the second ward; all that part of the said district which lies east of the middle of said river and south of the middle of Wisconsin street shall be the third ward; all that part of the said district which lies west of the middle of said river, south of the middle of Cedar street, and within sections numbered twenty-nine and thirty, shall be the fourth ward, and the residue of said city shall be the fifth ward.

SEC. 3. The elective officers of the said city, shall be one mayor for the city, three aldermen in each ward, one justice of the peace in each ward, and one constable in each ward; and said aldermen, justices and constables shall be residents and voters in the wards for which they may be elected, and the removal of any justice of the peace not of such ward except the person who may be appointed police justice shall vacate the office of the person so removing, which vacancy may be filled by special election to be held at such time and place as shall be appointed by the Common Council, and in the manner prescribed by this act for holding elections.

SEC. 4. The first election for city officers shall be held on the first Tuesday of April next, at which time an election shall be held in each ward, at such place as may be designated by the president and trustees of the town of Milwaukie, and be conducted by three inspectors, or a majority of them, who shall be appointed by the said president and trustees and shall make due return to the clerk of the board of trustees, and all elections thereafter shall be held annually on the first Tuesday of April, at such

place in each ward as shall be designated by the mayor and common council, who shall annually appoint three inspectors of elections, who, or a majority of whom, shall superintend such election and make return of the same to the common council in such manner and at such time as said common council may prescribe.

Electors in each ward may elect certain officers.

SEC. 5. At the first election the electors in their respective wards shall vote for one mayor of the city, three aldermen, one justice of the peace and one constable, for the ward wherein such elector may vote; and annually thereafter the electors at their respective ward elections shall vote for one mayor of the city, three aldermen, one constable, and every second year for one justice of the peace.

Qualification of electors.

SEC. 6. All white male citizens who are duly qualified to vote for county and territorial officers and have resided in said city one year, and in the ward where he may offer his vote three months next preceding such election, and all white male aliens who shall have legally declared their intentions to become citizens, of the age of twenty-one years, and who shall have resided in the said city one year, and in the ward where they propose to vote three months next previous to the election, and shall have been assessed and paid a tax upon real or personal property in said city within one year, or shall within the same time have been assessed for highway work in said city, and shall have actually performed the same, or may have been a member of a fire company in said city, and have done duty therein for at least six months next preceding such election shall be electors of said city and be entitled to vote for any of the elective officers therein.

Concerning challenges at election.

SEC. 7. Whenever any person shall present himself to give his vote, and either of the inspectors shall suspect that such person does not possess the qualifications of an elector, or if his vote shall be challenged by any elector, the inspectors of the election before receiving the vote of any such person, shall require such person to take an oath that he possesses the qualifications prescribed in the preceding section, and that he has not voted at such election. If the person offering to vote shall take such oath his vote shall be received, unless it shall be proved by evidence satisfactory to a majority of the inspectors, that he does not possess the qualifications of a voter, in which case his vote shall be rejected. And if any person shall take such oath knowing it to

be false, he shall be deemed guilty of wilful and corrupt perjury, and on conviction thereof shall suffer such punishment as is now, or shall hereafter be provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he may reside, or shall vote more than once at any one election, he shall forfeit and pay a sum not exceeding fifty dollars nor less than twenty-five dollars to be recovered in the same manner as other penalties may be recovered under this act. It shall be the duty of the inspectors of election to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any such inspector shall knowingly and corruptly receive the vote of any person not duly authorized to vote, such inspectors shall be liable to indictment, and on conviction thereof shall severally forfeit and pay for the use of the city a sum not exceeding five hundred dollars nor less than one hundred dollars.

List of challenges to be kept.

SEC. 8. The person receiving a plurality of all the votes cast in all the wards for mayor shall be the mayor; and those three persons in each ward who may receive the highest number of votes at the first election for aldermen in their respective wards shall be the aldermen for the wards so electing; and that person in each ward receiving the highest number of votes at the first election for justice of the peace shall be justice of the peace in the ward so electing; and the person in each ward receiving the highest number of votes for constable at the first election shall be a constable in the ward so electing; and at all subsequent elections the persons receiving the highest number of votes for each of the said offices respectively shall be thereby duly elected for the office for which he may have been designated by such votes. The board of trustees of the town of Milwaukee shall determine who shall have been properly elected at the first election, and the president of the board of trustees shall administer the oath of office to the first mayor, and such mayor shall administer the oath of office to the several aldermen who have been declared to be elected; and the mayor also may administer such oath to any and all officers of or within the city. All subsequent elections shall be determined on by the mayor and common council; and the new mayor in every case may be sworn into office by his predecessor

Number of votes necessary to elect certain officers

Who to determine the officers elected.

or clerk or any alderman of the board and he shall administer the oath of office to all newly elected aldermen. In case of a tie between two candidates at any election the election of one or the other of them shall be determined by lot in the presence and under the direction of the mayor and common council.

A quorum of aldermen may act.

SEC. 9. The municipal authority of the said city shall be vested in a common council, which shall consist of the mayor and aldermen as hereinafter mentioned, a majority of whom shall be a quorum for the transaction of business. The mayor shall preside in common council, and shall have a casting vote, and no other therein. The representation in the common council shall be as follows, viz: Each ward shall be represented by three aldermen; and each of the said aldermen from the several wards aforesaid, shall be entitled to one vote in the said common council. The sittings of the said common council shall be public, and the records of its proceedings shall be kept by the clerk and shall be open at all reasonable office hours, to public inspection.

Representation of wards in council.

Duty of Mayor.

SEC. 10. The mayor shall be the chief executive officer and head of the police of the city. It shall be his duty to recommend in writing to the common council, such measures as he may deem expedient. He shall maintain peace and good order, and see that the laws of the Territory and the ordinances of the city are observed and executed. He shall have power to administer oaths or affirmations and to take and certify acknowledgments of deeds and other instruments in writing. He shall nominate, and with the consent of the common council appoint, a marshal of the city and one constable in each ward, and at his pleasure remove any of said officers. In case of riot or other public disturbance, he may appoint as many special and temporary constables as he may deem proper.

Who are officers of the peace, and their powers as such.

SEC. 11. The mayor, or acting mayor, each and every alderman, justice of the peace, marshal, deputy marshal, constable and watchman, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior in a manner consistent with the ordinances of said city within the limits thereof, and for such purposes may command the assistance of all bystanders, and if need be, of all citizens and military companies; and if any person, bystander, military officer or private of such company shall refuse to aid in main-

taining the peace when so required, every such person shall forfeit and pay such fine as may be prescribed by ordinance of the common council, in such case provided. And in all cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

SEC. 12. In case of a vacancy in the office of mayor, or of his being unable to perform the duties of his office by reason of temporary or continued absence or sickness, the common council shall appoint by ballot one of their number to preside at their meetings; and the alderman so appointed shall be vested with all the powers and perform all the duties of mayor until the mayor shall resume his office, or the vacancy be filled by a new election.

Vacancy in the office of mayor: how filled.

SEC. 13. The tenure of office shall be as follows: The mayor shall hold his office one year, and until his successor shall be elected and duly qualified. The aldermen elected in the several wards, shall hold their offices for the term of one year, and until their successors shall be elected and duly qualified. The justices of the peace shall hold their offices two years and until their successors shall be elected and duly qualified. And all constables regularly elected, shall hold their offices for the term of one year and until their successors be elected or appointed and duly qualified. And in the event of a vacancy in any elective office, the same may be filled by special election to be held at such time and place as may be designated by the mayor and council; and the person so elected shall fill the vacancy during the remainder of the term for which his predecessor was elected.

Terms of officers.

Vacancy in any elective office how filled.

SEC. 14. The justices of the peace and constables elected or appointed in the several wards, shall possess all the powers and enjoy all the rights (subject to the exceptions in this act contained) of justices of the peace and constables of the towns in Milwaukee county, and shall provide the like bonds and be subject to the same liabilities; and the marshal of said city and all deputies by him appointed, shall in like manner possess all the powers, be subject to the same liabilities and enjoy the same privileges as constables in the towns in Milwaukee county, and said marshal shall file with the clerk a bond for the faithful performance of his duty, to be approved by the mayor and common council.

Powers of justices, constables and marshal defined.

SEC. 15. The common council at their first meeting, or as

Police justice to be designated. soon thereafter as may be, and afterwards whenever a vacancy shall happen, shall designate one of the justices elected within the city, to be a "police justice," who shall continue to be such police justice during his continuance in office as a justice of the peace, or until removed in the manner hereinafter provided.

Powers of police justice. SEC. 16. The police justice shall possess all the authority powers and rights of a justice of the peace and shall have sole and exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city; but warrants returnable before the police justice, may be issued in criminal cases by any other justice in the city; but no fee shall be received therefor by any other than the police justice. The police justice shall also have exclusive jurisdiction in all cases in which the city is a party, and he shall have the same power and authority in cases of contempt as a court of record: *Provided*, That nothing herein contained shall be deemed to divest the Judges of the Supreme Court of their authority as justices of the peace, nor in any manner to affect the jurisdiction or powers of the District Court of Milwaukee county.

Proviso.

How to settle for violation of ordinance. SEC. 17. In all suits for the violation of any ordinance of the city, the process may be by warrant, and it shall be enough without setting forth the special matter, to declare generally in debt, with reference to the ordinance under which the action is brought. And a printed copy of an ordinance published in a newspaper or pamphlet, by authority of the common council, shall be *prima facie* evidence of the passage and publication of such ordinance.

Salary of police justice. SEC. 18. The supervisors of the county of Milwaukee shall from time to time provide a salary for the police justice of not less than four hundred dollars nor more than eight hundred dollars for his services in criminal cases, to be paid semi annually; which salary shall not be reduced during the continuance in office of the person in whose favor the same shall have been provided: *Provided*, always, that nothing herein contained shall make it obligatory on the board to pay such salary, unless a majority of said board shall vote in favor of such payment. And for all duties arising under or growing out of the ordinances of the city (other than criminal cases) such compensation shall be allowed as from time to time may be established by the common council. The

Proviso.

taxable costs in any criminal or civil proceeding before the police justice, shall be the same as are now, or may hereafter be taxed by law in justices courts. And the police justice shall semi annually render an account of all the justice fees collected by him in any criminal case and pay the same over to the treasurer of the county of Milwaukee, for the use of said county. The police justice shall also semi annually render an account of all justice fees collected by him in any civil case in which the city is a party, and pay the same over to the treasurer of the city of Milwaukee for the use and benefit of said city.

Police justice to render account.

SEC. 19. The justices of the peace may at any time be removed from office by the common council on the complaint of any elector preferring charges of malconduct or incompetency, a copy of which complaint shall be served on the officer complained of, at least six days before the time set for the hearing. At the time appointed for the hearing thereof, said officer shall be heard by himself or counsel before the board of common council, who shall, after a fair investigation of the complaint and defence, vote for or against sustaining the complaint by ayes and noes; and if two-thirds of the votes thus given are in favor of sustaining the complaint, such justice shall thereupon be dismissed from office.

How to remove justices of the peace.

SEC. 20. In case of the temporary absence or sickness or other inability of the police justice, the common council may designate any other justice of the peace to act for the time being as police justice: and the justice so acting, shall be entitled to receive for his services, so much out of the salary of the police justice as the common council shall deem proportionate and just.

How vacancy in office of police justice supplied.

SEC. 21. The common council shall have power to appoint, and at their pleasure to remove, by a vote of a majority of the board present and acting, the following officers and such others as may be deemed necessary to carry out the powers conferred by this act on said municipal corporation, viz: One treasurer, whose duty it shall be to receive and account for all moneys paid into the treasury, keeping an account for all receipts and disbursements made on account of each ward separately; collect all taxes, make all payments and in all respects perform all duties pertaining to his said office, in such manner as may be prescribed by ordinance or directed by resolution of said common council. A clerk, to

Powers of common council to appoint officers.

record the proceedings of the board. One assessor in each ward. One chief engineer of the fire department; and as many assistant engineers as the common council may from time to time deem expedient. One attorney. One sealer of weights and measures. One or more surveyors, and so many measurers of fuel, grain, lime and other marketable articles, weighers of hay, pound masters, sextons or keepers of burial grounds, inspectors of streets, flour and provisions, and harbor masters as the common council may from time to time deem expedient; and prescribe their compensation and duties and to impose and enforce in law such penalties as to said council may seem expedient and proper for any malfeasance or improper conduct of any of said officers and to require bonds for the faithful performance of the duties of such of them as may be deemed necessary and proper by said council.

SEC. 22. The common council shall have authority to preserve order and propriety in its proceedings, and to punish in a summary manner by fine and imprisonment, all disorderly, disrespectful or contumacious conduct in its presence, and also to compel by pecuniary penalties the attendance of its members and officers, and all monies received under the provisions of this section may be used by the common council as it may deem proper.

SEC. 23. No member of the common council shall be a party to, or interested in any contract or job with the city; and any contract in which any member of the common council may be so interested notwithstanding this prohibition shall be null and void and of no force against said city as a party thereto.

SEC. 24. The common council shall have power to enact, establish, publish, enforce, alter, modify, amend or repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of fires and for the benefit of the trade, commerce and health thereof as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law: *Provided*, that they be not repugnant to the constitution and laws of the United States or of this

Common council empowered to preserve order.

No member of common council to be interested in contract with city.

Power of common council to enact, &c. ordinances, &c.

Proviso.

Territory, and for those purposes shall have authority by ordinance or by-laws: Powers of city corporation.

I. To establish rates for and license and regulate taverns, groceries and victualling houses, and all persons retailing or dealing in spiritous, vinous or fermented liquors, and to license and regulate the exhibitions of common showmen or shows of any kind, or the exhibition of any natural or artificial curiosities, caravans, circusses or theatrical performances, and to provide for the abatement or removal of all nuisances, under the ordinances or at common law.

II. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice, or other games of chance for the purpose of gaming in said city.

III. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceies, houses of ill fame, billiard tables, nine or ten pin alleys or tables, shows and exhibitions, and to authorize the destruction of all instruments used for the purpose of gaming.

IV. To compel the owner or occupant of any grocery, cellar, tallow chandler 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 it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

V. To direct the location and management of all slaughter houses and markets, to establish rates for and license venders of gunpowder and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

VI. To prevent the encumbering of the streets, side walks, lanes or alleys with carriages, carts, wagons, sleighs, sleds, boxes, lumber, fire wood or any other materials or substances whatever.

VII. To prevent horse racing, immoderate riding or driving in the streets and regulate the places of bathing and swimming in the waters within the limits of said city.

VIII. To restrain the running at large of cattle, swine, sheep, poultry and geese and to authorize the distraining and sale of the same.

IX. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance.

X. To prevent any person from bringing, depositing or having within said city any putrid carcass, or any unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance or any 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.

XI. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of said city or any ward therein, to erect lamps, and regulate, and license hacks, cabs, drays, carts and the charges of hackmen, cabmen, draymen and cartmen within the city.

XII. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the return of the bills of mortality, and to exempt burying grounds and grounds set apart for the public use from taxation.

XIII. To regulate the procuring of fire buckets and the purchase of fire engines, and to preserve said city from injuries by fire and to prescribe and regulate the materials of which houses may be built within the fire limits, and the manner of erecting and securing chimneys, and to provide for removing chimneys which may be deemed dangerous and to require and provide for the building of new chimneys where deemed necessary at the expense of the owners or occupants of buildings when the same may be required.

XIV. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

XV. To establish fire limits.

XVI. To regulate the building of wharves, bridges, mill races and canals, and provide for the security and protection of the same.

XVII. To prevent all persons riding or driving any horse, ox, mule, cattle, or other animal on the side walks in said city, or in any way doing any damage to such side walks.

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

XIX. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and provide for arresting, removing and punishing any person or persons who may be guilty of the same.

XX. To restrain and regulate runners or solicitors for boats, vessels, stages, public houses or other establishments; to regulate the police of the city, to appoint watchmen and firemen, prescribe their duties and to punish their delinquencies.

XXI. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

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

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

XXIV. To compel the owner or occupant of any building or ground to remove the snow, dirt or rubbish from the side walk, street or alley opposite thereto; and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

SEC. 25. In all cases in relation to which, by the provisions of this act, the common council have power to enact or pass ordinances or by-laws in relation to any subject, they may prescribe any penalty for the violation of such ordinance or by-law not exceeding fifty dollars, for any one offence in the violation or non-observance thereof; and may also provide that in default of payment of any judgment rendered for such violation or non-observance, the offender shall be imprisoned for such term as they may by such ordinance direct, not exceeding thirty days, for which purpose the said city shall have the use of the jail of Milwaukee county, for the imprisonment of any person liable to be imprisoned, and all persons committed to said jail by the marshal or any other officer, shall be under the charge of the sheriff of said

Power of common council to pass ordinances, &c. and prescribe penalties.

county: *Provided*, said city shall pay the expense of keeping and maintaining such prisoners.

Direction how execution upon judgment issued.

SEC. 26. Every execution issued upon judgment for the violation of any ordinance or by-law of the city, shall contain a clause directing in the event of the non-payment of the judgment the imprisonment of the defendant in the county jail for such term as shall have been provided by the ordinance under which the judgment shall have been rendered.

Wards how constituted.

SEC. 27. Each ward in said city shall constitute and be a separate township or town under the laws regulating town and county government; and as such, shall have and enjoy all the rights privileges and powers of towns in the county of Milwaukee; and the three aldermen of each ward shall be and hereby are declared ex-officio supervisors of such towns, and as such, they are hereby empowered to act for all town purposes; and one of their number shall annually be appointed by themselves who shall be the chairman of supervisors, to meet with and act in the county board of supervisors, in the same manner and with the same rights and powers as is or may by law be prescribed and exercised by other members of said county board.

1b.

SEC. 28. Each ward in said city shall constitute one school district; and the office of school commissioner shall be merged in that of alderman; and they shall exercise all the powers and duties which by law are or may be conferred or imposed on boards of school commissioners; and further, that the other town officers which are or may be provided by law to be elected annually in the towns, be and the same are hereby declared to be inapplicable to the several town governments in the said wards; the same being merged in and superceded by the powers of local government, which by this act are conferred on the city authorities or on the aldermen as supervisors of the wards; and so much of the township or town of Milwaukee as falls within the aforesaid city limits, be and the same is hereby excluded from the same; and the remainder of said town as now organized, shall be and constitute a town as heretofore, by the name of the town of Milwaukee, for all purposes of town and county government.

Common council to lay out highways, &c.

SEC. 29. The common council shall have power and authority to lay out new highways, streets, alleys and public walks, and to vacate such highways, streets, alleys and public walks as in their

opinion shall not be of public utility; to regulate, grade, pave and improve streets, avenues, lanes and alleys, and to extend, open, and widen the same within the limits of the city, making the person or persons injured thereby, adequate compensation; to ascertain which, the common council shall cause to be summoned twelve good and lawful freeholders, inhabitants of said city, (not directly interested) who being duly sworn for that purpose, shall inquire into, and take the same into consideration, as well the benefit as the injury which may accrue, and estimate and assess the damage which would be sustained by reason of the laying out, opening, extension or widening of any street, avenue, alley or public walk, as aforesaid, and shall moreover, estimate the amount which other property shall be benefitted thereby; all of which shall be returned to the common council under their hands and seals, and the property so assessed shall be liable for the payment of the same in such manner as other taxes are payable; and the residue, if any, shall be paid out of the city treasury on account of the ward where such improvement shall be made.

Concerning damages for opening streets.

SEC. 30. The common council shall have power to cause to be graded, gravelled and paved, the side walks on any street or part of street, and to levy and collect a special tax on the lots or owners thereof, fronting on the side walk so constructed, in proportion to the fronts of such lots respectively, on each side walk, for the purpose of defraying the cost of the same, in addition to the ordinary tax authorized by this act, to be levied for general purposes to be collected in the same manner as other taxes are authorized to be collected.

Concerning sidewalks.

SEC. 31. The common council shall have power to levy and collect annually a tax (for general ward purposes, including making, grading, graveling and paving streets) on all such real and personal property as may by law be liable in Milwaukee county for county purposes, not exceeding one per centum of the assessed value thereof, and also levy and collect annually a tax of one per centum of the assessed value thereof on all real estate exclusive of the value of all buildings thereon, to be applied in payment of the debts which have been contracted by the president and trustees of the town of Milwaukee, and on behalf of the two wards which were due or owing on the last day of December, 1844, by the two wards of the town of Milwaukee, as heretofore incorporated. Said tax to continue in the first and

Power to levy and collect taxes and for what purposes

third wards until the debts of the east ward of said town shall have been paid, and in the second and fourth wards until the debts of the west ward shall be paid, and also to levy and collect annually such further amount of tax as the aldermen of the several wards separately, shall deem necessary for school purposes, and collectively for the support of the poor in said city, not exceeding one quarter of one per centum for each of said purposes, of the assessed value of the real and personal property returned in the annual assessment for general purposes, and also such further tax for county purposes as may be established by the county board of supervisors, pro rata with the other towns in the county, agreeably to the value of property, and in accordance with the general laws on the subject, and also a tax not exceeding one quarter of one per centum on the aggregate valuation of property in all the wards as may be determined on by a majority of that board, for preserving the health and regulating the police of the city, and also a tax on each of the wards not exceeding the half of one per cent. on the valuation as aforesaid, for the purpose of building and maintaining bridges in addition to the taxes authorized by this act, a majority of the aldermen concurring in the ward wherein the tax is proposed to be raised: *Provided*, That so much of sections nineteen and thirty as are included in the city limits be exempt from any tax levied for the purpose of paying the debts of the west ward, contracted previous to the taking effect of this act: *And provided further*, That all those parts of sections nineteen, thirty, thirty-one and thirty-two, included within said city limits, that are used for farming purposes, or not laid out into city lots, or for town or city purposes, be exempt from all taxes authorized by this act, except for schools, poor or highway taxes.

SEC. 32. Whenever a majority of such of the voters of the first, second, third and fourth wards as have been assessed and actually paid tax on real and personal estate, within either of the said wards, during any preceding year, shall vote at a meeting called for that purpose, to raise a tax for the purpose of constructing a harbor at the site recommended by Lieutenants Center and Rose, and for dredging the Milwaukee river, it shall be lawful for the said common council to levy a tax in addition to the ordinary axes, on all the real and personal estate within the limits of the aforesaid wards, sufficient to defray the expenses thereof, which

When harbor
may be con-
structed.

tax shall be collected in the same manner as other taxes are collected by virtue of this act.

SEC. 33. There shall be two days work performed annually on the highways, streets and alleys by each male person who by the laws of the Territory is subject to perform highway work.— Such person to perform such labor within the ward where he resides, under the direction of such road commissioner or inspector as the common council may appoint, but any such person may at his option pay at the rate of seventy-five cents per day for every day he may be so bound to labor, and in default of the payment of such money, or the performance of such labor, the road commissioner or overseer, or such person as the common council may appoint, may sue for and collect such money by action of debt, in the name of the "City of Milwaukee," with twenty-five per cent. damages on the same, together with all the costs of suit, before the police justice, and in all such cases the process shall be by warrant, and no stay of execution upon any judgment rendered on such suit, nor shall any property of the defendant be exempt from being taken to satisfy such judgment and costs.

SEC. 34. It shall be the duty of each assessor, to make out, in the month of May, annually, a list of all taxable property within the ward for which he was appointed, with such a clear and definite description, that the property and owner thereof may be known as nearly as practicable, and shall set opposite to each lot or part of a lot or piece of land, or other thing, article, or commodity in such list contained, the actual cash value thereof, as nearly as said assessor can determine, and said assessment roll shall be returned in the month of May, or such time as the common council may prescribe, to the clerk, with an affidavit of the assessor (or) of the taxable property in the ward for which he was appointed.

SEC. 35. It shall be the duty of the clerk annually upon receiving the assessment roll as aforesaid to lay the same before the common council for their consideration, and the said council shall be a board of equalization to consider the valuation of property in the several lists of assessments, and if deemed necessary, make such amendments, corrections, and alterations, as to them may seem proper and necessary to produce equality of assessment, agreeably to the true value of property comparatively, in the sev-

Equalization
of assessment.

Tax to be levied.

eral wards; and after such equalization shall have been completed, a rate per centum on the amount of assessment in each ward shall be levied as a tax, for the several purposes hereinafter mentioned, which shall be determined on by a majority of the aldermen of such ward, except for county tax, general tax, and the tax for the payment of ward debts, and for county purposes, a tax shall be levied by the supervisors of the county on the assessment of other towns in the county, and when the said common council and supervisors shall have determined the rate per centum to be taxed on the assessed value of property as contained in the assessment roll as aforesaid, it shall be the duty of the clerk, under the direction of the council, to make out in accordance with such determination, a schedule of all the property, in each ward separately, as contained in said assessment roll, annexing to each lot or other item of property, in separate columns, the amount of tax which will be chargeable on the same for the several district purposes by this act authorized, which schedule shall be called the tax list, and shall be recorded by said clerk, for each ward separately, in a book to be by him kept for that purpose, and said tax list or the record thereof, shall, either of them, be conclusive evidence of the amount of taxes assessed for the current year in which the same shall be made out.

Tax list.

SEC. 36. It shall be the duty of the clerk to complete the tax lists of each ward within such time as may be prescribed by the common council as aforesaid, and deliver the same to the treasurer of the city, together with the warrant of said council for collecting the same, and make a record of such delivery in the book where such list shall be recorded, or in the book containing the proceedings of the common council, which record shall be conclusive evidence of such delivery, and the tax so assessed on real estate, shall be a lien in preference to any other lien on estate so taxed, until the same shall be paid or satisfied, together with all costs and charges which may accrue thereon agreeably to law.

Tax Warrant

SEC. 37. Upon receipt of the tax lists as aforesaid, it shall be the duty of the treasurer of said city, (who shall be the collector for all the wards) to give public notice in some newspaper printed in said city, that such tax lists have been committed to him for the purpose of collecting the taxes thereon, and that he will receive payment of taxes at his office until the last day of December then

Tax to be lien on real estate until paid.

Relative to the collection of taxes.

ensuing, and said notice shall also state the time and place when and where he will sell all lots and lands in said lists contained, upon which the taxes remain unpaid at such time, or so much thereof as will pay and satisfy all taxes which may be assessed thereon, together with all costs and other liabilities which shall accrue according to law, by advertisement and sale; and said notice shall be published six successive weeks, between the last day of September and the last day of December in the year of said notice.

Six weeks notice of sale to be published.

SEC. 38. In case the tax on any real estate in said tax lists contained shall remain unpaid after the last day of December next ensuing the publication of said notice, the treasurer shall, on the second Monday of January next ensuing, commence the sale of said real estate, and continue the same from day to day until so much thereof shall be sold as will pay the taxes, interest and charges due, assessed and charged thereon, agreeably to this act, and the treasurer shall give to the purchaser or purchasers of any such real estate a certificate describing the particular lots or lands by him or them purchased, stating the sum paid therefor and the time when the purchaser will be entitled to a deed for the same lots or lands; and if the person claiming the title to the said lots of lands described in said certificate shall not within three years from the date thereof pay to the treasurer for the use of the purchaser, his heirs or assigns, the sum mentioned in said certificate, together with interest thereon [at] the rate of twenty-five per centum per annum, from the date of such certificate, then it shall be the duty of the treasurer of the city for the time being, after the expiration of the said three years, to execute to the purchaser, his heirs and assigns, on presentation of such certificate, a conveyance by deed, of the lots or lands so sold, which conveyance shall vest in the person or persons to whom it shall be given, an absolute estate in fee simple, and the said conveyance shall be prima facie evidence that the sale and all the proceedings in levying the taxes, advertising the same and making such sale, were regular according to the provisions of this act; and every such conveyance shall be executed by the treasurer under his hand and the seal of the city, in the name and on behalf of the city of Milwaukee, and may be given in evidence, and recorded in the same manner and with like effect, as a deed regularly acknowledged by

Sale for taxes when.

When lots may be redeemed, &c.

the grantor may be given in evidence and recorded: *Provided*, that in cases of assessment of taxes in gross upon any lot or piece of land, the treasurer, upon the application of any claimant or owner of a part thereof, either divided or undivided, shall receive the taxes on such part, either in payment or redemption, with the interest and charges thereon, proportionate to the quantity of such lot or tract so claimed or owned, and the remainder of such taxes, interest, and charges shall be a lien only on the remainder of such lot or piece of land. The treasurer is hereby authorized to give certificates of redemption, and to execute the deeds in the manner herein presented for all lands sold for taxes levied by the president and trustees of the town of Milwaukee as heretofore incorporated, and such deeds or certificates shall have the same force and effect as the deeds and certificates given for sale by such treasurer.

Fees of treasurer.

SEC. 39. It shall be lawful for the treasurer to demand and receive the following fees, viz: For each certificate to be given to a purchaser at tax sale of any lot or piece of land or part thereof, ten cents; and one dollar for each deed executed by him in pursuance of this act embracing not more than four lots or pieces of land, and five cents in addition thereto for each lot or piece of land included in said deed; and the treasurer is hereby required to include in one deed as many lots or pieces of land as shall be demanded by any holder of certificates on presentation of the certificates as aforesaid.

Concerning redemption of taxes.

SEC. 40. If any person holding the certificate of purchase of any lot or piece of land in pursuance of this act, shall pay any tax levied subsequent to the purchase of such lot or piece of land, the owner or other claimant who may redeem such lot or piece of land, who shall pay the amount of such tax with interest at the rate of twenty-five per centum per annum from the date of such payment, for the benefit of such holder of the certificate.

Lien of taxes.

SEC. 41. Taxes upon real estate shall be a lien upon the estate taxed, and it shall be the duty of the treasurer upon receiving the tax lists and warrants immediately to proceed in the collection of the same.

Sale by distress to collect taxes when.

SEC. 42. In case any person shall neglect to pay any tax assessed on his personal property, after the publication of the notice herein mentioned, the treasurer shall proceed to levy the

same by distress and sale of the goods and chattels of the person who ought to pay the same, or if any goods and chattels found in his possession within the city of Milwaukee, and no claim of property to be made thereto by any other person shall be available to prevent a sale.

SEC. 43. The treasurer shall give public notice of the time and place for sale, with a description of the property to be sold, at least six days previous to the sale, by advertisements, to be posted up in three public places in the city of Milwaukee, and the sale shall be by public auction.

SEC. 44. If the property distrained shall be sold for more than the amount of the tax and the legal charges thereon, the surplus shall be returned to the person in whose possession such property was found when the distress was made, if no claim be made to such surplus by any other person. If any other person shall claim such surplus on the ground that the property belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, such surplus moneys shall be retained by the treasurer until the rights of the parties are determined by due course of law.

SEC. 45. In case any person upon whom personal property shall be assessed shall have removed out of the city of Milwaukee after such assessment and before such tax ought by this act to have been collected, it shall be lawful for the treasurer to levy and collect such tax by distress on the goods and chattels of the person so assessed in any town within the county of Milwaukee to which such shall have removed or in which he may reside.

SEC. 46. Any person who shall resist any levy made by the treasurer for the payment of any tax as aforesaid, shall be dealt with in the same manner as is or may be provided by law for resisting process in the hands of sheriffs, or constables.

SEC. 47. Six months previous to the time limited by this act for redeeming lots or lands sold for taxes, it shall be the duty of the treasurer of said city to publish at least twelve weeks successively in some newspaper or newspapers printed in said city, a list of all unredeemed lots or lands, describing each lot or piece of land, or any part thereof, as the same was assessed and sold, to

Twelve weeks notice to be published of the time when lots will be forfeited for taxes.

gether with a notice to all interested therein, of the time when the same will become forfeited, and the common council of the said city shall fix and determine the amount which shall be paid for printing such advertisements, and for other expenses consequent thereon, and direct their clerk to add the expense so fixed and determined, to the tax which may be levied on each of said lots for the year (or the year succeeding) in which such advertisement shall be made; and such additional tax shall be collected and paid into the treasury at the same time, and in the same manner as the general tax on said lots or lands for the same year are returned to be paid, agreeably to the provisions of this act.

Majority of aldermen to determine what tax may be levied.

SEC. 48. No tax shall be levied in either ward of said city for any purpose whatever (except for county purposes, general city purposes, or for the purpose of paying the debts of the wards, as aforesaid) without the concurrence of a majority of the aldermen who shall have been elected in said ward, and for any purpose of improvement which is local in its nature, and pertains to any ward, it shall be the duty of the common council to levy such tax, consistent with this act, as shall be determined on by a majority of the aldermen who shall have been elected by the ward for the benefit of which such improvements are proposed to be made.

When corporation may borrow money

SEC. 49. The common council of said city shall not borrow any money on the credit of the corporation unless authorized by a vote by ballot of at least two-thirds of the electors present and voting at any authorized election in said city, who shall have been assessed and have actually paid a tax on real and personal estate the year preceding such vote, except in anticipation, and not exceeding the amount of the revenue of the year in which such loan shall be made. If any loan be made to promote the measures of any ward with local improvements or policy of such ward, no liability for the payment of any debt so incurred shall devolve on any other ward, nor the property or citizens thereof. And if any loan be made for the general purposes of the city, by a majority of the common council, no liability for the payment of the same shall devolve on any ward, nor the property or citizens thereof, unless at least a majority of the aldermen of such ward shall have voted in favor of such loan; but all these wards, the aldermen of which shall have voted for the loan, shall be liable in their corporate capacity for the payment of the same in proportion

to the assessed value in each respectively according to the assessment made for general purposes when the same or any part thereof shall become due and payable, but no personal liabilities shall attach to any citizen for the payment of city debts, and on all votes taken for the purpose of making loans, raising taxes, and making appropriations for the expenditure of money for any purpose whatever, the vote in common council shall be taken by ayes and noes, calling the names of members in the order of the number of the wards, and it shall be the duty of the clerk to keep a record of all the ayes and noes so called, which record shall be conclusive evidence of the state of the vote: *Provided*, that in the levying of taxes, or for the purpose of authorizing a loan for one ward, or making appropriations within and on behalf of one ward, the vote of a majority of the aldermen of such ward shall be conclusive in deciding the question and none others are required to be called by ayes and noes. Proviso.

SEC. 50. The city authorities by this act created, shall have power to fund the debts which were due and owing on the last day of December, 1845, with such rate of interest as may be deemed proper, not exceeding ten per centum per annum, and payable by each of the wards of said city in the proportion heretofore mentioned, and nothing in this act shall be so construed as to make one of the wards as designated by this act liable for any debt contracted on or in behalf of any other ward other than in the apportionment of the debts of the town of Milwaukee, as hereinbefore is provided, or may be contracted for the separate benefit thereof shall rest alone on the ward so contracting and the improvements in each ward, the disbursements of the corporate funds therein and management of the local affairs thereof shall be under the sole supervision, control and direction of the aldermen thereof. Powers of city authorities to fund the debts of 1845.

SEC. 51. In all questions of a general nature affecting all the wards, or not peculiarly affecting any one ward, (except for the preservation of the health or regulation of the police of the city) the vote shall be taken by ayes and noes, and determined by two-thirds of the votes of the entire board of common council in the affirmative, but on all questions on the passage of ordinances, rules, by-laws or regulations of any kind touching the police, health, peace and good order of the city, a majority of the members present and acting at any board shall determine the question; How votes to be taken on questions of a general nature

and the city board acting as such, shall have power to levy and disburse the fund which may be raised expressly for general city purposes by taxation not exceeding one quarter of one per cent. per annum on the total of the tax assessments: *Provided*, that every such levy and disbursement shall have the concurrence of a majority of the entire board of common council.

Proviso.

When special elections may be held.

Sec. 52. If any election provided for in this act, shall for any cause, not be held at the time prescribed, it shall not be considered a sufficient reason for arresting, suspending, or absolving the said corporation; but such election may be held at any time thereafter, by order of the common council, of which time ten days' public notice shall be given; and further, if any of the duties enjoined by this act to be done by any officer at a time herein specified, are not then done, the common council may appoint another time upon which the said duties may be done: *Provided*, that the officer so failing to execute such duties at the time by this act required, shall be liable to the same actions, fines and penalties as he would be liable to if the said council had not the power to appoint another time.

Proviso.

Service of process against corporation.

Sec. 53. When any action or suit shall be commenced against said city, the service thereof may be made by leaving a copy of the process, attested by the proper officer, with the mayor or clerk, and it shall be the duty of the mayor or clerk on whom such process may have been served, forthwith to inform the common council thereof, or take such other proceedings as by ordinance of said council may have been in such cases provided.

Ordinances to be published.

Sec. 54. Any ordinance, regulation, rule or by-law, imposing any penalty or forfeiture for violation of its provisions shall be published one week in some newspaper printed in said city, before the same shall be in force; and proof of such publication by the affidavit of the printer or foreman in the office of the newspaper where such publication may have been made, shall be the conclusive evidence of the promulgation of such ordinance; regulation; rule or by-law, in all courts and places.

Sec. 55. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any action or proceeding in which said city is a party or interested.

Sec. 56. The clerk and treasurer of the town of Milwaukee;

as now organized, shall transfer all the books, papers and moneys which may be in their hands, to the clerk and treasurer who may be appointed agreeably to this act, and all the acts, ordinances, rules or by-laws of said town of Milwaukee, which are or may be in force at the time when this act shall take effect, shall be unimpaired and remain in force until repealed by the common council.

Books &c. of the town of Milwaukee to be transferred.

Sec. 57. The council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulation of the same, and to disband such companies at any time, and prohibit their meeting as such, when so disbanded; each company not to exceed forty bodied men, between the age of eighteen and fifty years, which companies shall be officered and governed by their own by-laws: *Provided*, such by-laws be not inconsistent with the laws of this Territory, or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistments. Every member of each company shall be exempt from highway work and militia duty; and whenever a member of each company shall have served therein seven years, he shall receive a discharge signed by the mayor, and shall thereafter be exempt from militia duty, except in case of insurrection or invasion. Every member of a volunteer military company shall be exempt from highway duty, and whenever a member shall have served in such military company seven years, shall be entitled to a discharge signed by the mayor, and be exempt from military duty, except in cases of insurrection or invasion, if not in conflict with any existing law.

Fire companies may be formed and regulated.

Sec. 58. That the corporation of the city of Milwaukee shall have power to pass ordinances imposing penalties against the owners and masters of vessels, or the vessels themselves, for any wilful or malicious injuries done by their vessel or vessels to any of the bridges, and to enforce the same in an action of debt and by imprisonment, as in the case of other ordinances.

Penalties for injury to bridges.

Sec. 59. That for every wilful or malicious injury done to any bridges, authorized by the act of the Legislature at the session of 1844 and 1845, or that may hereafter be adopted by the mutual assent of the wards in said city, by any vessel or craft navigating the Milwaukee river, said vessel or craft shall be liable in an action by warrant, in the name of the city of Milwaukee for

Penalties how collected.

all such damage and injury, to be enforced according to the provisions of "an act to provide for the collection of demands against boats and vessels," in the Revised Statutes.

Powers reserved by the legislature.

SEC. 60. This act may be altered, amended or repealed by the Legislature, and the act entitled an act to change the corporate limits and powers of Milwaukie, and all acts amendatory thereof, are hereby repealed. Such repeal to take effect at the time when this act becomes operative: *Provided*, That all rights and remedies incurred or accruing under any of said acts or under any ordinance passed agreeably thereto, shall remain and be in favor of or against said city, in the same manner as the same would have been for or against said town, if this act had not been passed.

What property exempt from execution.

SEC. 61. The following property, now, or at any time hereafter belonging to the city of Milwaukie, or either of the wards thereof, shall be exempt from levy or sale under any execution, viz: All engine houses, hook and ladder houses, together with the grounds or lots, on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hoze or any other fire apparatus used by any company created or authorized by the common council of said city: *Provided*, That nothing herein contained shall exempt any of the aforesaid property from levy and sale on any execution forfeited on judgment rendered in favor of any person or persons who may have furnished any such fire apparatus on the credit of the city of Milwaukee, or either of the wards thereof.

Concerning public buildings.

SEC. 62. The city of Milwaukie, or either of the wards thereof, shall have power to lease, purchase and hold real or personal estate, sufficient for the convenience of the inhabitants of said city, in the erection of market houses and other public buildings, and for other purposes, and may sell and convey the same at pleasure.

SEC. 63. This act shall be a public act, and shall be construed favorably in all courts and places, and shall take effect and be in force from and after its passage.

APPROVED January 31st, 1846.

Chap. 313

An Act to appropriate to the County of Rock, the sum herein named.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Sum appropriated.

SECTION 1. There is hereby appropriated out of any money in the treasury not otherwise appropriated, the sum of one hundred and six dollars and eighty cents, to be paid to the treasurer of the county of Rock, in full for keeping and maintaining Thomas H. Dodson, a state convict, for the term of forty-two weeks, prior to and up to the twelfth day of November, one thousand eight hundred and fifty.

FREDERICK W. HORN,
Speaker of the Assembly.

DUNCAN C. REED,
President pro tempore of the Senate.

Approved, March 15th, 1851.

NELSON DEWEY.

Chap. 314

An Act to incorporate the City of Milwaukee.

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Boundaries.

SECTION 1. That the district of country included within the following limits and boundaries in township numbered seven, of range numbered twenty-two east, in the county of Milwaukee, to wit: Beginning on the lake shore, in the northerly part of Milwaukee Bay, where it is intersected by the section line running east and west on the north side of section numbered twenty-two, thence west along said line $5\frac{32}{100}$ chains to the quarter section post between sections fifteen and twenty two, thence north on quarter section line, twenty chains to the north-east corner of the south-east quarter of the south-west quarter of said section fifteen, thence west to the north-west corner of said quarter quarter section, thence south to the south-west corner of said quarter quarter section, so as to include the Alms House farm, thence west along said section line and the north line of section twenty-one and section twenty, to the quarter post on the north line of section twenty, thence south along the quarter section line to the centre of said section numbered twenty, thence west along the quarter section line in said section numbered twenty, and section numbered nineteen, to the west line of said township and range, thence south along the said range line to the north boundary line of township numbered six, thence east along said north line to the lake shore in the southerly part of Milwaukee Bay, thence from a point

therein in range with the south side of the south pier of the government harbor, the line shall diverge and run south easterly in a direct line to and along the south side of said pier to the further extremity thereof, and five hundred feet beyond, and from thence due east to the eastern boundary of the State in Lake Michigan, thence north to a point opposite the place or point of beginning, thence west to the place or point of beginning, shall be a city, by the name of "Milwaukee," and the people now inhabiting, and those who shall hereafter inhabit within the district of country hereinbefore described, shall be a municipal corporation, by the name of the "City of Milwaukee," and shall have the general powers possessed by cities, at the common law; and in addition thereto shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

SEC. 2. For the better government of the said city, the district of country comprised in the limits described in the first section of this act, shall be divided into five wards, as follows: All that part of said district which lies east of the middle of Milwaukee river and north of the middle of Wisconsin street, shall be the first ward; all that part of the said district which lies west of the middle of Milwaukee river, and north of the middle of Cedar street, and its extension to the west line of the city, shall be the second ward; all that part of the said district which lies east of the middle of the said river, and south of the middle of Wisconsin street, shall be the third ward; all that part of the said district which lies west of the middle of said river, south of the middle of Cedar street, and within sections numbered twenty-nine and thirty, shall be the fourth ward, and the residue of said city shall be the fifth ward.

SEC. 3. On the third Tuesday of May next, and on the first Tuesday of April in each year thereafter, the male persons who are qualified by the constitution of this State to vote for State and county officers, and who have resided within the city one year, and within the ward where they shall propose to vote ten days next preceding any election, may, within their wards, at such places as may be designated by the present Common Council for the said first election to be held on the third Tuesday of May next, and by the Select and Common Councils for the elections thereafter, vote for one Mayor, one Treasurer, one Marshal, and one Attorney for the city; and for the ward in which they vote, one Alderman, to represent said ward in

and to be a member of the Select Council of said city, three Aldermen to represent said ward in and to be members of the Common Council of said city; one Constable, one Street Inspector, and three Assessors of Taxes for said ward; and at the election to be held on the first Tuesday of April, in the year of our Lord one thousand eight hundred and fifty-two, and at the election to be held each second year thereafter, in and for each ward one Justice of the Peace.

Aldermen to be inspectors of elections.

SEC. 4. The elections in said city shall be held and conducted by the Aldermen of the Common Council of each ward, who shall be the inspectors of elections, and shall take the usual oaths or affirmations as prescribed by the general election laws of this State to be taken by the Judges and Inspectors of elections, and shall have power to appoint Clerks of such elections, and to administer the necessary oaths. Said election shall be held and conducted in the same manner and under the same penalties, and vacancies in the boards of Inspectors thereof filled as required, directed and specified in the laws of this State regulating elections.

Elections—how conducted.

When oath to be taken.

SEC. 5. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote be challenged by an elector, the inspector before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age, that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States, on the subject of naturalization) that you have resided within this city one year and within this ward ten days next preceding this election and that you have not voted at this election;" and if the person offering to vote shall take such oath his vote shall be received. And if such person shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person, who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to an indictment and on conviction thereof shall forfeit and pay a sum not exceeding one hundred dollars or less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid and who shall swear in their votes; and if any inspector shall knowingly and corruptly receive the vote of any person not duly authorised to vote, or shall make out false returns

Penalty for illegal voting.

Inspectors to keep a list of challeng'd votes

of an election, or any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect count and tallies of votes, each and every such inspector and clerk shall be liable to indictment and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars and not less than one hundred dollars. All such indictments shall be tried in the circuit court of the county of Milwaukee, and all the penalties imposed by this section shall be for the benefit of the poor of said city.

Inspectors and Clerks—Penalties for malfeasance.

SEC. 6. When an election shall be closed and the number of votes for each candidate or person voted for, shall be counted and ascertained, the said inspectors shall prepare and make under their respective hands and seals duplicate returns thereof stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such returns to the select and Common Councils at the times and places appointed for them respectively to meet and receive the same; and within twenty-four hours after the election of Aldermen the inspectors holding such election shall give notice in writing to each of said Aldermen elected of their respective elections.

Inspectors to make duplicate returns to council, and give notice to aldermen elected

SEC. 7. The person receiving the highest number of votes at an election for any office created by this act shall be declared duly elected to said office; and in case of a tie or even number of votes having been given to two persons for the same office a new election shall be ordered and held. Every person elected or appointed to office in pursuance of this act shall hold his said office and discharge the duties thereof, for one year, (except Justices of the Peace who shall hold for two years) unless removed therefrom, and until his successor shall be duly elected or appointed and qualified. Persons elected or appointed to fill vacancies shall hold their said offices and discharge the duties thereof for the term of and according to the conditions, with the same rights, and subject to the same penalties as the person whose office they may be elected or appointed to fill.

Plurality to elect

Term of office.

SEC. 8. Special elections to fill vacancies in any office or for any other purpose shall be held and conducted by the Aldermen of the Common Council, in and for each ward in the same manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

Special Elections, how made

SEC. 9. The Select Council of said city shall be composed of one Alderman from each ward, and the Common Council shall be composed of three Alderman from each ward.

Select Common Councils.

SEC. 10. The Aldermen elected to the Select and Com-

Separate Councils—time of meeting, &c.

Common Councils shall meet at such place in said city as the said Councils, each for its own body, may after the first election agree upon, and afterwards at such place as by ordinance duly passed may be fixed for that purpose, between the hours of ten and twelve of the clock in the forenoon on the Monday following each and every election of Aldermen, and after organizing each council temporarily, by selecting one for Chairman and one for Secretary, shall then and there receive the returns of their election as aforesaid, and shall forthwith proceed to examine the same and to judge and determine thereon; and for that purpose the said Aldermen elected to the Select and Common Councils respectively, or a majority of them, shall be judges of their own elections, and shall have full power and authority to approve thereof or to set aside the same.

Aldermen to be Judges of Election.

Aldermen to take oath, &c.

SEC. 11. Each and every Alderman elected to the Select and Common Councils, returned and chosen in the manner aforesaid, and whose election shall be so as aforesaid approved of, shall, before he enters on the execution of his office, take a solemn oath or affirmation before some person competent to administer oaths, "well and faithfully to execute the office of Alderman of the Select Council, or of the Common Council, (as the case may be,) of the city of Milwaukee;" and shall thereupon enter upon the duties thereof.

Each Council to elect necessary officers

SEC. 12. When the elections of the said Alderman, or of a majority thereof, in each Council, shall be so as aforesaid approved, each of the said Councils shall elect one member thereof to be the President thereof; and each Council shall elect a Secretary and such other officers as may be deemed necessary. Provided, that the same persons may be elected the Secretary and other officers of both Councils. And in case of a vacancy in any of said offices at any time, or in case of the absence or inability of the said officers to act, the said vacancy may be filled by the election of another person to such vacant office, either permanently or temporarily as the case may require.

Provide:

Vacancies—how filled.

Duties of Council in Convention.

SEC. 13. The said Select and Common Councils, when organized as aforesaid, shall on the same or some subsequent day meet in convention, and add up and pass upon the returns from the several wards of the votes given at the previous election for the offices of Mayor, Treasurer, Marshal and Attorney of the city, and also for all the officers authorised by this act to be elected in and for the several wards. And as such Judges of such elections shall pass upon and decide the legality or illegality of the same, and shall declare the person having the highest number of legal votes for any particular office, to be duly elected to such office. And the like proceedings shall be had after any special election to fill any vacancy in any of

the offices created by this act, or for any other purpose, at such time or times as the said Councils shall direct.

SEC. 14. The said select and common councils shall at all times have a separate and distinct organisation. They shall not hold their sessions for the transaction of business on the same day, unless for extraordinary causes, which shall be entered upon their respective journals. Each council may authorise and appoint as many joint committees, standing committees and special committees as may be deemed necessary or expedient. Each council may adopt rules for its own government and proceedings. One council shall not adjourn for a longer term than four weeks without the consent of the other. A majority of each council shall be a quorum for the transaction of business, but a smaller [number] may adjourn. Their sessions shall be open and public. Their proceedings shall be recorded, and all their papers, and all election returns shall be filed by their Secretaries; and the same may be examined at any time in the presence of the Secretary. Each member may have one vote on any one question and no more. The yeas and nays may be required at any time by one member, and on all questions, ordinances or resolutions for assessing taxes, or for the appropriation or disbursement of money, the vote shall be taken by yeas and nays and duly entered on the journal of proceedings. Each council may punish by fine its members, or other persons present for disorderly behavior; and may dismiss a member for neglecting his duties as such member, or for unnecessary absence from the sessions of council. At all elections by either council, or in convention of councils the vote shall be given *viva voce*, and shall be duly recorded on the journals of each council. When the members of the councils meet in convention the President of the select council shall be the presiding officer of the convention and the Secretaries of the councils shall be the Secretaries thereof, and they shall duly record the proceedings of the convention on the journals of each council.

Councils to have separate organization.

Secretaries to record proceedings.

When vote to be by yeas and nays.

At elections vote to be given *viva voce*.

Council may elect and remove certain officers.

SEC. 15. The members of the select and common councils in convention assembled, shall elect by the vote of the majority present, for the term of one year, unless sooner removed, the following officers, and such others as may be necessary to carry out the powers conferred by this act on said municipal corporation, and also in the same manner and by the same vote remove them at pleasure, to wit: one city surveyor, one city clerk, school commissioners, one collector of taxes for each ward, one chief engineer of the fire department, and as many assistant engineers as they may from time to time deem expedient; one sealer of weights and measures; measurers of fuel, grain, lime

and other articles; weighers of hay, pound masters, sextons or keepers of burial grounds, inspectors of flour and provisions, one harbor master, and one superintendent of the alms-house; and prescribe their compensation and duties, and impose and enforce such penalties as may be prescribed by ordinances for any malfeasance or improper conduct of any of said officers.

Council may dis-
miss certain of-
ficers.

SEC. 16. A majority of the members of each council in convention assembled shall have the power to dismiss from office any person elected or appointed to any office in said city, except Aldermen and Justices of the Peace; and the said council shall provide by ordinance the manner of hearing and disposing of complaints against officers. And in cases of a tie vote, or a failure in making an election of an officer or Alderman, or in case of the dismissal of an officer or Alderman, or where any officer elected or appointed for the city moves his residence without the limits of the city, or where any Alderman or officer elected or appointed in and for a ward moves his residence without the limits of such ward, or whenever a vacancy may occur in any other manner in any office to be filled by an election by the people, the Mayor shall by proclamation order a special election, giving five days' notice thereof, for the election of a person to supply said vacancy. And where a vacancy may occur in any office to be filled by a vote of councils in convention, the same proceedings shall be had for the election of a successor as are herein directed for elections by the members of said councils in convention assembled.

When Mayor to
issue proclamation
to fill va-
cancies.

Other vacancies
— how filled.

General powers
of select and
Common Coun-
cils.

SEC. 17. The power of the corporation of the said city shall be vested in said select and common councils, who shall in separate and distinct council assembled have full power and lawful authority to make, ordain, enact, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce, and health thereof, as they shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law: Provided, that they be not repugnant to the constitution and laws of the United States, or of this State, and for those purposes shall have authority by ordinances, resolutions or by-laws.

Proviso.

Specific Powers
of Councils.

I. To establish rates for and license and regulate taverns, groceries and victualling houses, and all persons retailing or dealing in spirituous, vinous, or fermented liquors, and to license and regulate the exhibitions of common showmen or shows of

any kind, or the exhibition of any natural or artificial curiosity, caravans, circusses, or theatrical performances, and to provide for the abatement or removal of all nuisances, under the ordinances or at common law: Provided, That the license in this section mentioned, shall in no case be granted for a less sum or sums than is prescribed in an Act entitled "An Act licensing the sale of intoxicating liquors," approved March the eighth, one thousand eight hundred and fifty-one. Proviso.

II. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice, or other games of chance, for the purpose of gaming in said city.

III. To prevent any riots, noise, disturbance, or disorderly assemblages, suppress and restrain disorderly houses or groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables, shows and exhibitions, and to authorise the destruction of all instruments used for the purpose of gaming.

IV. To compel the owner or occupant of any grocery, cellar, tallow chandler 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 it may be deemed necessary for the health, comfort, and convenience of the inhabitants of said city.

V. To direct the location and management of all slaughter houses and markets, to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying gunpowder or other combustible materials.

VI. To prevent the incumbering of the streets, sidewalks, lanes or alleys, with carriages, carts, wagons, sleighs, sleds, boxes, lumber, firewood or any other materials or substances whatever.

VII. To prevent horse racing, immoderate riding or driving in the streets, and regulate the places of bathing and swimming in the waters within the limits of said city.

VIII. To restrain the running at large of cattle, swine, sheep, poultry, and geese, and to authorise the distraining and sale of the same.

IX. To prevent the running at large of dogs, and to authorise the destruction of the same in a summary manner, when at large contrary to the ordinance.

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

XI. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of said city or any ward therein, to erect lamps, and regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city. And to provide for lighting the streets, public grounds, and public buildings of said city, with gas, or otherwise.

XII. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burying grounds and grounds set apart for the public use, from taxation.

XIII. To regulate the procuring of fire buckets, and the purchase of fire engines, and to preserve said city from injuries by fire, and to prescribe and regulate the materials of which houses may be built within the fire limits, and the manner of erecting and securing chimneys, and to provide for removing chimneys which may be deemed dangerous and to require and provide for the building of new chimneys where deemed necessary, at the expense of the owners or occupants of buildings when the same may be required.

XIV. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

XV. To establish fire limits.

XVI. To regulate the building of wharves, bridges, mill races, and canals, and provide for the security and protection of the same.

XVII. To prevent all persons riding or driving any horse, ox, mule, cattle or other animal on the side walks in said city, or in any way doing any damage to such side walks.

XVIII. To prevent the shooting of fire arms or crackers, and to prevent the exhibition of any fire works in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof.

XIX. To restrain drunkards, immoderate drinking, or obscenity in the streets or public places and to provide for arresting, removing, and punishing any person or persons who may be guilty of the same.

XX. To restrain and regulate runners or solicitors for boats, vessels, stages, public houses or other establishments; to regulate the police of the city, to appoint firemen, prescribe their duties and to punish their delinquencies.

XXI. To establish public markets and make rules and regulations for the government of the same, to appoint suitable of-

ficers for overseeing and regulating such markets and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

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

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

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

XXV. To lay out new streets, highways, lanes, alleys and public walks, and to vacate such streets, highways, lanes, alleys and public walks as in their opinion shall not be of public utility; to extend, or widen streets, highways, lanes, alleys and public walks; to regulate the grade, pitch or elevation, and the paving, repairing and improving, of streets, side walks, lanes, alleys and public walks, making the persons injured thereby adequate compensation.

XXVI. To regulate the construction of piers or wharves extending into Lake Michigan within the limits of said city, and to prescribe and control the prices to be charged for pierage or wharfage thereon.

XXVII. To regulate and control the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

Sec. 18. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the select and common councils respectively, and shall be signed by the President of each council, and shall be published six days in one daily newspaper in said city before the same shall be in force, and within fifteen days thereafter they shall be recorded by the City Clerk in books to be provided for that purpose; but before any of the said laws, ordinances, regulations, resolutions or by-laws, shall be recorded, the publications thereof respectively within the said time shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

Sec. 19. The powers conferred upon the said councils to

Laws, Ordinances, &c., to be published prior to being recorded.

Certain houses to be deemed and declared nuisances.

provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions, or proceedings in the Courts according to law. Depots, houses or buildings of any kind wherein more than thirty pounds of gunpowder is deposited, stored or kept at any one time, gambling houses, houses of ill fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Select Council to audit accounts of city officers

SEC. 20. The select council shall examine, audit and adjust the accounts of the Mayor, Clerk, Treasurer, School commissioners, Street commissioners, Collectors, Marshal, and all other officers and agents of the city, and of every ward thereof 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 the said city are elected or appointed shall have expired. And the said select 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 accounts, or present his books and vouchers to said council, it shall be the duty of the select and common councils to declare the office of such person vacant. And the select council shall order suits and proceedings at law against any officer or agent of said city 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.

Proceeding in case of neglect to exhibit vouchers.

Mayor elect to take oath, &c.

SEC. 21. When the councils shall have ascertained from the returns, and declared the person duly elected to the office of mayor as hereinbefore directed, the person so elected to said office, shall make and subscribe, before some person authorized by law to administer oaths, an affidavit, "well, impartially and faithfully to discharge the duties of the office of mayor of the city of Milwaukee, and also to support the constitution of the United States and of this State," whereupon he shall be fully authorized to enter upon the duties of his office.

General Powers and Duties of Mayor.

SEC. 22. The Mayor shall be the chief executive officer and magistrate of said city. He shall preserve the peace and good order of the city, and shall see that the laws of this State, and the ordinances, laws, rules, regulations, resolutions, and by-laws of the city be observed and executed. He shall from time to time recommend in writing to the councils, such measures as he may deem expedient for the good government and welfare of the city. He shall have and may exercise the power and au-

thority to administer oaths, to take and subscribe affidavits and depositions, and acknowledgments or proofs of deeds for the conveyance of lands and other instruments of writing. He shall grant and issue all licenses authorized or required by law, or by the ordinances of said city, upon the presentation of the City Treasurer's receipt of the payment of the amounts or sums of money required therefor. He shall appoint as many assistant marshals as he may deem expedient, not exceeding one for each ward of said city, and bridge tenders and watchmen, and one Captain of the Watch; and may remove the marshals and assistant marshals, and bridge tenders and watchmen, and Captain of the Watch, or any of them, for violation or neglect of duty or other good cause; and to suppress a riot or mob, or to preserve the peace and quiet of the city he may appoint as many temporary and special constables as he may deem necessary.

SEC. 23. It shall be the duty of the Mayor to keep his office open daily, except Sundays and Christmas Days, where he shall hear and dispose of breaches, infractions, and violations of the laws, ordinances, rules, resolutions, regulations, by-laws and orders of said city; and all complaints, informations, and cases of breaches of the peace, quiet or good order of the city; and impose and enforce the prescribed penalties therefor; and also for all violations of the laws and ordinances regulating licenses; and all such other duties as may appertain to his said office of Mayor.

General Powers and Duties of Mayor.

SEC. 24. The Mayor shall have power to issue warrants, attachments, subpoenas, executions and all other writs, process and papers necessary to carry out and enforce the powers and jurisdiction here conferred; and he shall have the same power to require and enforce the observance and execution of the said writs, process and papers as the Courts of this State. All writs, process, licenses and papers issued by the Mayor shall be signed by the Mayor and sealed with the seal of the city. Suits or proceedings before the Mayor shall be prosecuted in the name of the city of Milwaukee, and shall be commenced by warrant or capias, upon information in writing under oath, or upon his own observation, or that of the Marshal, assistant marshals, watchmen or constables of said city; and he may proceed to hear and dispose of all cases in a summary manner; and enter judgments, decrees, and sentences as may be just and proper; and issue commitments and executions to enforce the same, together with legal costs. And executions issued upon such judgments, decrees or sentences shall authorize and command the officer to whom the same may be issued, to levy the same of the goods and chattels of the defendant or defend-

General Powers and Duties of Mayor.

Suits before Mayor—how commenced.

ants therein named; and in case the said defendants have no such goods and chattels whereof to levy the same, or in case of the non-payment of the amount of such writ or execution and costs, to imprison the said defendant or defendants in the common jail of the county of Milwaukee, for such time as may be prescribed by the law or ordinance under which the judgment, decree or sentence shall have been rendered, but not exceeding sixty days. The Mayor shall also have power to commit or bind over to the Courts of the State, such persons as may be found upon examination before him to be indictable; and may have and exercise the same power and authority to punish for contempts as the Courts of this State; and he shall grant appeals from his final judgments, decrees and sentences, in the same manner as Justices of the Peace, in criminal cases to the Court of Milwaukee county having jurisdiction of such appeals from Justices of the Peace; and he shall have and receive for his services such fees as are allowed Justices of the Peace or other officers for similar services, in addition to such annual salary as may be allowed by the councils, which shall not be reduced during his term of office.

When defendant may be imprisoned.

Mayor may grant appeals to Court of County

Certain city authorities to be officers of the peace.

SEC. 25. The Mayor, Sheriff, Under Sheriff, and Deputy Sheriff of the county of Milwaukee, each and every Alderman, and Justice of the Peace, Marshal and assistant marshals, constables and watchmen, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior, within the limits of said city; and for such purposes may command the assistance of all by-standers; and the Mayor, if need be, may command the assistance of all citizens and military companies; and if any by-standers, citizens, military officer, or private of such company shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay such fine as may be prescribed by ordinance in such case provided.

County jail to be used by the city Expense of keeping, &c.,—who to pay.

SEC. 26. The common jail of the county of Milwaukee shall be used by said city for the imprisonment of any person therein by virtue of any process, commitment or execution issued by the Mayor, or by virtue of an order of the Mayor or any other officer of said city; and all persons committed to said jail in pursuance of any such process, commitment execution or order, or by the marshal or assistant marshal, or constable, or a watchman, or any other officer of said city, shall be under the charge of the Sheriff of said county as prisoners of the said county, but the city shall pay the expenses of keeping and maintaining them.

Duties of City Clerk.

SEC. 27. The city clerk shall attend at the office of the Mayor daily when required during office hours, and shall write

down and duly record in books to be provided by the city for that purpose, all orders, judgments, decrees and sentences, and other proceedings of the Mayor; and he shall make and record a list of all licenses, stating to whom issued and for what purpose, with their dates; he shall also keep an office, which shall be open during the usual office hours, except when in attendance at the Mayor's office; and he shall file in his office all official affidavits except the aldermen's all official bonds, and all ordinances, laws, regulations and by-laws of the councils, with the affidavits of publication annexed, and shall record the said ordinances, laws, regulations and by-laws, in a book or books to be provided by said city. Chattel mortgages and other papers authorised by law to be filed or recorded in a town clerk's office may be filed or recorded by the city clerk in his office. He shall do and perform all the duties required by law to be done and performed by town clerks, so far as such duties can be performed by a city clerk. He shall make all tax lists and issue all warrants for the collection of taxes as prescribed by law. He shall make and certify, when required, under the seal of the city, copies of all records or papers in the office of the Mayor, or in his own office, and all such copies shall be received as evidence in the Courts of this State as fully and effectually as the said original records or papers. The said clerk shall be allowed the same fees as are allowed to registers of deeds and clerks of the board of supervisors, and town clerks for similar services, in addition so such salary as may be granted by the councils. For recording the proceedings of the Mayor, as aforesaid, he shall be paid by the folio the same as registers of deeds, which shall be taxed in the bill of costs in each case or proceeding. The ordinances, rules, regulations, resolutions and by-laws of the councils, with the affidavits of publication thereto annexed and filed or recorded in the city clerk's office, or a certified copy thereof under seal, shall be conclusive evidence thereof, and a printed paper or pamphlet containing the same shall be prima facie evidence thereof.

Rule of Evidence.

Duties of Marshal.

SEC. 28. The Marshal shall serve all process, writs and notices issued or ordered by the Mayor, or the councils or aldermen, and for that purpose he may pass through and into any county of the State. He shall attend at the Mayor's office when business may require and shall also be present at the sessions of the councils when required. He shall report to the Mayor daily all breaches of the peace and order of the city and all violations of the laws and ordinances of the city, and all persons trading or dealing in any way without such license as may be required therefor. He shall suppress riots, mobs and breaches of the peace and may call to his assistance in the discharge

of any of his duties, all State, county and city officers and citizens, and he shall assist all such officers in the discharge of their duties when required. In serving and executing process and making sales of property upon executions or otherwise, he shall be governed by the laws of the State regulating and providing for the service of process and sales of property by constables, and he shall be entitled to the fees allowed constables. The Marshal shall also do and perform all such duties as may be prescribed by ordinances or resolutions of the councils. The

Council may regulate fees of Marshal.

SEC. 29. The councils shall have the power to provide for the appointment, organisation and support of a good and sufficient night watch.

Councils may provide night watch.

SEC. 30. It shall and may be lawful for the watchmen or any of them and they are hereby empowered and required to apprehend all night-walkers, malefactors, rogues, vagabonds, and disorderly persons, whom they shall find disturbing the public peace or shall have cause to suspect of any evil design, and to carry the person or persons so apprehended as soon as conveniently may be before the Mayor of the said city to be examined, tried and dealt with according to law. The watchmen shall be at their respective stands and keep watch and ward at the hours and during the times specified, and shall observe, perform and execute all such matters and things as by the ordinances, resolutions, rules, orders, regulations and by-laws of the councils shall be from time to time enjoined them. And in case of any fire breaking out or any great necessity, they shall immediately alarm each other, and the inhabitants in their respective rounds, which when done, they shall repair to their respective stands, the better to discover any other fire that may happen as well as to prevent any burglaries, felonies, breaches of the peace, outrages and disorders, and to apprehend any suspected persons who in such times of confusion may be feloniously carrying off the goods and effects of others. And it shall be the duty of the watchmen to report daily to the Mayor all cases of disorder or breaches of order or of the ordinances of the councils that come to their knowledge, and to do such other duties as may be specified by the councils or directed by the Mayor.

Duties of watchmen.

SEC. 31. The city Surveyor shall be a practical engineer and shall do and perform the duties of surveyor, engineer and regulator. The councils shall provide an office for the city Surveyor, and shall prescribe his duties, and also a tariff of fees and compensation for his services, and the services of his assistants. The councils shall provide for the making of drafts of the city, designating therein the several streets and sections of the city and showing the regulations, heights, ascents, descents and grades of the streets, water courses and sewers and locations of reservoirs heretofore established and constructed and as the same from time to time may be established and constructed, and for the making of maps, charts, diagrams, profiles of streets, lanes, alleys and of surveys, and the recording thereof and for the preservation of the records, papers, filed notes and other documents in and appertaining to the office of city Surveyor; and that the same shall be the property of the city and be open to the proper inspection of the inhabitants thereof. The councils shall also prescribe the number of assistant Surveyors from time to time and their duties, and they shall be appointed by the city Surveyor.

Duty of Councils in relation to Surveyors.

SEC. 32. The city Surveyor upon application to him made shall have full power and authority to regulate party walls and partition fences within said city, and may enter upon the land of any person in order to set out the foundations, and regulate the walls to be built or constructed between party and party, as [to] the breadth and thickness thereof and location thereof; the foundation of said party walls shall be laid equally upon the lands of the persons, between whom such party wall is to be made or built; and the first builder shall be reimbursed one moiety of the charge of such party wall, or for so much thereof as the next builder shall have occasion to make use of before such next builder shall in anywise use or break into the said wall. The charge of value thereof to be set by the city Surveyor. Where the adjoining parties do improve or enclose their lots such partition fences shall be made in the manner generally used, and kept in good repair at the equal cost of the parties or owners of the adjoining lots, unless they shall otherwise agree; and if either party between whom such partition fence is to be made, or is, or shall be made, shall neglect or refuse to make his part thereof, or to repair his part thereof, or to pay his share or moiety for such making or repairing, then the other party may make, or repair the said partition fence and shall have an action at law, against the other party so neglecting or refusing for the recovery of his share of the expenses of such making or repairing.

Power of Surveyor to regulate division of walls, &c.

SEC. 33. If any person shall lay the foundation or begin to

Surveyors to mark out foundation and division lines. lay the foundation of any party wall, or any wall, or build any fence adjoining or upon the line of any public street, lane, or alley within the said city, before the lines and boundaries of the lot or piece of land whereupon the said foundation shall be so laid, or begin to be laid, or fence built, shall be adjusted or marked out by the said surveyor, every such person, as well employer, as master builder, shall forfeit and pay such sum as may be prescribed by ordinance for the use to be therein mentioned.

Power to enter upon Lands.

SEC. 34. The city surveyor and his assistants, and the aldermen may at all seasonable hours, enter upon any lot or lands within said city, and survey or measure the same in order to perform the service and duty required.

Surveyor to be governed by original surveys

SEC. 35. The city surveyor shall be directed and controlled in all cases where practicable, by the original surveys and land marks of streets, alleys, and lots as marked, described and laid down by the original proprietors. And where the owners or proprietors of buildings or fences shall fail to comply with the provisions of this act, in having such previous survey and regulation as herein required, and buildings or fences shall be erected in such manner as to stand partly on the adjoining lot; no length of possession whatever by means of such building or fence of any part of an adjoining lot so encroached upon shall be available, or bar legal proceedings against the owner, or owners of such buildings or fences.

Surveyor to make record of surveys, &c.

SEC. 36. The city surveyor shall make a record of all orders, directions, awards and surveys by him made concerning party walls or partition fences, and every such order, direction, award, and survey, if made with reasonable notice beforehand to the parties interested therein; shall conclude and bind all parties, unless the same be set aside upon appeal. And if any party should be dissatisfied with any order, direction, award or survey of said city surveyor, he may appeal to the select council, who shall finally adjust and settle the same, which shall conclude and bind all parties, the costs of such appeal to be paid as the said select council shall direct, or as may be directed in and by an ordinance.

Surveyor not to change, but to establish permanent land marks.

SEC. 37. It shall not be lawful for the city surveyor to change the boundaries or land marks of lots as laid out and sold by the original proprietors, for the purpose of equalising said lots or correcting said surveys or land marks. And where streets or alleys have been built upon, and in ignorance of the true line thereof, in such manner as to increase or diminish the original width of said street or alley, unless, in the opinion of the councils, the diminution should be so great as to effect the use of said street or alley, or the convenience of the inhabitants

or the regularity of the plat or plan, the line or boundaries of said street or alley shall be limited by said buildings, and the city surveyor shall establish permanent land marks in each ward, and within each original plat—survey or addition of said city.

SEC. 38. The Aldermen elected to the common council shall be street commissioners in and for their respective wards. Two of whom shall be a quorum for the transaction of business.

Aldermen of Common Council to be Street Commissioners

One of their own number or some person appointed by them, shall be the clerk of the board, and shall keep a fair record of all the acts and doings of the board, draw, prepare, file and preserve the contracts, agreements, receipts, vouchers and papers of the board. The several boards shall make reports in detail of their acts and doings to the select council when required, and at the expiration of each year and before their term of office shall expire, shall submit all their acts, doings, books, records, vouchers and papers to the said select council for final settlement and adjustment. It shall and may be competent for any person aggrieved by any act or acts, order or orders, of said boards at any time, to have the same reported fully to the select council, and for the said council to enquire into, examine and correct the act or order complained of as may be just and right, and the further action of said board shall be regulated and controlled accordingly.

Select Council may correct acts of Commissioners.

SEC. 39. It shall be the duty of the Aldermen as street commissioners, to order and contract for the opening, making, grading, building, repairing and cleansing the streets, lanes, alleys, side-walks, public wells, reservoirs, gutters and sewers within their wards, and to direct and control the street inspector and persons employed or engaged in said works, in pursuance of such orders or contracts. In making contracts for any work, preference shall be given to tax payers of their own ward, if their proposals are equally advantageous with others.

Duties of Street Commissioners

SEC. 40. The cost and expense of surveying the streets, lanes and alleys, and of estimating work thereon, and of repairing and cleansing streets, lanes and alleys, and of making, building, repairing and cleansing public wells, reservoirs and sewers, shall be chargeable to and payable out of the general fund of the ward wherein the same are located, the grading, gravelling, paving, opening and making the streets, lanes, alleys and side-walks, shall be chargeable to and payable by the owners of lots fronting or opposite to such streets, lanes, alleys and side walks. In alleys, sewers may be ordered by the said Aldermen as street commissioners, and made at the expense and charge of the lots or pieces of land benefitted thereby, which shall be apportioned among said lots or pieces of land by

Certain expenses chargeable to general fund.

Sewers to be at expense of lots benefitted.

the city surveyor, and the said Aldermen as street commissioners, shall issue their certificates to the contractors in the same manner and form, and the same with the interest thereon, shall be assessed upon said lots and pieces of land respectively, as is provided in this act in cases of grading, gravelling, opening and paving streets and alleys. And provided further, That in all cases where improvements or work of any kind is chargeable by this act to lots, all such improvements across streets and alleys, and public squares, shall be made and paid for out of the street taxes of the ward, in proportion to the breadth of the street, alley or public square.

Proviso:

Notice of work to be done to be given to owners

SEC. 41. The streets, to the middle or centre thereof, and the sidewalks, lanes and alleys, shall be graded, graveled, and paved at the cost and expense of the lots and lands lying on or opposite to the same respectively; and the said Aldermen, as street commissioners, shall give notice to the owners or occupants of all such lots and lands, if to be found; but if not found by advertisement for five days in one or more daily newspapers published in said city, requiring them to do the work therein mentioned, within a reasonable time therein specified, in the street, lane, alley or sidewalk opposite their said lots or lands; and if the said work should not be done within the time specified, and in pursuance of such notice, the said commissioners may contract for the doing thereof; and when the said work shall be completed according to the terms of such contract, and the expense thereof ascertained, the said commissioners shall give to the contractor a certificate under their hands, stating therein the amount due such person for the work, whatever it may be; and the lot or piece of land upon which the same is chargeable with interest, at the rate of twelve per centum per annum until paid, which said certificate may be transferred by endorsement thereon; and if the amount of such certificate, with the accrued interest thereon, shall not be paid before the time of making the annual assessment of taxes for city purposes, the same shall be specially assessed upon the said lot or lots or lands respectively, and collected as other taxes for the use and benefit of the holders of such certificates. And if such notice shall have been given to do the work as herein directed, no informality or error in any of the proceedings or assessments shall vitiate or make void such tax: Provided, where the general interest of the city or ward requires deep cutting or extraordinary filling, and the owners of lots or lands fronting on such deep cutting or filling shall feel themselves

When Commissioners may contract for doing work.

Certificates to be issued in payment.

Proviso.

When Commissioners to order Marshal to summon Jury for certain purposes

aggrieved thereby, the said street commissioners, on the petition in writing of such owners, shall require and order the city marshal to summon five disinterested freeholders, not residents

of their ward, who shall meet, and after being duly sworn by some person authorised to administer oaths well and impartially to discharge their duty, shall examine and view the premises, and if in their opinion the lots or lands fronting on such deep cutting or filling will be injured thereby, or that said work will be too burdensome on such lots or lands, it shall be their duty to make report in writing to the said commissioners how much or what proportion of said work shall be chargeable to the said lot or lots or lands and how much or what proportion thereof shall be payable out of the street taxes of the ward; and the work shall be so done as in other cases and the proportion of the cost thereof chargeable upon the said lot or lots or lands shall be assessed upon said lots or lands and collected as in other cases, and the said commissioners shall issue their order upon the Treasury for the amount or proportion payable by the ward.

Jury to report to Commissioners.

SEC. 42. It shall be lawful for the said aldermen as street commissioners to give notice to all owners or occupants of lots on which there may be a nuisance by water confined for want of proper drainage or of any other kind if to be found and if not found by advertisement in one or more daily newspapers published in said city for five days to remove or abate the said nuisance within a reasonable time therein specified, and if such nuisance is not removed or abated within such time the said aldermen as street commissioners shall order the same removed or abated at the cost and expenses of the owner of such lots, and they shall present their petition to the circuit court of the county of Milwaukee setting forth the nature of such nuisance with the description of the lots the amount of such costs and expenses so incurred as to each lot, and the notice given as aforesaid, with an affidavit of the truth of the facts contained in said petition, whereupon the said court or the judge thereof in vacation shall order judgments to be recorded against the said owners of such lots if known, otherwise against the said several lots by description for the said amount and costs and interest at the rate of twelve per centum per annum until paid, in the name of the city of Milwaukee for the use of the person named in said petition who did the said work. Said judgments shall be liens on said lots in preference to any other liens of previous or subsequent dates and shall be entered by the clerk without the aid of an attorney or without a judgment record, and executions may be issued thereon and the said lots sold as other real estate upon execution.

Commissioners may give notice to owners of lots to abate a nuisance.

When judgment to be rendered for costs, &c., of abating nuisance.

Liens thus made to have preference.

SEC. 43. It shall not be lawful for the said aldermen as street commissioners or for the councils to order or authorise in any manner the alteration of the grade, pitch, or elevation of

Street Commissioners not to alter grade of street, &c., except by petition of owners.

streets, lanes, or alleys that are now or may hereafter be established by ordinance of council unless upon the petition of a majority of the owners of lots fronting on or opposite to said street, lane or alley, and all the expenses and damages of, or occasioned by, such alteration of said grade, pitch, or elevation shall be collected of the owners of the lots, or off the lots represented in said petition and a judgment shall be rendered for the proportion of such costs and expenses against each and every such lot and the owners thereof as in the cases of nuisances, and the same proceedings may be had therein for the use of the persons who may have done the work in making such alteration, and if it should afterwards appear that any person signing any such petition for such alteration was not the legal owner of the lots so represented by him, then the said person so signing shall be liable to such owner for the amount of said judgment, and costs together with all damages.

Street Commissioners to petition Circuit Court to appoint jury to assess damages.

Sec. 44. The said Aldermen, as street commissioners, shall before altering the grade, pitch or elevation of any street, lane or alley, as aforesaid; or widening, or extending the same; or opening a new street; petition the Circuit Court of the county of Milwaukee for the appointment of a jury to ascertain and to assess the damages that may be occasioned by reason of the proposed work, and thereupon the said Court, or the Judge thereof, in vacation shall appoint twelve disinterested freeholders, not residents of the ward, wherein the said work is proposed to be done. The said jury shall meet on the ground, and after being duly sworn well, faithfully, and impartially to discharge the duties of their appointment, shall view the premises, and assess to each lot or piece of ground, or the owner thereof, its actual amount of damages, if any, taking into consideration the advantages to the owners thereof by reason of the proposed work. The said jury shall within ten days thereafter make their report, to the said Court, and the said Court shall render judgments in favor of the said several persons or owners of the said lots, damaged by reason of the said proposed alteration of the grade, pitch or elevation of the street, lane or alley against the said petitioners for such alteration, or their lots, as in cases of nuisances as aforesaid; and the damages so reported, by reason of widening or extending a street, lane or alley, or opening a new street, the said Court shall order to be paid out of the general fund of the particular ward; and the Treasurer of the city shall pay the same upon the presentation of such order duly certified under seal by the clerk of said Court: Provided, that the said Court may set aside said report in whole or in part for irregularity in the proceedings, or for injustice or corruption; and may order a new jury as often as

Jury to make report, and Court to render judgment accordingly.

Provido

may be required: Provided further, that in case of widening or extending a street, or opening a new street, the said petition shall ask for the appointment of such jury to enquire into the necessity of the same, and to assess the damages as aforesaid; and if the said jury shall find the necessity for said proposed work, they shall then assess the damages as aforesaid.

Sec. 45. The select and common councils shall have power to assess annually on such real and personal property and effects as by law may be liable to taxation for State and county purposes, a tax not exceeding one quarter of one per cent. on the valuation of said real and personal property and effects, for the support of the government and police of said city; also a tax, not exceeding one quarter of one per cent., for the maintenance of the public schools within said city; and a tax, not exceeding one quarter of one per cent., for the support of the poor and the regulation of the health of the city: Provided, that all those parts of sections nineteen, thirty, thirty-one and thirty-two, included within said city limits, that are used for farming purposes, or not laid out into city lots, or for town or city purposes, shall be exempt from all taxation authorised by this act, except for school, poor and highway purposes; and shall also be exempt from taxation for the payment of debts, if any remaining unpaid under the village charter of Milwaukee.

Power of Councils to levy taxes.

Provido.

Lands exempt.

Sec. 46. There shall not be any school tax assessed within said city, under or by virtue of the laws of this state regulating common schools, or any other law, excepting this act; and the board of supervisors of the county of Milwaukee shall annually ascertain the proportion and share of the said city in and to the school fund of the state, and shall report the amount thereof to the State Treasurer, whose duty it shall be to pay the same to the treasurer of said city.

County Supervisors to ascertain amount of school fund due city.

Sec. 47. The assessors elected in the several wards of said city, shall be the assessors of the state and county taxes, and of all taxes authorised to be assessed for all purposes in the city, and the several wards thereof, and it shall be their duty to make all assessments and valuations in the manner and within the times prescribed in the laws of this state for the assessment of taxes for state and county purposes, and according to the directions thereof, shall give notice to the tax-payers, and in connection with the aldermen of their ward, shall hear the applications of tax payers for the reduction and correction of valuations, and equalise the same to and among the tax payers of the ward. And the said assessors shall on or before the times specified in said laws, deliver the reviewed and completed assessment roll, with the legal certificate thereto annexed, to the clerk of the board of supervisors of the county of Mil-

Duties of Assessors.

County Board to equalize assessments.

waukeee, who shall deliver the same to the county board of supervisors at the next meeting, and shall be by said board equalised and adjusted according to the said laws. After the assessment rolls shall have been thus equalised and corrected, the board of supervisors shall cause the corrected roll of each ward of said city, or a copy thereof, to be delivered to the member of said board from the ward who shall deliver the same to the city clerk, to be by him laid before the select and common councils, and afterwards filed in his office, and by the said councils rates per centum shall be determined for the taxes for the several city purposes, and the aldermen of each ward shall fix and determine the rate per centum for the general ward tax in their respective wards, not exceeding in any one year three-fourths of per centum. And when the said councils and aldermen shall have determined the several rates per centum to be assessed as aforesaid, it shall be the duty of the city clerk, under the direction of the councils, immediately upon the receipt of the same, and of the said assessment rolls, and a certificate from the clerk of the board of supervisors of the county of Milwaukee, of the amount of state and county tax apportioned to each ward, to calculate and carry out in one assessment roll, the total amounts of the several state and county taxes, and in one other assessment roll the total amount of the several city and ward taxes each in separate columns, prepared for that purpose in the assessment roll, setting opposite to the several sums set down as the valuation of real and personal estate, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fractions of a cent. And the said city clerk shall record in a book for each ward separately, the said tax lists of the several city and ward taxes, and the said tax lists or the record thereof, shall be conclusive evidence of the amount of the taxes assessed as aforesaid.

Council's to fix rate per cent.

City Clerk to make two separate assessment rolls.

Duties of City Clerk.

Collectors to give Bonds.

SEC. 48. The City Clerk shall do all the duties required by law of town clerks in the assessments and collections of the State and county taxes and shall pursue said requirements and directions as near as may be in the assessments and collections of city and ward taxes, and shall annex the required warrant to the assessment roll for the collection of the State and county taxes and he shall also annex to each assessment roll of the city and ward taxes a warrant for the collection of said taxes and to pay the same over to the city Treasurer within the time required by law; both said warrants shall be modified so as to conform to the provisions and objects of this act, and he shall deliver the said assessment rolls and warrants to the collector of the proper ward after he shall have given bonds as required by law of town Treasurers for the collection of the State and

county taxes and a bond to the city of Milwaukee with sureties to be approved by the Mayor in double the amount of the assessment roll well and faithfully to do and perform all the duties of collector of the city and ward taxes in and for the ward to be therein described of said city of Milwaukee and pay over the same to the city Treasurer.

SEC. 49. The collector of taxes in each ward shall do and perform all the duties required by law of town Treasurers and in all things pertaining to their duties in the collection of taxes and making returns they shall observe the provisions of said laws, and they shall receive such compensation for the collection of the city and ward taxes as may be allowed and specified by ordinance, and it shall be the duty of the councils to specify the fees and compensation that shall be allowed the said collectors. The said collectors shall receive city orders in payment of the said city taxes and ward orders in payment of ward taxes, and shall on every Saturday pay over to the city Treasurer the amount they shall have collected and they shall make returns of their said assessment rolls and warrants and of unpaid and delinquent taxes to the city and county Treasurers at the same time as town Treasurers are required by law to make such returns to the county Treasurer. In case of a vacancy in the office of collector or in case a collector shall refuse or decline to give his bond and qualify as required by law the alderman of the ward shall supply the said vacancy by the appointment of some suitable person collector of taxes who shall give the bond and qualify as required by law, and he shall proceed in all things in the duties of his said office as the law shall require and direct.

Duties and compensation of Collectors.

Alderman may fill vacancies conditionally.

SEC. 50. The City Treasurer shall keep in his office a duplicate of the record of the city and ward taxes required to be preserved in the city Clerks office. And all taxes assessed upon real estate in pursuance of this law for the several city and ward purposes herein mentioned shall be a lien on such real estate in preference to any other lien.

Tax lien preferred to others.

SEC. 51. All lots and lands returned to the city treasurer upon which said city and ward taxes and charges shall not be paid by the first day of February next after the return thereof shall be subject to sale, and the said city treasurer shall advertise the same for sale, and proceed in making such sales at the times and in the manner, and give to the purchasers at such sales certificates thereof; and in all things after the manner of sales by the treasurer of counties; and the said lots and lands shall be sold upon the same terms and subject to the same time and conditions of redemption, and shall be redeemed in the same manner. And the city clerk shall make and execute

Sale of Lands for taxes—how made.

deeds to purchasers at such tax sales, after the time for redemption shall expire, to the holders of the certificates in the name of the city of Milwaukee, and shall sign the same as city clerk and attach the seal of said city thereto; and said deeds shall have the same effect and validity, and shall vest the same estate in the guarantee with the same rights and subject to the same disabilities as deeds made in pursuance of sales by county treasurers for state and county taxes, and the record thereof shall have the same validity. And the city treasurer shall issue warrants against collectors, as county treasurers are authorized to issue against town treasurers, and shall also issue similar warrants for the collection of taxes on personal property as county treasurers may by law issue, and the same shall be enforced and served in the same manner. The county treasurer shall sell all lots and lands returned to him by the several collectors upon which the State and county taxes have not been paid, as other such lands in the county of Milwaukee. The city treasurer, for the time being, shall execute and deliver deeds for all lots in pursuance of sales heretofore made by the treasurer of the city, in pursuance of laws heretofore existing, the same as if this act had not been passed; and all monies, interest, and fees required to be paid for the redemption of lots or lands hereafter sold for city or ward taxes shall be paid to the treasurer, who shall make a record of the said redemptions, and issue duplicate receipts, one of which the person so redeeming or paying shall present to the city clerk, who shall also make a record thereof in his tax record, and duly file the same in his office; and the same interest, costs, charges and fees shall be allowed, charged, and paid for said redemption as specified by law in the redemption of lands sold by county treasurers; and it shall not be necessary to give or publish a notice of the expiration of the time for the redemption of lots or lands sold for city or ward taxes.

City Treasurer may issue warrants against Collectors.

Treasurer to deliver deeds for time being under existing laws.

Notice of redemption not requisite.

Collection of taxes on personal property.

SEC. 52. In case any person upon whom any personal property shall be assessed for city or ward purposes, shall have removed out of the city after such assessment and before such tax shall be collected, he shall be required to pay the same and he may be proceeded against in any town within the county of Milwaukee, or wherever he may be found within the State, in the same manner as if he had not removed from said city. And any person who shall resist the collection of any tax or taxes, for city or ward purposes, shall be proceeded against in the same manner as may be provided by law for resisting process in the hands of sheriffs or constables.

Orders on Treasurer—how made and paid.

SEC. 53. All orders upon the City Treasurer for the payment and disbursement of the taxes assessed and collected

for the several city purposes shall be signed by the Mayor and counter-signed by the city Clerk, and the same shall state the nature of the claim or service for which the same is issued, and the fund out of which the same is payable, and before the same is delivered to the person entitled thereto the Clerk shall make an entry in a book to be provided for that purpose, of the date, name of the payee and nature of the claim or service, the fund out of which the same is payable and the amount. And all orders upon the Treasurer for payments out of the ward taxes of the wards shall be signed by the aldermen of the common council of the ward, and shall be counter-signed by the City Clerk, and before the same is delivered by said Clerk he shall enter in a book to be provided by each ward, the date of such order, the amount and the name of the payee. All orders upon the Treasurer shall be payable to the order of the person named therein, and not otherwise, and shall not be received by the Treasurer unless endorsed by such person, but such endorsement shall not create a legal liability, if the order be genuine, or issued without fraud.

Orders to be endorsed.

SEC. 54. There shall be two day's work performed annually on the highways, streets, lanes and alleys by each male person who by the laws of this State is liable or subject to perform highway work, such person shall perform such labor within the ward where he resides, under the direction of the street inspector as the said aldermen as street commissioners may order and appoint, but such person may at his option pay to the said street inspector at the rate of seventy five cents for every day he may be so bound to labor. And in the default of the payment of such money or the performance of such labor the said aldermen as street commissioners of the proper ward shall issue their warrant to the street inspector of the ward for the collection from each and every person so delinquent the sum of one dollar and fifty cents the amount of the tax aforesaid with legal costs; and the said inspector shall have the same power and authority and proceed in the service of said warrant in the same manner as prescribed by law in relation to the service of warrants issued for the collection of taxes assessed on personal property, and shall be entitled to the same fees. But before the said persons shall be required to do such work as aforesaid the street inspector of the proper ward shall make a correct list and enrolment of all such persons within his ward, and shall give one copy thereof, to the said aldermen, as street commissioners of his ward and shall file one copy thereof with the clerk of the select council for the use of said council in auditing the accounts of said inspector.

Commutation of poll tax.

When Street Commissioners are to issue warrants to inspectors to collect poll tax, &c.

SEC. 55. No alderman, nor officer of said city, nor of any

Contracts in ward thereof, shall be a party to or interested in any contract or job of work with the said city directly or indirectly; or shall furnish any supplies for the said city, or to or for any person at the expense or charge of said city or any ward thereof, and any and every such contract, job, account for supplies or claims or demand for or by reason thereof of any such Alderman or officer, or in which he may have any interest directly or indirectly shall be null and void; and any inhabitant of the city may in the name and at the expense of said city defend against the payment or enforcement of the same, or may proceed against all persons concerned therein to annul and make void the same. And every alderman, or officer, as aforesaid who may violate the provisions of this section shall be dismissed from his said office, and shall not afterwards be eligible to any office in said city: **Provided**, That this section shall not extend to such work on the streets and side walks as the said aldermen or officers are obliged to perform in common with other citizens opposite or in front of their own lots where the same is done without contract or charge to the ward or city: And **provided** further, That if any person shall institute a suit as aforesaid through malice, and fail in such suit, the court shall enter judgment against such person for the costs thereof.

Proviso:

When Plaintiff to pay costs.

Powers of Justices, Constables, &c.

When President of Select Council may act as Mayor.

Proviso.

SEC. 53. The Justices of the Peace and Constables elected or appointed in the several wards of said city shall possess all the powers and enjoy all the privileges and be subject to all the liabilities and penalties of Justices of the Peace and Constables of the towns in Milwaukee county, and shall provide the like bonds and take the same official oaths; and the Marshal and assistant Marshals shall possess all the powers, be subject to the same liabilities and penalties, and enjoy the same privileges as Constables in the towns in said county.

SEC. 57. In case of a vacancy in the office of Mayor, or of his being unable to perform the duties of his office by reason of temporary, or continued absence, or sickness, or any other cause, the President of the select council shall be the Mayor and shall be vested with all the powers and perform all the duties of Mayor until the Mayor shall resume his office or the vacancy be filled by a new election, but if said vacancy shall occur within one month of the time for which said Mayor was elected the said President of the select council shall continue to discharge the duties of Mayor until the end of said term and until a successor is duly elected and qualified. **Provided**, That before the said President shall enter upon the said duties of Mayor he shall take and subscribe the official oath of the Mayor, which shall be filed

with the city Clerk; and during the time he shall do and perform the said duties, shall be entitled to and receive the fees and emoluments of the Mayor.

SEC. 58. The Surveyor, Treasurer, Attorney, Marshal and assistant Marshals and all other officers of said city or of the several wards thereof, except those already provided for by this act, shall before they enter upon the duties of their respective offices take and subscribe an affidavit before some person authorized to administer oaths, well and faithfully to discharge the duties of their respective office, and shall also execute a bond to the city of Milwaukee with sufficient sureties to be approved by the Mayor in such penalty or penalties as the councils may from time to time direct, conditioned for the faithful discharge of the duties of the said office, and the said bonds shall be filed in the office of the city clerk, and suits may be brought thereon in the courts in the name of said city against the said principal and sureties, or either, or any of them, upon the default, failure, or neglect of said officer to discharge his said duties, or to pay over or account for any monies or property of said city or of any ward of said city that may have come into his hands. And also upon the adjustment of the accounts of any officer by the select council, the said council may order a certificate of the balance, in the hands of such officer, made by their secretary which with a certified copy under the seal of the city by the city clerk of the official bond of such officer shall be by the city Attorney transmitted to the clerk of the circuit court of Milwaukee or any other county and the said clerk shall enter a suit upon his docket in the name of the city of Milwaukee as plaintiff and the obligors in said bond as defendants, and shall on said docket make a minute of said bond and certificate and the amount thereof and file the said papers, and the said entry shall be a lien on the real estate of said obligors within the county, without other or further proceedings, for the said sum so certified and costs with interest until paid, and execution may issue thereon, and other proceedings had as in other cases; and the said defendants, or any obligors in any such official bonds shall not claim the benefit of the exemption laws of this State in levying such executions, or any executions that may be issued for the recovery of judgments rendered upon any such official bonds.

Certain officers to execute a bond, take oath &c.

Balance of accounts to be transmitted to Clerk of Court.

Clerk to enter suit.

Defendants not to have benefit of exemption.

SEC. 59. When any suit or action shall be commenced against said city the service thereof may be made by leaving a copy of the process by the proper officer with the Mayor, and it shall be the duty of the Mayor forthwith to inform the council thereof, or take such other proceedings as by ordinances or resolutions of said councils may be in such case provided.

Actions against the city—how commenced.

Councils may order special elections.

SEC. 60. If any election by the people, or by the councils, provided for in this act, shall for any cause not be held at the time, or in the manner prescribed, or if the said councils should fail to organise at the time herein mentioned after their annual election, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or elections or organisations may be had upon any subsequent day by order of the councils. And if any of the duties enjoined by this act to be done by any officer at a time herein specified are not then done, the councils may appoint another time upon which the said duties may be done: Provided, That the officer so failing to do or execute such duties at the time required shall be liable to the same actions, fines and penalties, as he would be liable to if the said councils had not the power to appoint another time.

Proviso

Competency of witnesses.

SEC. 61. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any action or proceeding in which said city is a party or interested.

Property exempt from sale on execution.

SEC. 62. The following property, now or at any time hereafter belonging to said city, or either of the wards thereof, shall be exempt from levy and sale under or by virtue of any execution: engine houses, hook and ladder houses, together with the grounds or lots on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose, or any other fire apparatus used by any company created or authorised by the councils of said city, and market houses and furniture of council and office rooms: Provided, That nothing herein contained shall exempt any of the aforesaid real or personal property from levy and sale, by virtue of any execution issued on judgments rendered in favor of any person or persons who may have furnished or sold any such fire apparatus to or on the credit of said city. Nor shall any real or personal property of any inhabitants of said city, or of any individual or corporation be levied and sold by virtue of an execution issued to satisfy or collect any debt, obligation or contract of said city, or of any ward thereof.

Proviso.

Council may authorise the formation of fire companies.

SEC. 63. The councils shall have power to authorise the formation of fire engine, hook, ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and shall have their own officers and form their own by-laws, not inconsistent with the laws of this State, or with the ordinances and regula-

tions of said city, and shall be formed only by voluntary enlistments. Every member of each company shall be exempt from highway work and poll tax, from serving on juries, and from military duty during the continuance of such membership. And any person having served the full term of seven years, in either of said companies, shall be for ever thereafter exempt from serving on juries, from poll tax and from military duty, except in cases of insurrection or invasion.

Firemen exempt from certain services.

SEC. 64. If any of the said fire companies now formed, or that may be hereafter formed, shall cause, incite, or create any riot, mob, quarrel or disturbance with any other company, or any person or persons, the mayor shall enquire into the matter of such riot, mob, quarrel or disturbance and shall disband said company, and require the said company to deliver up its fire apparatus whatever the same may be, and shall prohibit its meetings.

When Mayor may disband companies

SEC. 65. The council may make temporary loans on the credit of the city for pressing and necessary city purposes at a rate of interest not exceeding ten per cent per annum, and the amount of said loans with interest shall be paid out of the first taxes assessed and collected after the date or dates of such loan. And the councils shall not authorise, make, or contract for any loan on the credit of said city for a longer period than one year as aforesaid, unless in pursuance of a vote of a majority of inhabitants thereof voting at a special election held for the purpose within said city, as other special elections are held; and at such election no vote shall be received from any person unless he is qualified to vote according to this act. And it may be lawful for the aldermen of the common council in any ward, acting as street commissioners, in pursuance of a vote of the inhabitants of their ward qualified to vote as aforesaid, to make temporary loans at a rate of interest not exceeding ten per cent. per annum, for the purpose of making or improving the streets, lanes and alleys within their ward, and the said sums so loaned shall be paid out of the first ward taxes assessed and collected after the dates of such loans. And all monies so as aforesaid loaned for the use of the city or any of the wards, shall be received by the treasurer, and disbursed by him as other monies.

Councils may make temporary loans.

Street Commissioners may make loans in certain cases.

SEC. 66. The said city shall not be sued nor shall the property thereof be liable for any debt contracted by or in behalf of any ward; but any person having a debt, claim or demand against a ward may sue such ward by its name or number of the city of Milwaukee, as the case may be, and collect the amount of his judgment, claim or demand of the goods, chattels, land and property of such ward, not by law exempt from

City not liable for ward debts.

execution, and service of process upon a majority of the aldermen of such ward shall be sufficient notice.

Aldermen of wards to do duties of supervisors of towns.

SEC. 67. Each and every ward in said city shall constitute and be a separate township or town, under the law regulating town and county government; and as such shall have and enjoy all the rights, privileges and powers of towns in the county of Milwaukee. And the aldermen of each ward shall be the supervisors of said ward or town, and shall do and perform all the duties required and authorised by law to be done by Supervisors of towns. The alderman of each ward elected to the select council shall be the chairman of supervisors, to meet with and act in the county board of supervisors, in the same manner and with the same rights and powers as by law are prescribed and exercised by other members of said county board.

Aldermen to be overseers of the poor.

SEC. 68. The almshouse belonging to the said city, and the lands appurtenant thereto, shall be managed and superintended by a joint committee of the select and common councils. Whenever the poor of Milwaukee county and the said city are not provided for by the county, the aldermen of the select council shall have charge of the county poor within his ward, and the aldermen of the common council shall have charge of the city poor of their wards; and in all things relating to their duties as overseers or guardians of the poor, the said aldermen shall be directed, governed and controlled by the laws of the State for the relief and support of the poor. And the said aldermen of the common council shall in all things act as a board within their respective wards, and shall report in writing to the councils, at the expiration of every two months, the number of poor they had charge of during said time, and the amount expended in their relief. And it shall be lawful for the councils at all times to pass and enforce all ordinances necessary for the proper management of the said alms-house and lands, and for the due and proper care and relief of the poor of said city, not inconsistent with the laws of this State.

City liable for damages by mob or riot

SEC. 69. In all cases where any dwelling-house or other building or property, real or personal, shall be destroyed within the said city, in consequence of any mob or riot, it shall be lawful for the person or persons interested in and owning such property, to bring suit against the said city for the recovery of such damages as he or they sustained by reason of the destruction thereof, and the amount which shall be recovered in the said action with costs shall be paid out of the city treasury, on certificate of the amount of said recovery and costs by the clerk of the court wherein the said action was brought.

SEC. 70. The person or persons whose property is injured

or destroyed may have and maintain his or their action against all and every person engaged or participating in said riot or mob, to recover full damages for any injury sustained: Provided, that no damages shall be recovered by the party injured against any of said riotors, for the same injury for which compensation shall be made by the city.

Action may hold against any and every person concerned. Proviso.

SEC. 71. It shall be lawful for the said city, when damages shall be recovered against the city as aforesaid, to bring a suit or suits in the name of the city against any or all persons engaged or in any manner participating in said mob or riot, or against the Mayor, Alderman, Justice of the Peace, Marshal, Assistant marshal, or Sheriff, or other officer charged with the maintenance of the public peace, who may be liable by neglect of duty as aforesaid, for the recovery of all damages, costs and expenses incurred by said city, and said suits shall not abate or fail by reason of too many or too few parties defendants being named therein, but the same shall to all intents and purposes be treated as actions of trespass brought by the owner of such property.

Against whom city may bring suit to recover damages paid in consequence of riot.

SEC. 72. A wooden bridge shall be constructed across the Milwaukee river, from Water street in the first ward to the foot of Cherry street in the second ward of said city, twenty feet wide, and without a draw. The first and third wards of said city shall build the said bridge across the river proper at Water street as aforesaid; and the second and fourth wards shall do the remainder of the work to connect the said bridge with the main land at Cherry street by the first day of March, one thousand eight hundred and fifty-two. And after said bridge is so constructed, the bridge over said river at Chesnut and Division streets shall be removed at the joint expense of the said first, second, third and fourth wards in proportion to their tax lists. And if the said bridge should not be constructed as above directed, and the bridge at Chesnut and Division streets not removed by the first day of March, one thousand eight hundred and fifty-two, it shall be lawful and the councils of said city are authorised and empowered to build said bridge and remove the said other bridge; and shall assess and collect in the same manner as other city taxes are assessed and collected a special tax upon the taxable property in each of said wards for the amount of the said work, in proportion to the amount thereof herein directed to be done and performed by each ward respectively: Provided, that if any ward shall have done and fully completed its share of said work, then no such tax shall be assessed upon such ward.

Bridge—by whom to be constructed.

When Council's may construct and remove bridge.

Proviso.

SEC. 73. Until the first day of August next, the bridges across the Milwaukee and Menomonee rivers within said city

When bridges to be maintained by city.

shall be kept up and supported by the several wards, according to the laws now in force and the system now in use. After the said first day of August next the said bridges shall be kept up, rebuilt, repaired and tended at the expense of said city.

Bridges to be free and to have draws.

SEC. 74. All the said bridges shall forever be and remain free of toll, and the three lower bridges across the Milwaukee river shall be so constructed with such draws that any water craft navigating said river can pass through the same, and shall be so attended that no unnecessary delay shall be made to the passing of the same. And the said city shall be liable to pay all damages which any water craft may sustain by delay in passing or by unavoidably coming into contact with such bridge in passing or attempting to pass the same.

General penalties for wilful injury extended

SEC. 75. The general laws for the preservation of bridges, and the punishment by such laws provided for wilful and malicious injuries done thereto, are hereby extended to and shall include the said bridges; and shall apply to any wilful or malicious damage which may be done to either of them by any person or persons whatever. And the Mayor of said city may have and exercise full jurisdiction in administering said laws, and also the ordinances that may from time to time be passed for the regulation and preservation of said bridges, and to enforce the penalties prescribed in said laws and ordinances. And in case any damage may be done by any vessel or water craft, or by the master or commanding officer thereof, such vessel or water craft may be proceeded against under the laws to provide for the collection of demands against boats and vessels.

Tax for maintenance of bridges—how assessed, &c.

SEC. 76. There shall annually be assessed on the taxable property of said city, a city tax for the maintenance of the bridges within the limits of said city, not exceeding in any year one-half of one per cent. upon the valuation of said taxable property, and the said tax shall be assessed and collected, and disbursed in the same manner as the other city taxes are directed to be assessed, collected and disbursed; and shall be assessed and collected at the same time and by the same collectors as the other city taxes.

Select Aldermen to be the board of health

SEC. 77. The aldermen or members of the select council shall constitute the board of health of said city; but if at any time any of such aldermen should be unable from any cause to perform said duty, it shall be competent for the councils in convention assembled to appoint some competent person of the ward of such aldermen a member of the board in room of such alderman. The board of health shall at all times be subject to and governed by such ordinances, rules and regulations as may be adopted by the councils.

SEC. 78. The said city or any of the wards thereof shall

have power to lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof in the erection of market houses and other public buildings and for other purposes; and may sell and convey the same at pleasure and the same shall be free from taxation.

City and wards may purchase and sell certain real estate.

SEC. 79. The Clerk, Treasurer and other officers of the city of Milwaukee as now organised shall transfer all the books, papers and moneys which may be in their hands, to the City Clerk and Treasurer who may be elected or appointed agreeably to this act. Provided, That the said Treasurer shall continue in the discharge of the duties of his office until the first day of June next, anything in this act contained to the contrary notwithstanding. And if it should be deemed necessary by the present common council, the financial committee of the present board of common council shall audit and adjust the accounts of said Treasurer, and report the same to the councils to be elected in pursuance of this act for their final action.

Present officers to transfer papers, &c., to successors.

Proviso.

SEC. 80. An Act to incorporate the city of Milwaukee approved January thirty-first, eighteen hundred and forty six, an Act relating to bridges in the city of Milwaukee approved February second, eighteen hundred and forty-six; an act relating to certain streets in the city of Milwaukee approved February second, eighteen hundred and forty-six; an act to amend an act entitled "an act to incorporate the city of Milwaukee," approved February fourth, eighteen hundred and forty-seven; an act to authorise the levy of a special tax in the third ward of the city of Milwaukee, approved March eleventh, eighteen hundred and forty-eight; an act to levy a special tax in the fifth ward of the city of Milwaukee, approved March eleventh, eighteen hundred and forty-eight; an act additional to an act to incorporate the city of Milwaukee, approved August tenth, eighteen hundred and forty-eight; an act amendatory to an act entitled "an act to authorise the levy of a special tax in the fifth ward of the city of Milwaukee," approved August nineteenth, eighteen hundred and forty-eight; an act to amend an act entitled "an act to incorporate the city of Milwaukee and acts amendatory thereto, approved March twelfth, eighteen hundred and forty-nine; and all other acts and parts of acts inconsistent with, or superceded by the provisions of this act are hereby repealed: Provided, That an act to authorise a special tax in the third ward of the city of Milwaukee, approved February ninth, eighteen hundred and fifty, shall continue in force three years from and after the passage of this act. And the repeal of said acts and parts of acts shall not in any manner affect, injure, or invalidate any contracts, acts, proceedings, suits, vested rights, claims, debts, or demands that may

Acts repealed.

Proviso.

Repeal not to invalidate contracts

have been entered into, done, performed, created, perfected, commenced or exists under, or by virtue, or in pursuance, of the said acts or any of them, but the same shall exist and be completed, perfected, enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed. And all laws and parts of laws relating to said city in any manner not here repealed or superceded in which the Mayor or the common council of said city or either are directed or authorised to do any act or pass any ordinance, are here so amended as to authorise and direct the select and common councils of said city to do and perform the same acts and to pass the same ordinances and to carry out the same provisions. And all ordinances, resolutions, regulations, rules, by-laws, and orders of the common council of said city or parts thereof not repealed, suspended, or made void by this act shall continue and remain of the same force and effect as if this act had not been passed until altered, amended, repealed or suspended by the select and common councils in pursuance of this act.

Certain Laws not repealed by this act amended.

Affirmative vote of inhabitants of the city necessary to make act valid.

SEC. 81. This act shall be certified by the Secretary of State, and published in the papers authorised to publish for the State, immediately after its passage, but it shall not become a law until submitted to a vote of the inhabitants of said city, and for this purpose, a special election shall be held in the several wards of said city, at such places as may be designated by the common council, by the aldermen of each ward, or under their direction, in the same manner, and conducted and certified in the same way and under the same penalties as elections are now by law holden and conducted in said city, for city and ward officers, on the first Tuesday of May next, between the hours of said day specified for keeping open elections, and at such special election, the male inhabitants of each ward of said city who are qualified to vote according to the provisions in section three of this act, may vote within their respective ward, a printed or written ticket, "For the Charter," or "Against the Charter," and the result of such election, in each and every ward of said city, shall be certified by the said aldermen, or persons holding said election in each ward, or a majority of them, to the common council, who shall add up the same; and if a majority of all the votes cast at such election in said city shall be found to be "Against the Charter," this law shall not take effect, and if a majority of all the votes cast at such election shall be found to be "For the Charter," the Mayor shall forthwith issue his proclamation accordingly, and this act shall take effect and be in force from and after the date of such proclamation, and shall be a public act, and shall be construed favorably in all courts and places: Provided, That the present

When Mayor to issue proclamation.

Proviso.

officers and common council of said city shall continue in the discharge of their several duties until the officers and councils be duly elected and qualified, in pursuance of this act.

FREDERICK W. HORN,
Speaker of the Assembly.

DUNCAN C. REED,
President pro tempore of the Senate.

Approved March 15th, 1851.

NELSON DEWEY.