

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 This act shall be considered a public act, and may be altered, amended or repealed by any future Legislature,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:

Boundary of
the corpora-
tion.

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 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 Milwaukee 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 "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 the 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 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 Milwaukee, 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.

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.

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.

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 sue 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

Proviso.

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

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.

Common council empowered to preserve order.

- 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.

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

- 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.

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

- 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

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 groceries, 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.

Id.

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.

When harbor
may be con-
structed.

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 Milwaukie 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

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 Highway tax on the highways, streets and alleys by each male person who by how collected 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 Assessment roll when and how made out 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 Equalization of assessment. 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-

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 to be levied.

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 to be lien on real estate until paid.

Relative to the collection of taxes.

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

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.

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

Six weeks notice of sale to be published.

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 Milwaukie 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 ^{1b.} 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 ^{1b.} 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 ^{1b.} 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 ^{Twelve weeks} for redeeming lots or lands sold for taxes, it shall be the duty of ^{notice to be} the treasurer of said city to publish at least twelve weeks ^{published of} successively in some newspaper or newspapers printed in said city, a list ^{the time when} of all unredeemed lots or lands, describing each lot or piece ^{lots will be} of ^{forfeited for} land, or any part thereof, as the same was assessed and sold, to- ^{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.

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.

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

Majority of aldermen to determine what tax may be levied.

When corporation may borrow money

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.

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 heretofore 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.

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,

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 ^{Books &c. of} which may be in their hands, to the clerk and treasurer who may ^{the town of} be appointed agreeably to this act, and all the acts, ordinances, ^{Milwaukee to} rules or by-laws of said town of Milwaukie, 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. ^{be transferred.}

SEC. 57. The council shall have power to authorize the for- ^{Fire compa-} mation of fire engine, hook and ladder and hose companies, pro- ^{nies may be} vide for the due and proper regulation of the same, and to dis- ^{formed and} band such companies at any time, and prohibit their meeting as regulated. ^{regulated.} such, when so disbanded; each company not to exceed forty able 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.

SEC. 58. That the corporation of the city of Milwaukie shall ^{Penalties for} have power to pass ordinances imposing penalties against the ^{injury to} owners and masters of vessels, or the vessels themselves, for any ^{bridges.} 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.

SEC. 59. That for every wilful or malicious injury done to ^{Penalties how} any bridges, authorized by the act of the Legislature at the ses- ^{collected.} sion 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 Milwaukie river, said vessel or craft shall be liable in an action: by warrant, in the name of the city of Milwaukie for

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.