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A N A C T

TO INCORPORATE

THE CITY OF UTICA:

PASSED FEBRUARY 13, 1882

No. 249
O.H.
UTICA, N. Y.



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AN ACT

TO INCORPORATE THE CITY OF UTICA:

PASSED FEBRUARY 13, 1892.

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

§1. The district of country, in the county of Oneida, ^{Boundaries of City.} now comprising the Village of Utica, and contained within the following bounds, that is to say: Beginning at a point on the south side of the Mohawk river, where the division line, between lots number ninety-nine and one hundred in Cosby's Manor, strikes the said river; thence running southerly, in the said division line, to a point fifty chains southerly of the great road leading to Fort Stanwix; thence south fifty three degrees, east to the easterly line of the county of Oneida; thence northerly in the said county line to the Mohawk river; thence westerly up the middle of said river, to the place of beginning, shall hereafter be known by the name of the City of Utica.

§2. The inhabitants of said City shall be a corpora- ^{Incorporation.} tion, by the name of the city of "Utica," and may sue and be sued, complain and defend in any court; make and use a common seal, and alter it at pleasure, and take, hold, purchase and convey, such real and personal estate as the purposes of the corporation may require.

§3. Said City shall be divided into four wards, ^{as} ^{Wards.} follows: That part which lies easterly of the middle of Genesee street, and northerly of the centre of the Erie canal, shall be the first ward; That part which lies westerly of the middle of Genesee street, and northerly of the centre of the said canal, shall be the second

ward; That part which lies westerly of the middle of Genesee street, and southerly of the centre of the said canal, shall be the third ward; And that part which lies eastwardly of the middle of Genesee street, and southerly of the centre of said canal, shall be the fourth ward.

Officers.

§4. There shall be in and for said city, one Mayor, twelve Aldermen, four Justices of the Peace, one Clerk, one Supervisor, one Treasurer, one or more Collectors, four Assessors, three Constables, and such other officers as are hereinafter authorised to be appointed.

Elections.

§5. An election shall be held, in each of the wards of said city, on the first Tuesday in March in each year, at such place as the common council of said city shall appoint, and of which six days previous public notice shall be given in writing, in three public places, in each ward, by the inspectors thereof.

Officers to be elected.

§6. At such election, there shall be elected three Aldermen and one Assessor, for each ward, and one Justice of the Peace, or a greater number in case of a vacancy, one Supervisor and three Constables, for said city.

Inspectors of election.

§7. The common council shall, for that purpose, appoint for each ward, three persons, residents of the ward for which they shall be appointed, who shall be inspectors of such elections: such inspectors shall have the same powers and authority, as the inspectors of a general state election.

Their powers.

§8. The electors shall vote by ballot and each person, offering to vote, shall deliver his ballot, so folded as to conceal the contents, to one of the inspectors, in the presence of the board.

Votes to be by ballot.

§9. The ballot shall be a paper ticket, which shall contain, written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office, to which each person, so named, is intended by him to be chosen; but no ballot shall contain, a greater number of names,

What the ballot shall contain.

of persons as designated to any office, than there are persons to be chosen, at the election, to fill such office.

§10. On the outer side of each ballot, when folded, there shall appear written, or printed, one of the following words, "Ward," "City;" but no ballot found in the proper box shall be rejected, for want of such endorsement. Ballot to be endorsed.

§11. The ballot endorsed "Ward" shall contain the names of the persons designated, by the elector, for the offices of Aldermen, and Assessors, any or either of them; that endorsed "City" the names of the persons designated for the offices of justice of the peace, supervisor and constable, any or either of them: and such ballots shall be deposited, in separate boxes, to be provided by the common council for that purpose. Ballots to be deposited in separate boxes.

§12. If there be one or more vacancies to be supplied, in the office of justice of the peace, it shall not be necessary, to designate on the ballots for which term the person voted for is intended: but it shall be afterwards determined by lot, in the same manner as in Towns of this State, for which term the persons respectively elected shall serve. In case of vacancy in office of Justice, terms to be determined by lot.

§13. The polls of such election, shall be opened at nine o'clock in the forenoon, and continue open until four o'clock in the afternoon of the same day, and no longer. Poll lists shall be kept in the same manner as nearly as may be, as is provided by law, for keeping poll lists at the general State elections. Polls to be open from 9 till 4 o'clock. Poll lists to be kept.

§14. Every person voting at such election, shall be an actual resident of the ward in which he votes, and shall, if required by any person qualified to vote thereat, before he is permitted to vote, take the following oath: "You do swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years: that you have been an inhabitant of this State for one year, next preceding this election, and for the last six months a resident of this county; that you are now a resident of this ward, and that you have not voted at this election. If the person be a colored man, he shall, if required,

Qualification of voters.

Oath.

Oath for colored voters. as aforesaid, before he is permitted to vote, take the following oath: 'You do swear (or affirm) that you are of the age of twenty-one years, that for three years you have been a citizen of this State, that you have been an inhabitant of this State, for one year next preceding this election, and during that time, have been and now are, seized and possessed of a freehold estate, of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and have been actually rated and paid a tax thereon; that you have been for the last six months a resident of this county; that you are now a resident of this ward, and that you have not voted at this election.

When Inspectors to canvass.

Canvass to be public and how conducted.

§15. After the poll of any such election is closed, the inspectors holding the same in each of said wards, shall on the same or next day, canvass the votes given at such election. The canvass shall be public and shall commence by a comparison of the poll lists, and a correction of any mistakes that may be found therein, until they shall be found, or made to agree. The ballots shall be counted unopened, except so far as to ascertain that each ballot is single, and if two or more ballots shall be found so folded as to present the appearance of a single ballot, they shall be destroyed.

ib.

§16. If the ballots shall be found to exceed in number the whole number of votes on the poll lists, they shall be replaced in the box and one of the inspectors shall publicly draw out and destroy so many ballots unopened, as shall be equal to such excess. The ballots and the lists being found, or made to agree, the inspectors holding such election shall then proceed to canvass and estimate the votes.

Inspectors to make a statement of result and determine who are elected Aldermen and Assessors.

§17. The canvass being completed, a statement of the result shall be drawn up in writing by the inspectors, which they shall certify to be correct, and subscribe with their names, and file the same with the Clerk of said city, on the same or the next day after the canvass is completed. The inspectors of each ward shall severally determine and certify, who are by the greatest

number of votes elected Aldermen and Assessors of their respective wards.

§18. The Clerk shall deliver such statements and certificates to the common council, at their next meeting after such election; who shall upon such statements and certificates, proceed and declare what persons have been duly elected to the office of Justice of the Peace, Supervisor and Constable, or either of them, and the persons having the greatest number of votes in the whole city, for the last mentioned offices respectively, shall be declared to be duly elected. The said common council shall make a certificate of their determination, which shall be signed by the members present, of said common council, and be filed with the Clerk.

Common Council to declare what persons are elected and to file certificate.

§19. No person entitled to vote at any election held under this act, shall be arrested on civil process, within said city, on the day on which such election is held.

Voters not to be arrested on day of election.

§20. The present Trustees of the village of Utica, or such persons as they shall appoint, shall be inspectors of the election to be held under this act, on the first Tuesday of March next; such election shall be held and conducted, and the votes given thereat, canvassed by said inspectors, and the result determined in the manner herein before provided.

Present Trustees to be inspectors of next election.

§21. Vacancies in the office of Alderman or Justice of the Peace, occurring in any manner, may be filled at a special election called and appointed by the common council, and conducted in the same manner as an annual election. Vacancies in all other offices, shall be filled by appointment by the common council. All appointments to fill a vacancy in an elective office, under this act, and all appointments of Mayor, Clerk, Treasurer, Attorney for the city; Police Constables, Collectors, Street Commissioner and Overseers of the Poor, shall be by warrant, under the Corporate Seal, signed by the Mayor or presiding officer of the common council and Clerk. In case of a failure to elect Aldermen at an annual election, or if from any cause there shall be no Aldermen, the Clerk shall appoint the time and places

Vacancies in offices, how filled.

Appointments to be by warrant.

Term of office.

for holding a special election, and appoint the inspectors.

§22. All officers appointed or elected to any office, under or by virtue of this act, shall be appointed or elected annually, except Justices of the Peace; but all officers appointed by the common council, except to fill a vacancy in an elective office, shall continue in office until their successors are appointed, and take the Constitutional oath of office. The term of office of all elective officers under this act, except Justices of the Peace, shall expire on the first Monday after the first Tuesday in March, in each year. Justices of the Peace shall enter on the duties of their office, on the first day of January next after their election, and shall hold their office for four years thereafter, except when elected to fill a vacancy. They shall be divided into classes, and may be removed from their offices in the same manner as Justices of the Peace in towns.

Present Justices to continue.

§23. The Justices of the Peace heretofore elected at any charter election in the village of Utica, shall be Justice of the Peace for the city of Utica, until the expiration of the term of office for which they were respectively elected.

Powers and duties of officers.

§24. The Justices of the Peace, Clerk, Supervisor, Collectors, Assessors, Constables, Overseers of the Poor, Pound Masters and Fence Viewers, elected or appointed, under or by virtue of this act shall, except as otherwise directed and provided in this act, have the same powers and privileges, and perform the same duties, and be subject to the same liabilities, respectively, as like officers in the several towns in this State: but the Police Constables appointed by the common council in pursuance of this act, shall not have power to serve any civil process out of the limits of said city, except in cases of persons fleeing from said city, and to commit on execution, where the defendant shall have been arrested within said city.

Common Council when to meet, Mayor or to preside.

§25. The Mayor and Aldermen of said city, shall constitute the common council of said city. The common council shall meet at such places and times, as they

shall by resolution direct, or as the Mayor, or in his absence any two of the Aldermen shall appoint. The Mayor, when present, shall preside at all meetings of the common council. In his absence, any one of the Aldermen may be appointed to preside.

§26. The common council shall meet annually on the second Tuesday of March in each year, and by ballot appoint a Mayor, Clerk, Treasurer, Attorney, for the city; Street Commissioner, two Police Constables, Clerk of the Market, one or more Collectors, and Overseers of the Poor, one or more Pound Masters, and Fence Viewers, Porters, Carriers, Cartmen, Packers, Beadles, Bellmen, Sextons, Common Criers, Scavengers, Measurers, Surveyors, Weighers, Sealers of Weights and Measures, and Gaugers. If for any cause, the officers above named are not appointed on said second Tuesday of March, the common council may adjourn from day to day, until such appointments are made; and no Alderman shall be appointed to the office of Mayor.

Common Council to appoint Mayor, &c.

§27. The Mayor, in virtue of his office, shall possess the same powers and authority, as are by law vested in any Justice of the Peace in the towns of this state, in criminal cases.

Mayor to have the power of Justice in criminal cases.

§28. If any inhabitants of said city, elected to any office in pursuance to this act, shall refuse or neglect to accept such office, and take and subscribe the oath of office prescribed in the sixth article of the Constitution, for five days after personal notice in writing, from the Clerk, of his election or appointment, he shall forfeit the sum of twenty-five dollars.

Any person elected to forfeit \$25 on refusing to accept office.

§29. Every person chosen or appointed to any executive, judicial or administrative office, under this act, shall, before he enters on the duties of his office, take and subscribe, before some Justice of the Peace or Commissioner of Deeds, the oath of office prescribed in the sixth article of the Constitution of this state, and file the same, duly certified by the officer before whom it was taken, with the Clerk of the city, except that Justices of the Peace elected under this act, shall take and sub-

Officers to take oath of office.

scribe such oath, before the Clerk of Oneida county, and file the same in his office.

Certain officers to give bonds. §30. The Treasurer, Street Commissioner and Collector, or Collectors of said city, shall severally, before they enter on the duties of their respective offices, execute a bond to the city of Utica, in such sum and with such sureties as the common council shall approve, conditioned, that they shall faithfully execute the duties of their respective offices, and account for and pay over all monies received by them respectively; which bonds, with the approval of the common council thereon, certified by the Clerk, shall be filed with the Clerk of the city.

Constables to execute an instrument with sureties. §31. Every person elected or appointed to the office of Constable, in said city, shall before he enters on the duties of his office, with two or more sureties, to be approved by the common council, execute in the presence of the Clerk of the city, an instrument in writing, by which such Constable and sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto, all such sums of money as the said Constable may become liable to pay on account of any execution which shall be delivered to him for collection. Evidence of such execution. The Clerk of the city shall certify the approval of the common council on such instrument, and file the same and a copy of such instrument, certified by the Clerk under the Corporate Seal, shall be presumptive evidence, in all courts, of the execution thereof by such Constable and his sureties. Action on when to be brought. All actions on any such instrument, shall be prosecuted within two years after the expiration of the year for which the Constable named therein, shall have been elected or appointed, and may be brought in the name of the person or persons entitled to the money to be collected, by virtue of such instrument.

Treasurer his duties. §32. The Treasurer shall receive all monies belonging to the city, and keep an accurate account of all receipts and expenditures, in such manner as the common council shall direct. All monies shall be drawn from

the Treasurer, in pursuance of an order of the common council, by warrants signed by the Clerk, and countersigned by the Mayor. Such warrants shall specify for what purpose the amount specified therein, is to be paid; and the Clerk shall keep an accurate account of all orders drawn on the Treasury, in a book to be provided for that purpose. Clerk to keep account of orders. The Treasurer shall exhibit to the common council, at least fifteen days before the annual election in each year, a full account of all receipts and expenditures, after the date of his last annual report, and also the state of the Treasury, which account shall be filed in the office of the Clerk. Treasurer to exhibit account.

§33. It shall be the duty of the common council, at least ten days before the annual election held under this act, in each year, to cause to be published, in two or more of the public newspapers in said city, a full and correct statement in detail, of the receipts and expenditures by the said common council, for the contingent expenses of said city, from the date of the last annual report, published in pursuance of this section, to the date of their said report; and also a distinct statement of the whole amount of money assessed, received and expended, for making and repairing roads, highways and bridges in said city, for the same period; and also a distinct statement of the monies received and expended for the support of Common Schools, during the same period, together with such other information in their power to furnish, as may be necessary to a full understanding of the financial concerns of said city. Common Council to publish a statement of receipts &c.

§34. The Clerk shall keep the Corporate Seal and all the papers belonging to said city, and make a record of the proceedings of the common council, whose meetings it shall be his duty to attend; and copies of all papers, duly filed in his office, and transcripts from the records of the proceedings of the common council, certified by him under the Corporate Seal, shall be evidence in all courts, in like manner as if the originals were produced. Clerk his duties.

Street Commissioner, his duties. §35. It shall be the duty of the Street Commissioner to superintend the making of all public improvements ordered by the common council, and to make contracts for the work and materials which may be necessary for the same; to keep accurate accounts of all monies expended by him in the performance of any work, together with the cause of such expenditure, and to render such account to the common council; but no contract or agreement made by such Commissioner, shall be binding on the Corporation, until the same is ratified by the common council; but when so ratified, it shall be of the same effect as if executed under the Corporate Seal, and signed by the Mayor and Clerk.

Common Council to grant salary to Mayor, &c. §36. The common council may grant and allow to the Mayor of said city, for the time being, in lieu of all fees and perquisites, (except such fees and perquisites as he may be entitled to, as a Justice of the Peace) an annual salary, not exceeding two hundred and fifty dollars, payable out of the Treasury. The Treasurer, Clerk, Street Commissioner, Police Constables and Collector and Collectors, shall also be paid out of the Treasury, such compensation for their services, as the common council may deem reasonable.

Persons having been officers, refusing to deliver property to his successor, &c. §37. If any person, having been an officer in said city, shall not within ten days after notification and request, deliver to his successor in office, all the property and effects of every description in his possession, belonging to the said city, or appertaining to the office he held, he shall forfeit and pay for the use of the city, one hundred dollars, besides all damages caused by his neglect or refusal so to deliver.

Common Council to hold stated meetings; special meetings; how called; to have control of property belonging to Corporation; to make ordinances. §38. The common council shall hold stated meetings, and the Mayor or any two Aldermen may call special meetings, by notice to each of the members of said council, served personally or left at his usual place of abode. Petitions and remonstrances may be presented to the common council. The common council shall have the management and control of the finances, and of all the property real and personal belonging to the

Corporation, and shall have power within said city, to make, establish, publish and modify, amend and repeal, ordinances, rules, regulations and by-laws, for the following purposes:—

1. "To prevent vice and immorality; to preserve peace and good order.

2. "To prevent forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice.

3. "To regulate auction sales, and to restrain and prohibit hawking and peddling in the streets.

4. "To restrain and suppress disorderly and gaming houses, billiard tables, and all instruments and devices used for gaming.

5. "To restrain or regulate all exhibitions of any natural or artificial curiosities, caravans of animals, theatrical or other shows or exhibitions, or performances for money.

6. "To direct the keeping and returning bills of Mortality, and to impose penalties on Physicians, Sextons and others, for any default therein.

7. "To regulate the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns and stables.

8. "To regulate the guaging of casks of spirituous liquors.

9. "To regulate the place and manner of selling and weighing hay, and of selling and measuring of wood, lime and coal, and to appoint suitable persons to superintend and conduct the same.

10. "To regulate and prevent the running at large of dogs owned by persons residing in said city, and to impose a tax upon the owners or possessors of such dogs.

11. "To appoint an examiner of weights and measures.

12. "To appoint Watchmen, and prescribe their powers and duties.

13. "To prevent immoderate riding or driving in the streets.

14. "To abate and remove nuisances.

15. "To restrain the running at large of cattle, horses, sheep and swine, and to cause such as are found running at large to be impounded.

16. "To restrain all mendicants, vagrants, street beggars, or persons soliciting alms or charity.

17. "To light the streets of said city.

18. "To establish, make and regulate public pumps and wells, and to prevent the unnecessary waste of water.

19. "To establish and regulate public pounds.

20. "To survey the boundaries of said city.

21. "To prevent any riot or noise, disturbance, or disorderly assemblage.

22. "To regulate and restrain runners for boats and stages and the ringing of bells.

To pre-
scribe du-
ties of of-
ficers.
§39. The common council shall have power from time to time, to prescribe the duties of all officers and persons appointed by them to any office or place whatever, subject to the provisions of this act; and may remove all such officers and persons, for incapacity, neglect of duty, or official misconduct.

To make
all ordinan-
ces neces-
sary to im-
pose penal-
ties.
§40. The common council may make, publish, ordain, amend and repeal, all such ordinances, by-laws and police regulations, not contrary to the laws of this state, as may be necessary to carry into effect the powers given to said council by this act; and enforce observance to all rules, ordinances, by-laws and police regulations, made in pursuance of this act, by imposing penalties on any person violating the same, not exceeding twenty-five dollars for any one offence, to be recovered with costs in an action of debt, in any court having cognizance thereof. Every such ordinance or by-law, imposing any penalty or forfeiture, for a violation of its provisions, shall, after the passage thereof, be published for three weeks successively in two public newspapers, printed and published in said city, and

Penalties
how recov-
ered.
Ordinances
to be pub-
lished.

proof of such publication, by the affidavit of the printer or publisher of said newspapers, taken before any officer authorised to administer oaths, and filed with the Clerk of the city; or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinance or by-law, in all courts and places.

Proof of
publication.

§41. The common council at their annual meeting, on the second Tuesday in March, in each year, or within ten days thereafter, shall designate two public newspapers, printed in said city, in which shall be published all ordinances and other proceedings and matters, required in any case, by this act, or the by-laws and ordinances of the common council, to be published in a public newspaper.

To desig-
nate public
newspa-
pers.

§42. All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances by-laws, or police regulations made in pursuance of it, shall be brought in the corporate name, and in any such action it shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the by-law or ordinance, under which the penalty is claimed and to give the special matter in evidence, and the defendant may plead the general issue, and give the special matter in evidence. The first process in any such action brought before a Justice of the Peace shall be by warrant, and execution may be issued thereon immediately on the rendition of judgment. If the defendant in any such action have no goods or chattels, lands or tenements, whereof the judgment can be collected, the execution shall require the defendant to be imprisoned in close custody, in one of the jails of Oneida county for a term not exceeding thirty days. All expenses incurred in prosecuting for the recovery of any penalty or forfeiture, shall be defrayed by the Corporation, and all penalties and forfeitures when collected, shall be paid to the Treasurer for the use of the city.

Actions
how bro't.
Pleadings.
Execution.
Expenses
of prosecu-
tion.

Inhabitants
&c. competent
witnesses.

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

Common
Council to
raise money.

§44. The common council shall have power to cause a sum in each year, not exceeding eight thousand dollars, to be raised by tax, to defray the expenses of lighting the streets, supporting a night watch, and making and repairing roads, highways and bridges in said city, and to defray the contingent and other necessary expenses of said city. The taxes assessed and levied, in pursuance of this section, shall except as otherwise herein directed, be assessed and rated by the said council upon or among the owners of the estates, real and personal, in said city (according to the then last assessment roll, made by the assessors of said city,) in the same manner and proportion, as nearly as may be, as taxes in and for the county of Oneida are rated and assessed: and in the assessment roll made in pursuance of this section, it shall be the duty of the common council to set down and describe briefly, the real estate, and the amount of the personal estate, on or in respect of which, any assessment or tax is imposed or assessed. It shall also be the duty of the common council to determine and specify what sum is to be raised yearly to defray the expenses of lighting streets, what sum for supporting a night watch, and what sum for making and repairing roads, highways and bridges, and the sums raised to defray the expenses of lighting streets and supporting a night watch, shall be rated and assessed by the said common council on or among the owners and occupants of the real and personal estates in said city, in a just and equitable manner, as nearly as may be in proportion to the advantage and security which each shall be deemed to acquire thereby, and no person or property exempt by law from assessments to work on highways in towns, shall be assessed or taxed for any part of the amount raised for making and repairing roads, highways and bridges. In the assessment

Taxes, how
assessed.

roll made under this section, all persons who would be liable by law to be assessed to work on highways, if they resided in any of the towns of this state shall be enumerated and may be taxed by the said common council a sum not less than sixty-two and a half cents, nor more than the sum of two dollars and fifty cents, as a poll tax, to raise the amount directed to be raised for making and repairing roads, highways and bridges, and in said assessment-roll, the sums taxed or assessed, to or on each person, or to or on any parcel or parcels of real estate, owned by one person, for making and repairing roads, highways and bridges, shall be set down in a separate column. Said assessment roll shall, when completed and corrected, be filed with the Clerk of the city. All taxes and assessments imposed, rated and assessed by the said common council, in pursuance of this section, shall be collected by the collector or collectors of said city, in the same manner and with the same power and authority as taxes in and for the county of Oneida are collected by the collectors of the several towns, by virtue of a warrant under the corporate seal, signed by the Mayor, or by suit in the corporate name, with interest and costs. The assessment roll filed with the Clerk, shall, in all cases, be evidence on the part of the corporation; and all taxes and assessments imposed or assessed on or in respect of any real estate as aforesaid, shall be a lien on such real estate, and in case such taxes and assessments are not paid and no personal property can be found by the collector or collectors, out of which to satisfy and collect the same by distress and sale, the common council may cause such real estate to be sold for the payment and collection of such taxes and assessments as aforesaid, together with the expenses of the sale, in the manner and with the effect, and subject to the provisions specified in the forty-ninth section of this act, relative to the sales of real estate, for the non-payment of assessments in that section mentioned; but no such real estate shall be sold as aforesaid except within one year from the time of the

How collected.

Tax lien on real estate.

Real estate may be sold within one year.

filing of the assessment roll as aforesaid. All taxes and sums of money raised and collected in pursuance or by virtue of this section shall be paid to the Treasurer of the city.

May raise additional sum for lighting streets. §45. If the amount assessed and collected under and by virtue of the forty-fourth section of this act, to defray the expenses of lighting the streets in said city, is not in any one year sufficient for that purpose, the common council shall have power, on the petition or consent in writing of a majority of the persons liable to be assessed therefor, to cause an additional sum to be assessed, levied and collected sufficient to defray the additional expenses. All assessments authorised by this section shall be made according to the then last assessment roll, and shall be assessed, levied and collected in the same manner as other taxes under the forty-fourth section of this act.

To be commissioners of highways, &c. §46. The common council shall be commissioners of highways in and for said city, and shall (subject to the provisions of this act,) possess the powers and perform the duties and be subject to the liabilities of commissioners of highways in towns. They shall have power to regulate, repair, amend and clean the streets, alleys, highways, bridges, side and cross walks, drains and sewers in said city, and to prevent the incumbering of the same in any manner, and to protect the same from encroachment and injury. They shall also have power to direct and regulate the planting, rearing and preserving of ornamental trees in the streets of said city.

May lay out streets, &c. §47. The common council shall have power to lay out, make and open streets, alleys, lanes and highways in said city; and to alter, widen, contract or discontinue any street, alley, lane or highway in said city, but no building exceeding the value of one thousand dollars shall be removed in whole or in part without the consent of the owner. They shall cause all streets, alleys, lanes or highways laid out by them to be surveyed, described and recorded in a book to be kept by the Clerk, and the same when opened and made shall be

Shall cause streets to be recorded.

public highways. Whenever any street, alley, road or highway is laid out, altered or widened, by virtue of this section, the common council shall give notice of their intention to take and appropriate the land necessary for the same to the owner thereof, his agent or legal representatives, if known and residing in this State, and the Mayor or any two Aldermen shall have power, by a precept, under their seals, to command any Constable of said city to empanel and return a Jury of twelve respectable freeholders of said city not interested or of a kin to any person interested in the premises, to appear before him or them, within ten days from the date of such precept, to ascertain and assess the damages and recompence due the owner or owners of such land, and at the same time to determine what persons will be benefitted by such improvement, and to assess the expenses thereof on the real estate of the persons benefitted, in proportion as nearly as may be to the benefit resulting to each, and also to summon the owner of such land, his agent or representatives, by written notice served personally or left at his or their usual place of abode, to appear before him or them on the day specified in said precept. The Jury shall be sworn by any Justice of the Peace of said city faithfully and impartially to execute their duty in making such assessments, according to the best of their ability. The Jury shall view the premises and in their discretion receive any legal evidence, and may if necessary adjourn from day to day. Such Jury shall determine and award to the owner or owners of such land, such damages as they shall judge such owner or owners to sustain in consequence, in such street, road, alley or highway, after taking into consideration and making due allowances for any benefit which said owner or owners may derive from such improvement. The said Jury shall also at the same time assess and apportion the expenses of such improvement, on the real estate benefitted thereby, as nearly as may be in proportion to the benefits resulting therefrom, and shall describe the real estate on which

To give notice.

To summon a jury.

Duty of jury.

any assessment is made under this section, in the same manner as provided in the forty-fourth section of this act, in relation to the assessment of taxes. If there be any building on any land taken for such improvement, the owner thereof shall have ten days, or such time as common council may allow, after the final assessment of the Jury is returned to and confirmed by the common council, to remove the same; and in case such owner removes such building, the value thereof to the owner to remove shall be deducted from the amount of damages awarded to the owner thereof, and such value shall be, at the time of the assessment, determined by the Jury. The determination and assessment of the Jury shall be returned in writing signed by the Jury, to the common council. The common council, after such determination and assessment of the Jury is returned to them, as aforesaid, shall give two weeks notice in two newspapers in said city, that such determination and assessment of the Jury will, on a day to be specified in said notice, be confirmed by the common council, unless objections by some person interested are made thereto. All objections to any such determination and assessment as aforesaid, shall be briefly stated in writing and filed with the Clerk. If no objections are made as aforesaid, the said determination and assessment of the Jury shall be confirmed by the common council. If objections are made as aforesaid, any person interested may be heard before the common council touching the said determination and assessment of the Jury, on the day specified in the aforesaid notice, or on such other day or days as the common council shall for that purpose appoint. And the said common council, on consideration of the objections made, shall have power in their discretion to confirm such determination and assessment of the Jury, or to annul the same and direct a new Jury to be summoned for the purposes and in the manner herein before provided; and the determination and assessment of such new Jury shall, when completed, be returned to and confirmed, as of course, by the com-

Buildings, if any, to be appraised.

To give notice that determination of jury will be confirmed unless objected to.

Objections how stated.

Persons objecting, to be heard.

May affirm or annul.

mon council, and filed with the Clerk, and shall be final and conclusive on all persons interested.

§48. The common council shall have power to cause any street, alley, lane, road or highway in said city to be pitched, levelled, paved, repaved or gravelled, and to cause cross and side walks, drains, sewers and aqueducts to be constructed and made in said city, and to cause any side walks, or drains, sewers and aqueducts to be constructed and made in said city; and to cause any side walks, or drains, sewers and aqueducts to be relaid, amended and repaired, and to cause the expenses of all improvements made or directed under this section to be assessed upon the real estate benefitted by such improvements, in proportion to the benefits resulting thereto, as nearly as may be. The common council shall determine the amount to be assessed for all improvements made or directed under this section, and shall appoint five reputable freeholders of said city to make such assessment. The assessors shall be sworn before a Justice of the Peace of said city, faithfully and impartially to execute their duty as such assessors, according to the best of their ability. They shall assess the amount directed by the common council to be assessed for any improvement, on the real estate deemed by them to be benefitted thereby, in proportion to the benefit resulting thereto, as nearly as may be: and the said assessors shall briefly describe in the assessment roll to be made by them, the real estate on or in respect of which any assessment is made under this section. When the assessment is completed they shall give the like notice and have the same power to make corrections as in the case of assessment of taxes. They shall deliver a corrected copy of the assessment roll to the Clerk of the city to be filed. Any person interested may appeal to the common council for the correction of the assessment,—such appeal shall be in writing and shall be delivered to the Clerk or presiding officer of the common council within twenty days after the corrected copy of the assessment roll is filed with the

May cause streets to be pitched, &c.

To determine amount to be assessed, and appoint assessors.

Duty of assessors.

Assessment how corrected.

Appeal to common council.

Proceed-
ings there-
on.

Clerk. In case of appeal the common council shall appoint a time within ten days thereafter, for the hearing of those who are interested, and shall cause a notice to be posted for five days, in some convenient public place, designating the time and place and object of hearing, and they may adjourn said hearing from time to time as may be necessary: and the common council shall in case of appeal as aforesaid, have power in their discretion to confirm such assessment, or to annul the same and direct a new assessment, which shall be final and conclusive on all parties interested, to be made in the manner herein before directed, by five other assessors to be appointed as aforesaid by the said common council. If the first assessment in any case under this or the preceding section proves insufficient, the common council may cause another to be made in the same manner, or if too large an amount shall at any time be raised, the excess shall be refunded, rateably, to those by whom it was paid.

Additional
assessment

Assess-
ments to be
on real es-
tate.
How col-
lected.

To be a
lien for one
year.

Proceed-
ings in case
of non-pay-
ment.

§49 All assessments for improvements authorised by the forty-seventh and forty-eighth sections of this act, shall be made upon the real estate, and be collected by or paid to the collector or collectors of said city, except as herein otherwise directed. A corrected copy of the assessment roll, shall, in all cases authorised by said forty-seventh and forty-eighth sections, be filed in the office of the Clerk of the city, and the assessments shall be a lien on the premises assessed for one year only, after the final corrected copy of the assessment roll is filed as aforesaid. In case of non-payment, the premises may be sold at any time within the year from the time of the filing of the said assessment roll. Before any such sale, an order shall be made by the common council, which shall be entered at large in the records of the city, by the Clerk, directing the attorney for the city to sell, and particularly describing the premises to be sold, and the assessment for which the sale is to be made, a copy of which order shall be delivered to the said attorney. The attorney shall then adver-

tise the premises to be sold, in the manner, and for the time, required in the case of sales of real estate on execution, and the sale shall be conducted in the same manner. The proceedings may be stopped at any time before sale, by any person, by paying to the said attorney, the amount of the assessment, interest, and expenses of advertising. All sales in such cases shall be made for the shortest period for which any person will take the premises, and pay the assessment, interest, and expenses. Certificates of the sale shall be made and subscribed by the said attorney, one of which shall be filed by him within ten days after the day of sale, in the office of the Clerk of the city, and in the office of the Clerk of Oneida county, and shall contain a description of the property, and the term for which it was sold, and state the amount of the assessment, interest and expenses for which the sale was made, and the time at which the right to redeem will expire. If the proceedings are stopped before a sale is made, the attorney may include two dollars, and no more, in the expenses for his fees. If the premises are sold, the attorney may include four dollars in the amount of expenses, for his fees, and no more. The right of redemption in all cases of such sales, in the same manner and to the same extent, shall exist to the owner and his creditors, as is allowed by law in the case of sales of real estate, by virtue of an execution. The money, in case of redemption, may be paid to the purchaser, or for him, to the Clerk of the city. In case of no redemption, or in case of redemption by the creditor or creditors, the common council shall make to the purchaser or his legal representatives, or the person entitled thereto, a declaration in writing, under the Corporate Seal, signed by the Mayor and attested by the Clerk, containing a description of the premises, the fact of assessment, advertisement and sale, and the period for which the premises were sold; which declaration shall be evidence of a right to the use and occupancy of the premises for the said period, to be computed from the expiration of fif-

Sales how
made.

Redemp-
tion.

Declara-
tion of sale.

teen months after the day of sale. All buildings put on the premises, in the exercise of such right of occupancy during the period, may be removed, at, or before the expiration thereof.

Appeal to
Common
Pleas how
made.

Ground of
appeal.

Proceed-
ings there-
on.

No land to
be taken
for street
until dam-
age is paid.

If owner is
an infant,
court to ap-
point guar-
dian.

§50. Any person interested may appeal from any order of the common council, for laying out, opening, making, altering, or widening any street, alley, road, or highway, to the court of common pleas of the county of Oneida, by notice in writing, delivered to the Mayor or Clerk of the city, at any time before the expiration of twenty days after the passage of the ordinance therefor, by the common council. The only ground of appeal shall be the want of conformity in the proceedings to this act. The propriety or utility of the street, alley, road, or highway, or the correctness of the assessment of damages, if made in conformity to this act, shall not constitute a ground of appeal. In case of appeal, the common council shall make return within twenty days after notice thereof, and the court of common pleas shall, at the next term after the return, which shall be filed in the office of the Clerk of the county, proceed to hear and determine the appeal, and shall confirm or annul the proceedings of the common council.

§51. The land required to be taken for the making, opening or widening any street, alley, road or highway in said city, shall not be so taken and appropriated by the common council until the damages therefor assessed or awarded by any owner thereof, under this act, shall be paid or tendered to such owner or his agent or legal representatives; or in case such owner or his agent or legal representatives cannot be found in said city, shall be deposited to his or their credit, or for his or their use, in one of the banks of said city; and then and in such cases and not before, such land may be taken and appropriated by the common council for the purposes required in making such improvements, and such streets, alleys, road or highway, may be made and opened.

§52. Where any known owner residing in said city or elsewhere shall be an infant, and any proceedings shall

be had under the forty-seventh section of this act, the court of common pleas of Oneida county, or any Judge thereof, at his chambers, may, upon the application of the common council, or such infant or his next friend, appoint a guardian for such infant, taking security from such guardian for the faithful execution of his trust; and all notice and summons required by said section shall be served on such guardian. It shall be the duty of such guardian to see that the rights of such infant are protected.

§53. All persons liable, or whose real estate shall be liable, to be assessed for the constructing or repairing side-walks, under this act, shall have the opportunity to construct or repair them in front of their own lots; but if not done in the manner, of the materials, and within the time prescribed by the common council, the said council may cause them to be constructed and assess the expenses thereof in the manner directed by the forty-sixth section of this act.

§54. No ordinance shall be passed by the common council directing the laying out, making, widening, contracting, discontinuing or altering any street, alley, road or highway; or directing the paving or flagging any street, alley, road or highway, or the constructing or making of any sewer or aqueduct in said city, unless two weeks previous notice shall be given by the said common council, in two public newspapers printed in said city, that an application is pending before said council for the laying out, making, widening, altering, contracting, discontinuing, paving or flagging such street, alley, road or highway, sewer or aqueduct; which notice shall briefly describe the nature and object of the application, and specify at what time it will be finally acted on by the common council.

§55. The common council shall have power to order the pitching, paving, graveling, raising, closing, fencing, amending, cleansing and protecting any public square or area now or hereafter laid out in said city; and to improve the same by the construction of walks,

and the rearing and protecting of ornamental trees therein; and to cause such part of the expenses thereof as they shall deem just, to be assessed and collected in the manner prescribed in the forty-seventh and forty-eighth section of this act, for assessing and collecting expenses of improvements mentioned in those sections; and to cause any real estate on which such expenses are assessed, to be sold as provided in said forty-seventh and forty-eighth sections. But nothing herein shall empower the said common council to divert or obstruct the interest of any individual in or to any such square or area.

May establish market, &c. §56. The common council shall have power to establish and regulate a market or markets in said city, and to restrain and regulate the sale of fresh meat and vegetables in said city; to restrain and punish the fore-stalling of poultry, fruits and eggs, and to license under the hand and seal of the Mayor, annually, such and so many butchers as they shall deem necessary and proper, and to revoke such license for any infraction of the by-laws and ordinances of the common council, or other mal-conduct of such butchers, in the course of their trade.

May prescribe fire limits, &c. §57. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe limits in said city, within which wooden buildings shall not be erected or placed, without the permission of said common council; and to direct that all or any buildings within the limits prescribed, shall be made or constructed of stone or brick, with partition walls, under such penalties as may be prescribed by said common council, not exceeding one hundred dollars for any one offence; and the further sum of twenty-five dollars for each and every week any building, so prohibited, shall be continued.

May take measures to guard against fires and for extinguishment. §58. The common council shall have power to regulate the construction of chimneys, so as to admit chimney-sweeps, and to compel the sweeping and cleaning of chimneys, and to prevent chimney-sweeps from sweeping, unless licensed as they shall direct; to pre-

vent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in any building or manufactory, and to cause the same to be removed, or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and to appoint one or more officers to enter into all buildings and enclosures, to discover whether the same are in a dangerous state, and to cause such as may be dangerous, to be put in safe condition. To require the inhabitants of said city to provide so many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in times of fire; and to regulate and prevent the carrying on of manufactories, dangerous in causing or promoting fires, and to prevent the use of fire-works and fire-arms in the streets; to compel the owners and occupants of houses and other buildings, to have scuttles in the roofs, and stairs and ladders leading to the same; to authorize the Mayor, Aldermen, Fire Wardens, or other officers of said city, to keep away from the vicinity of any fire, all idle and suspicious persons, and to compel all officers of said city, and other persons, to aid in the extinguishment of fires and the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention or extinguishment of fires, as the common council may deem expedient.

§59. The common council shall procure fire engines and other apparatus used for the extinguishment of fires, and have the charge and control of the same, and provide fit and secure engine houses, and other places for keeping and preserving the same; and shall have power to organize fire, hook, hose, ladder and axe companies; to appoint, during their pleasure, a chief engineer, and two assistant engineers of the fire department, and a competent number of able and reputable inhabitants of said city, firemen, to take the care and management of the engines and other apparatus and implements used or provided for the extinguishment of fires; to prescribe

May procure fire engines, and apparatus, and organize fire companies.

May appoint engineers and firemen, &c.

the duties of firemen, and to make rules and regulations for their government, and to impose such reasonable fines and forfeitures upon said firemen, for a violation of the same, as the said council may deem proper; and for incapacity, neglect of duty or misconduct, to remove them and appoint others in their places.

§60. The members of the common council shall be fire wardens, and shall have power to appoint such other fire wardens as they may deem necessary.

§61. The firemen appointed by virtue of this act, shall, during the term of their service as such, be exempt from serving on juries, in courts of record, and in the militia, except in case of war, invasion, or insurrection. The name of each person appointed a fireman, shall be registered with the Clerk of the city, and the evidence to entitle him to the exemption, as provided in this section, shall be the certificate of the Clerk, made within a year in which the exemption is claimed.

§62. The present firemen of the village of Utica, shall be firemen of the city of Utica, subject to be removed by the common council, in like manner as other firemen of said city.

§63. Every fireman who shall have faithfully served as such in said city or village of Utica, or both, for the term of ten years, shall be thereafter exempt from serving on juries in courts of record, or in the militia, except in case of war, invasion or insurrection; and the evidence to entitle such person to the exemption, as provided in this section, shall be a certificate, under the Corporate Seal, signed by the Mayor and Clerk.

§64. The said city, except as otherwise provided in this act, shall, for all the purposes contemplated in part first, chapter thirteenth, entitled, "Of the assessment and collection of taxes," and in part first, chapter fifteen, title second, entitled "Of Common Schools," and part first, chapter sixth, entitled "Of elections, other than for militia and town officers," and in part first, chapter sixteen, title first, entitled, "Of highways and bridges," and in part first, chapter twenty, title nine, entitled "Of

Make rules for their government.

Shall be fire wardens, and may appoint others. Privileges of firemen.

Evidence of exemption.

Present firemen to continue.

Their term of service.

Evidence of exemption.

For what purposes a town.

excise and the regulation of taverns and groceries," and in part first, chapter twenty, title one, entitled "Of the relief and support of indigent persons," of the Revised Statutes, and for all other purposes, except as in this act provided, be considered one of the towns of the county of Oneida, and the Supervisor, Assessors and Clerk of said city, shall be the Inspectors of all elections held in said city, as a town, under or in pursuance of part first, chapter sixth, of the Revised Statutes.

§65. That out of the monies appropriated from the Common School fund to the county of Oneida, the city of Utica shall have its proportion, with other towns in said county, which money shall be paid by the Treasurer of said county to the Treasurer of said city, and be subject to the order of the common council. The common council shall have power to establish so many common and free schools in said city, as in their opinion the purposes of education may require, and shall distribute the money received from the common school fund, among such schools, and in such manner and proportions as they shall deem most useful.

§66. The common council shall be Commissioners of Excise in and for said city, and shall, subject to the provisions of this act, perform the duties and possess the powers of Commissioners of Excise of towns. All licenses granted by the said council, shall be signed only by the Mayor or presiding officer for the time being, of said council; and in addition to the sum which is exacted by said council as Excise duty or otherwise, by virtue of part first, chapter twenty, title nine, of the Revised Statutes, the said common council shall exact not less than six dollars and fifty cents, nor more than twenty dollars, from each person to whom a license is granted by said council, by virtue of this section; which additional sum so exacted, shall be paid to the Treasurer of the city for the use thereof, and one dollar and fifty cents of the additional sum so exacted for each license granted by said council, shall be appropriated and paid to "The Orphan Asylum Society, in the vil-

To have a proportion of school monies.

Commissioners of Excise, their duties.

lage of Utica;" and the residue of such additional sum, or any part thereof, may be appropriated by said council in their discretion, for the support of common or free schools in said city. All bonds and recognizances authorized to be taken by said part first, chapter twenty, title nine, of the Revised Statutes, shall be taken to and in the name of "The City of Utica," and all penalties imposed by said title nine, may be sued for and recovered in the name of the city of Utica, and shall, when recovered, be paid to the Treasurer thereof.

Bonds how taken.

Common Council may regulate grocers, grant licences, and take bonds.

Condition.

§67. The common council shall have power to pass such ordinances as they shall judge proper, for regulating petty grocers, keepers of ordinaries and victualling houses, or houses where fruit, oysters, clams, liquor or meat shall be sold: And shall also have power to grant licenses to petty grocers, keepers of ordinaries, and such houses as aforesaid, and to determine the sum to be paid for the license granted under this section, which shall not be less than three, nor more than fifteen dollars, and to require of such petty grocers, keepers of such ordinaries, and houses as aforesaid, a bond to "The City of Utica" in such penalty, and with sureties, as said council shall approve: Conditioned that such person as aforesaid shall not suffer his store, shop or grocery to be disorderly, or suffer any cock-fighting, gaming, or playing with cards or dice, or keep any billiard or gaming table within the same, or in any out-house, yard or garden belonging thereto, nor suffer or permit any strong or spirituous liquors to be drank in his, her, or their shop, house, store, out-house, yard or garden; and each license granted under this section, shall prohibit the person to whom it is granted, from selling strong and spirituous liquors in quantities less than five gallons, to be drank in his or her store, shop, house, out-house, yard or garden. All monies received for licenses granted under this section, shall be paid to the Treasurer of the city for the use thereof.

City of Utica take certain property.

§68. All the estate, real and personal, vested in, or belonging to, or held in trust by the Trustees of the vil-

lage of Utica, at the time this act shall take effect as a law, shall be, and is hereby declared to be vested in "The City of Utica;" and the said city may sell, dispose of, and convey, in fee simple, the free school-house and lot situate in Catharine-street, in said city.

§69. All former acts and parts of acts, relative to the incorporation of the village of Utica, are hereby repealed, but the repeal of said acts shall not affect any act done, or right accrued or established, or any proceeding suit or prosecution, had or commenced, previous to the time when such repeal shall take effect; but every such act, right, and proceeding, shall remain as valid and effectual as if said acts had remained in force; and all the officers elected or appointed, under, or by virtue of the acts hereby repealed, shall continue in office until and including the Monday next after the first Tuesday in March next, unless the term for which they or any of them were elected or appointed, shall sooner expire.

Acts repealed.

Not to affect acts done, &c.

§70. This act shall take effect on the first day of March next, and the legislature may at any time, alter, modify or repeal the same.

Act to take effect.

STATE OF NEW YORK—IN SENATE, January 23d, 1832. This bill having been read the third time, two-thirds of all the members elected to the Senate voting in favor thereof, Resolved, That the bill do pass. By order of the Senate,

EDWD. P. LIVINGSTON,
President.

STATE OF NEW YORK—IN ASSEMBLY, February 9th, 1832. This bill having been read the third time, two-thirds of all the members elected to this House voting in favor thereof, Resolved, That the bill do pass. By order of the Assembly,

CHAS. L. LIVINGSTON,
Speaker.

Approved, February 13th, 1832,
E. T. THROOP.

STATE OF NEW YORK, }
Secretary's Office.

I CERTIFY that I have compared the preceding with an original act of the Legislature of this State on file in this Office, and that the same is a correct transcript therefrom, and of the whole of said Original.

ARCHD. CAMPBELL,
Dep. Secretary.

ALBANY, Feb. 21, 1832.

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