

FROM THE CITY
OF
ROCHESTER,
TO
CHARLES J. HILL.

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REVISED CHARTER
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OF THE

CITY OF ROCHESTER,

PASSED APRIL 11, 1844;

TO WHICH ARE ADDED THE

CITY ORDINANCES.

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Printed by authority of the Common Council.  
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ROCHESTER:

POWER PRESS OF ERASTUS SHEPARD, 20 $\frac{1}{2}$, STATE-STREET.

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1844.

Mayors of Rochester.

1834. JONATHAN CHILD,
1835-6. JACOB GOULD,
1837. A. M. SCHERMERHORN,
1837. THOMAS KEMPSHALL,
1838. ELISHA JOHNSON,
1839. THOMAS H. ROCHESTER,
1840. SAMUEL G. ANDREWS,
1840-1. ELIJAH F. SMITH,
1842. CHARLES J. HILL,
1843. ISAAC HILLS,
1844. JOHN ALLEN.

Recorders.

1834. ISAAC HILLS,
1840. SELAH MATHEWS.

Attorneys and Counsel.

1834. VINCENT MATHEWS,
1835. ASHLEY SAMPSON,
1836. WILLIAM S. BISHOP,
1837. ASHLEY SAMPSON,
1838. FREDERICK WHITTLESEY,
1839. E. PESHINE SMITH,
1840-1. W. R. MONTGOMERY,
1843. GRAHAM H. CHAPIN,
1844. JOHN W. DWINELLE.
-

City Clerks.

1834. JOHN C. NASH,
1835. ARIEL WENTWORTH,
1836. PATRICK G. BUCHAN,
1836. JASPER W. GILBERT,
1837. ISAAC R. ELWOOD,
1838. THEODORE B. HAMILTON,
1840-1. W. R. MONTGOMERY,
1842. J. A. EASTMAN,
1843-4. ASAHEL S. BEERS.
-

City Treasurers.

1834. ELIHU F. MARSHALL,
1835. THEODORE SEDGWICK,
1836. ERASMUS D. SMITH.
1836. THEODORE SEDGWICK,
1837. WILLIAM E. LATHROP,
1838. ELIHU F. MARSHALL,
1839-40-1-2. EBEN N. BUELL,
1843-4. JAMES M. FISH.
-

Police Justices.

1834. SIDNEY SMITH,
1836. ARIEL WENTWORTH,
1840. MATTHEW G. WARNER,
1844. ARIEL WENTWORTH.

COMMON COUNCIL—1844.

JOHN ALLEN, *Mayor*.

SELAH MATHEWS, *Recorder*.

Aldermen.

- 1st Ward—SAMUEL RICHARDSON, ALFRED HUBBELL.
2d “ LEWIS SELYE, JOHN WILLIAMS.
3d “ ELEAZER CONKEY, SIMON TRAVER.
4th “ MOSES B. SEWARD, THOMAS KEMPSTALL,
5th “ JOSHUA CONKEY, RUFUS KEELER.

STANDING COMMITTEES.

- On Streets, Bridges, and Public Improvements*—Aldermen Seward, E. Conkey, and Selye.
On Finance—Ald. Williams, Richardson, and Kempshall.
On Fire Department—Ald. Williams, Richardson, and Keeler.
On Market and City Property—Ald. Kempshall, Traver, and Hubbell.
On Lamp and Watch Department—Ald. E. Conkey, Seward, and Traver.
On Support and Relief of the Poor—Ald. Selye, J. Conkey, and Keeler.
On Law and Courts of Justice—Attorney, Recorder, and Ald. Hubbell.
On Schools—Ald. Hubbell, Clerk, and J. Conkey.
On Mount Hope—Ald. Traver, Seward, and Selye.
On Excise—Recorder, Ald. Keeler and Richardson.
On Grievances—Ald. J. Conkey, Williams, and Attorney.

“ On motion of Alderman Richardson,—

Resolved, That his Honor the Mayor be added to the following Standing Committees: On Streets, Bridges, and Public Improvements; on Finance; on Market and City Property; and on Mount Hope.”

ELECTED CITY OFFICERS—1844.

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OCTAVIUS P. CHAMBERLIN, *Marshal*.

—  
*SUPERVISORS.*

1st Ward—John Haywood,  
2d “ William W. Alcott,  
3d “ Henry Cady,  
4th “ Robert Haight,  
5th “ Elisha B. Strong.

—  
*ASSESSORS.*

1st Ward—Henry Scrantom, Jonathan King, and Heman Loomis.  
2d Ward—Sebastian Zeug, Daniel Waters, and Silas Ball.  
3d Ward, William Bell, Rufus Meech, and Jas. P. Steele.  
4th Ward—Epaphras Wolcott, William I. Hanford, and Apollos Luce.  
5th Ward—John Cole, Adonijah Green, and Daniel Graves.

—  
*INSPECTORS OF ELECTIONS.*

1st Ward—Samuel W. D. Moore, Harmon Taylor, and Joseph A. Eastman.  
2d Ward—William E. Lathrop, Rufus R. Spellman, and Seth C. Jones.  
3d Ward—Washington Gibbons, James M. Fish, and Jacob Thorn.  
4th Ward—Elijah K. Blythe, John C. Van Epps, and Edward Roggen.  
5th Ward—Jared Newell, Jacob Graves, and James Jones.

*COLLECTORS.*

|           |                   |
|-----------|-------------------|
| 1st Ward, | George R. Thomas, |
| 2d    “   | Job C. Hart,      |
| 3d    “   | Edward Jennings,  |
| 4th   “   | William Hamilton, |
| 5th   “   | John Reilly,      |

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*CONSTABLES.*

|           |                     |
|-----------|---------------------|
| 1st Ward, | Cornelius Fielding, |
| 2d    “   | Benjamin P. Leap,   |
| 3d    “   | Andrew Kingsbury,   |
| 4th   “   | John Dart,          |
| 5th   “   | Theodore S. Hall.   |

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*POLICE JUSTICE.*

Ariel Wentworth—appointed March 26, 1844 ; appointment to take effect on the 6th day of June, 1844.

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*JUSTICES OF THE PEACE.*

|           |                     |         |                 |
|-----------|---------------------|---------|-----------------|
| 1st Ward, | Edward Barnard,     | elected | March 5, 1844 ; |
| 2d    “   | William T. Cushman, | “       | 8, 1843 ;       |
| 3d    “   | Nathaniel Clark,    | “       | 1, 1842 ;       |
| 4th   “   | Addison Moors,      | “       | 3, 1841 ;       |
| 5th   “   | Butler Bardwell,    | “       | 8, 1843.        |

## CITY OFFICERS—1844,

Appointed by the Common Council.

|                                         |       |                    |
|-----------------------------------------|-------|--------------------|
| <i>City Attorney,</i>                   | - - - | John W. Dwinelle.  |
| <i>City Clerk,</i>                      | - - - | Asahel S. Beers.   |
| <i>City Treasurer,</i>                  | - - - | James M. Fish.     |
| <i>City Superintendent, W. Section,</i> |       | Almon Bradley,     |
| " " E. "                                |       | James O'Maley.     |
| <i>City Surveyor,</i>                   | - - - | James M. Bruff.    |
| <i>City Sexton,</i>                     | - - - | David W. Allen.    |
| <i>City Physician,</i>                  | - - - | Hugh Bradley.      |
| <i>Overseer of the Poor,</i>            | -     | Robert King.       |
| <i>Weigher of Hay, West Hay-</i>        | }     | Samuel B. Wotkyns. |
| <i>Market, and Clerk of the</i>         |       |                    |
| <i>Market, - - - -</i>                  |       |                    |
| <i>Captain of the Watch,</i>            | -     | George Bradshaw.   |
| <i>Watchman, 1st Ward,</i>              | - -   | Willis L. Raymond. |
| " 2d " - -                              | -     | Aaron J. Williams. |
| " 3d " - -                              | -     | Leonard M. Barton. |
| " 4th " - -                             | -     | Anthony Enoe.      |
| " 5th " - -                             | -     | Oliver Albro.      |
| <i>Sealer of Weights and Measures,</i>  |       | Simeon P. Alcott.  |
| <i>Weigher of Hay, and Wood-</i>        | }     | Isaac Bryan.       |
| <i>Measurer, on the east side</i>       |       |                    |
| <i>of the River, - - -</i>              |       |                    |
| <i>Wood-Measurer, west side,</i>        |       | Noble J. Hyne.     |
| <i>Messenger and Bell-Ringer,</i>       |       | Chester Wood.      |



AN ACT  
TO  
CONSOLIDATE AND AMEND THE ACT TO INCORPORATE  
THE  
CITY OF ROCHESTER,  
PASSED APRIL 23, 1834,  
AND THE SEVERAL ACTS AMENDATORY THEREOF.

PASSED APRIL 11, 1844, BY A TWO-THIRD VOTE.

- TITLE I. Of the boundaries and civil divisions of the city of Rochester.  
TITLE II. Of the officers of the city, their appointment and election.  
TITLE III. Of the common council, its powers and duties, and the manner of conducting its proceedings.  
TITLE IV. Of the officers of the city, their powers and duties.  
TITLE V. Of the assessment and collection of taxes for city purposes, and of the funds, revenue, and expenditure of the city, and of the administration thereof.  
TITLE VI. Of common and other schools.  
TITLE VII. Of streets, highways, bridges, and public improvements.  
TITLE VIII. Of the prevention and extinguishment of fire.  
TITLE IX. Of the support of the poor, and of persons likely to become chargeable to the city.  
TITLE X. Of courts of justice, and proceedings therein.  
TITLE XI. Of the public health and cleanliness of the city.  
TITLE XII. Miscellaneous provisions.

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

TITLE I.

*Of the Boundaries and Civil Divisions of the City of Rochester.*

SECTION 1.—The district of country in the county of Monroe, contained within the limits and boundaries hereinafter described, shall be a City by the name of “ROCHESTER;” and the citizens of this State from time to time inhabitants within the said limits, shall

Corporate  
name.

**TITLE 1.** be a corporation by the name of "*The City of Rochester*," and in addition to the powers hereinafter specially granted, shall possess all the general powers, and be subject to all the restrictions and conditions contained in the third title of the eighteenth chapter of the first part of the Revised Statutes, except the fifth and sixth subdivisions of the first section, and the fifth, ninth and tenth sections of the said title, which are hereby declared inapplicable to the said corporation; and the said corporation shall also possess the powers conferred on similar corporations, by the second section of the act entitled "An act authorizing certain trusts," passed May 14, 1840.

  
General powers.

R. S. 2d ed.  
p. 602 & 603.


Laws 1840,  
chap. 318;  
page 268.

Boundaries  
of Rochester.

North line.

East line.

§ 2. The territory included within the following limits and boundaries, shall constitute the city of Rochester, to wit: Beginning at a point in the middle of the Ridge road, eight chains and seventy-five links distant from the top of the east high bank of the Genesee river; thence south fifteen minutes east, thirty-two chains and forty links to a point on the north side of a road or street called Norton-street, leading to the village of Carthage, and on the east side of Elisha B. Strong's land; thence south thirty-nine degrees and fifteen minutes west, along the line between lands belonging to the State of New-York and Elisha B. Strong and others, twenty-one chains and eighty-four links; thence south twelve degrees and forty-five minutes west, sixteen chains and fifty-six links; thence south one degree and forty-five minutes west, thirty chains and seventy-five links to the line between townships number thirteen and fourteen in the seventh range of townships of Phelps and Gorham's purchase; thence south eighty-nine degrees east, along the north line of lots number seventy-two and seventy-one, and part of sixty-five in said township number thirteen, one hundred and nine chains and seventy-

seven links to a stake on the north line of said lot **TITLE 1.**  
sixty-five, marked "city;" thence south three de-   
grees west, sixty-nine chains and forty links to a point  
intersected by a line running north sixty-seven de-  
grees west, from the northwest corner of William  
Pitkin's farm; thence south sixty-seven degrees east,  
to the northeast corner of William Pitkin's farm, in  
the centre of the Goodman road; thence south twen- **South line.**  
ty-four degrees and thirty minutes west, along the  
east line of lots number fifty-eight, fifty-nine and  
sixty, to the southeast corner of said lot number six-  
ty in township number thirteen aforesaid; thence  
north eighty-nine degrees and thirty minutes west,  
along the south line of lot number sixty and part of  
lot number nineteen in said township number thirteen  
to the center of the Henrietta road or St. Paul-  
street; thence south six degrees east, in the centre  
of said street, eleven chains and seventy links; thence  
south one chain and fifty one links; thence south  
twelve degrees west, three chains and thirty-five  
links; thence south twenty-six degrees and fifteen  
minutes west, two chains; thence south twenty-nine  
degrees and thirty minutes west, twelve chains and  
fifty links; thence south twenty-five degrees and fifteen **South line**  
minutes west, three chains and thirty-five links to the  
southeast corner of the Mount Hope Cemetery lot;  
thence north eighty nine degrees west, twenty-three  
chains and twenty-seven links to the west line of lot  
number twenty-four of the first division of lots in  
the said township number thirteen; thence north  
twenty-five degrees and thirty minutes east, along  
the west line of part of lot number twenty-four afore-  
said, and lot number twenty-two, thirty-five chains **West line.**  
and fifteen links to the northwest corner of lot num-  
ber twenty-two of the first division of lots in town-  
ship number thirteen aforesaid; thence north eighty-

**TITLE 1.** nine degrees and thirty minutes west, through lot number nineteen aforesaid, to the center of the Genesee river; thence southwesterly along the center of the Genesee river to a point distant fifteen chains southerly, at right angles from the north line of lot number thirty-six in the four thousand acre tract in township number one, short range west of the Genesee river; thence north eighty-seven degrees west, parallel with the north line of said lot number thirty-six, to a point on lot number thirty-five on said four thousand acre tract, where the east line of lot number one hundred and sixty-nine in township number one west of the Genesee river would if continued strike the same; thence north three degrees east, two hundred and ninety-four chains and ninety-five links to the north line of lot number thirty-three in the twenty thousand acre tract, township number one, short range west of the Genesee river; thence south eighty-seven degrees east, to the top of the west high bank of the Genesee river; thence northwardly along the top of said bank to a point due west from the place of beginning; thence east across the Genesee river to the place of beginning.

North line.

**Continuation of Five Wards.** § 3. The said city shall continue to be divided into five wards as now provided by law, until the first annual election of city officers, which shall be held in the said city next after this act shall take effect.

**Division into Nine Wards.** At and from the time of such annual election, the said city shall be divided into nine wards, as follows:


**First Ward.** I. All that part of the said city included within a line beginning at a point in the center of the Genesee river and of the Erie canal; thence running westerly along the center of the Erie canal to the center of Allen street; thence easterly along the center of Allen street to the center of Ann street; thence easterly along the center of Ann street to the center of State

street; thence southerly along the center of State street to the center of Mumford street; thence easterly along the center of Mumford street to the center of the Genesee river; thence southerly along the center of the Genesee river to the place of beginning; shall constitute the First Ward. TITLE 1.

II. All that part of the said city included within a line beginning at the center of the Genesee river and of Mumford street; thence running westerly along the center of Mumford street to the center of State street; thence northerly along the center of State street to the center of Ann street; thence westerly along the center of Ann street to the center of Allen street; thence westerly along the center of Allen street to the center of the Erie canal; thence northerly along the center of the Erie canal to the center of Jay street; thence easterly along the center of Jay street and the center line thereof continued easterly to the center of the Genesee river; thence southerly along the center of the Genesee river to the place of beginning; shall constitute the Second Ward. Second ward

III. All that part of the said city included within a line beginning at a point in the center of the Genesee river and of the Erie canal; thence running westerly along the center of the Erie canal to the center of the Genesee Valley canal; thence southerly along the center of the Genesee Valley canal to the centre line of Clarissa street; thence easterly along the center line of Clarissa street to the centre of the Genesee river; thence northerly along the center of the Genesee river to the place of beginning; shall constitute the Third Ward. Third Ward.

IV. All that part of the said city included within a line beginning at a point in the center of the Genesee river and of Main street; thence running easterly along the center of Main street to the center of Wil- Fourth Ward

**TITLE 1.** liam street; thence southerly along the center of  
 William street to the center of Howell street; thence  
westerly along the center of Howell street, and the  
center line thereof continued westerly, to the center  
of the Genesee river; thence northerly along the  
center of the Genesee river to the place of beginning;  
shall constitute the Fourth Ward.

**Fifth Ward.** V. All that part of the said city included within a  
line beginning at a point in the center of Main street  
and of the Genesee river; thence running northerly  
along the center of the Genesee river to the north  
boundary line of the city; thence easterly and south-  
erly along the boundary line of the city to the center  
of Clinton street; thence southerly along the center  
of Clinton street to the center of Main street; thence  
westerly along the center of Main street to the place  
of beginning; shall constitute the Fifth Ward.

**Sixth Ward.** VI. All that part of the said city included within a  
line beginning at a point in the center of Main and  
Clinton streets; thence running northerly along the  
center of Clinton street to the north boundary line  
of the city; thence easterly and southerly along the  
boundary line of the city to the center of Main street;  
thence westerly along the center of Main street to the  
place of beginning; shall constitute the Sixth Ward.

**Seventh ward** VII. All that part of the said city included within  
a line beginning at a point in the center of Main and  
William streets; thence running southerly along the  
center of William street to the center of Howell  
street; thence westerly along the center of Howell  
street, and the center line of Howell street continu-  
ed westerly, to the center of the Genesee river;  
thence southerly along the center of the Genesee  
river, to the south boundary line of the city; thence  
easterly and northerly along the boundary line of the  
city to the center of Main street; thence westerly

along the center of Main street to the place of beginning; shall constitute the Seventh Ward. TITLE 1.



VIII. All that part of the said city included within Eighth ward.  
a line beginning at a point in the center of Brown street and of the Erie Canal; thence running southerly along the center of the Erie Canal to the center of the Genesee Valley Canal; thence southerly along the center of the Genesee Valley Canal to the center line of Clarissa street; thence southerly along the center line of Clarissa street, to the center of the Genesee river; thence southerly along the center of the Genesee river to the south boundary line of the city; thence westerly and northerly along the boundary line of the city to the center of Buffalo street; thence easterly along the center of Buffalo street to the center of Brown street; thence easterly along the center of Brown street to the place of beginning; shall constitute the Eighth Ward.

IX. All that part of the said city included within Ninth Ward.  
a line beginning at a point in the center of Brown street and of the Erie Canal, thence running northerly along the center of the Erie Canal to the center of Jay street; thence easterly along the center of Jay street, and the center line of Jay street continued easterly to the center of the Genesee river; thence northterly along the center of the Genesee river to the north boundary line of the city; thence westerly and southerly along the boundary line of the city to the center of Buffalo street; thence eastwardly along the center of Buffalo street to the center of Brown street; thence eastwardly along the center of Brown street to the place of beginning; shall constitute the Ninth Ward.

§ 4. Every alderman and justice of the peace of any Aldermen and justices.  
of the present wards of the said city, who shall be in office at the first annual election which shall be held in

**TITLE 1.** the said city after this act shall go into operation, and whose terms of office shall not expire before the then next succeeding annual election, shall be deemed an officer of the ward in which he shall then reside, for the remainder of the term for which he was elected.

Officers to be elected.

§ 5. Officers shall be elected for each of the said nine wards of the said city, at the first annual election which shall be held in the said city after this act shall go into operation; but in all cases where it shall be necessary to elect two aldermen in any ward at such election, one of said aldermen shall be elected for the term of one year, and the other for the full term of two years; but all subsequent terms of the said office shall be for the term of two years.

Inspectors of elections.

§ 6. Every inspector of elections of any of the present wards of said city who shall be in office at the first annual election which shall be held in the said city after this act shall go into operation, shall be deemed an inspector of elections of the ward and election district in which he shall then reside. The common council shall, before the said annual election, fill all vacancies which may exist in the office of inspector of elections in any of said nine wards, by the appointment of suitable persons, being electors of said wards respectively, to fill said office.

When str'ets, &c. are a boundary.

§ 7. Wherever a street, canal or river is mentioned in this title, as a boundary of the said city, or of any ward therein, the center of said street, canal or river, shall be deemed to constitute the boundary line.

Lamp and Watch District.

§ 8. The compact part of the city which is inhabited, shall constitute the lamp and watch district, and the limits thereof shall be declared by the common council, within one month after each annual election of aldermen; such declaration shall be entered on the minutes of the common council, and shall be published for four weeks, once in each week, in two newspapers printed in the city.



TITLE II.

TITLE 2.

*Of the Officers of the City, their Appointment, and  
Election.*

§ 1. The officers of the city shall be one mayor ; Officers of the city. one recorder ; one treasurer ; one clerk ; one marshal ; two aldermen for each ward ; one police justice ; one other justice of the peace for each ward ; two commissioners of common schools for each ward ; one city superintendent of common schools ; five constables, one collector of taxes and assessments for each ward ; five supervisors ; three assessors for each ward ; one chief-engineer and two assistant engineers of the fire department ; two firewardens for each ward ; one attorney and counsel to the common council ; one or more overseers of the poor, not exceeding five ; one or more inspectors of streets and highways, as the common council shall from time to time direct ; one or more city superintendents ; three inspectors of election for each election district ; and so many surveyors, measurers of cord-wood, fuel, coal, grain, and lime, weighers of hay, guagers, common criers, keepers of alms-houses and penitentiary, examiners and inspectors of weights and measures, pound-masters, and sextons or keepers of burial grounds, as the common council shall from time to time direct.

§ 2. No person shall be eligible to the office of Who eligible to elective office. mayor or marshal, unless he be an elector and resident of the said city. And no person shall be eligible to any other elective office in the said city, unless he shall be, at the time of such election, an elector and resident of the ward and district for which he shall be elected.

§ 3. No person shall be eligible to the office of Who eligible as Mayor, &c. mayor, recorder, alderman, supervisor, or commissioner of common schools of the said city, unless he

**TITLE 2.** shall be, at the time, an elector and resident in said city.

Non-resid'nc  
to vacate  
offices.

§ 4. Whenever any officer of the said city shall cease to be a resident of the said city, or of the ward or district for which he was elected or appointed, his office shall thereby become vacant.

Certain offi-  
cers to be  
appointed  
by the  
common  
council.

§ 5. A city treasurer, an attorney and counsel to the common council, a clerk of the city, one or more inspectors of streets and highways, not exceeding twelve, one or more city superintendents, one or more city surveyors, measurers of cord-wood, fuel, coal, grain, and lime, weighers of hay, gaugers, common criers, keepers of the almshouse and penitentiary, examiners and inspectors of weights and measures, pound masters, and sextons or keepers of burial grounds, and ten firewardens, shall be appointed annually by the common council, and shall hold their offices during the pleasure of the board.

Recorder  
how ap-  
pointed.  
1 R. S. 96, § 1.  
Const. N. Y.  
Art. 5, § 6.  
1 R. S. 44—  
2d ed.


§ 6. The recorder shall be appointed in the manner provided in the constitution for the appointment of judges of county courts; shall hold his office for the same term, and by like tenure, and shall be subject to removal in the same manner. By virtue of his office, he shall be supreme court commissioner. He shall not, during his continuance in office, hold any office under the appointment of the common council. No person shall be appointed recorder, unless a counsellor of the supreme court.

Mayor and  
Marshal,  
how elec-  
ted.

§ 7. The mayor and marshal shall be elected annually by ballot, by the electors of the city, and shall respectively hold their offices for the term of one year from the time of such election.

Aldermen &  
Collectors.  
Tenure of  
office.

§ 8. One alderman, one collector of taxes and assessments, shall be chosen annually by the electors of each ward. The aldermen shall hold their offices for two years; and the collectors for one year from

the time of their election. Justice of the peace of TITLE 2.  
the said city shall hold their offices for the term of   
four years from the time of their election.

§ 9. At the first annual election to be held in the  
said city after the passage of this act, three assessors  
shall be chosen in each ward, who shall hold their  
offices, one for the term of one year, another for the  
term of two years, and the third for the term of  
three years; and the term for which the person voted  
for is intended, shall be designated on the ballot. At  
each annual election thereafter to be held, one as-  
sessor shall be elected in each ward, who shall hold  
his office for the term of three years.

Assessors,  
how chosen,  
and their  
tenure of  
office.

§ 10. Every justice of the peace elected for any  
ward, shall reside and keep his office in such ward,  
and in that ward only; and shall not be authorized to  
try any cause, or render any judgment in a civil action  
out of his ward. But for all other purposes the said  
justices shall be deemed officers of the city of Roches-  
ter, in the same manner as if they had been elected  
by the whole city, and shall have the same jurisdic-  
tion in the said city, that justices of towns have by  
law, in respect to the towns for which they have  
been elected, except as hereinafter restricted, and  
shall be deemed justices of the peace of the county  
of Monroe, but shall not act as commissioners of  
deeds.

Justices of  
the peace,  
how chosen  
—their  
tenure and  
jurisdiction

§ 11. Whenever the term of office of any justice  
of the peace of any ward in said city shall have ex-  
pired previous to or at the time of any annual election,  
or whenever the term of office of any such justice  
will expire previous to the time of holding the next  
subsequent annual election, or whenever a vacancy  
shall from any cause exist in said office, a justice of  
the peace shall be chosen by the electors of such  
ward, at the annual election.

Justices of  
the peace,  
when and  
how elec-  
ted.

**TITLE 2.** § 12. There shall be a justice of the peace in said city, who shall be appointed by the common council, and shall be denominated the police justice, and shall hold his office for the term of four years.

Police justice—his tenure and appointmt. Wend. 599

Inspectors of elections.

Laws 1842, chapt. 130.

§ 13. Three inspectors of election for each election district of said city, shall be elected at each annual election for the city officers, in the manner provided by the "act concerning elections, other than for militia and town officers, passed April 5, 1842; the provisions of which act are hereby declared to be applicable to the said city of Rochester, and to the elections to be held therein under this act, except so far as they may be inconsistent with other provisions of this act.

Marshal—when and how removed from office.

§ 14. The marshal may be removed from his office by the common council for official misconduct, or for the unfaithful or insufficient performance of the duties of his office, after giving him notice of the charges against him, and an opportunity of being heard in his defense.

Vacancy in office of Marshal, how filled.

§ 15. If the office of marshal shall become vacant by his death, resignation, removal from office or from the city, refusal to serve, or neglect to furnish the bond or other instrument required by law, the common council shall appoint another person to fill such vacancy.

Supervisors and constables, how elected, and their tenure of office.

§ 16. For the purpose of electing supervisors and constables the said city shall be divided into five districts; of which the first ward shall constitute the first district; the second and ninth wards the second district; the third and eighth wards the third district; the fourth and seventh wards the fourth district; and the fifth and sixth wards the fifth district. One supervisor and one constable shall be elected by the electors of each of said districts at each annual election of city officers to be held according to the

provisions of this act; and shall hold their offices one year from the time of their election. TITLE 2.

§ 17. The annual election of all elective offices of the said city, except commissioners of common schools, shall be held on the first Tuesday of March in each year. The polls shall be opened at eight o'clock in the morning, and shall be kept open without intermission or adjournment until five o'clock in the afternoon, when they shall be finally closed. Annual election of city officers—how and when held.

§ 18. The electors shall vote by ballot, so folded as to conceal the contents; on each ballot shall be written or printed the words "city officers;" which ballot shall contain the names of all the persons designated by the elector for all the officers to be elected at such election, the elector designating over the names of each candidate the office for which the vote is intended. Ballots, how folded and endorsed.

§ 19. If at any annual election to be held in the said city, there shall be one or more vacancies to be supplied in any office, and at the same time any person is to be elected for the full term of said office, the term for which each person voted for, for the said office is intended, shall be designated on the ballot. Candidate to fill a vacancy how voted for.

§ 20. At every such annual election the inspectors of election of the several election districts shall provide and keep a box, which shall be labeled "city officers." Ballot boxes at annual elections.

§ 21. In conducting the said election, the said inspectors of election shall proceed in the same manner provided by the general laws of this state, in relation to elections other than for militia and town officers. Elections, how conducted. Ante § 13.

§ 22. Persons offering to vote at such elections, may be challenged in the same manner as at a general election for state officers; and the same proceedings shall be had thereon as are prescribed by law in rela- Challenges at annual elections. Const. of N. Y. Amend't 11.

**TITLE 2.** tion to such elections, and the same oath shall be administered to the person challenged.

Canvass of  
Votes.

§ 23. Immediately after the closing of the polls, the inspectors of election shall, forthwith, without adjourning, canvass the votes received by them and declare the result; and shall, on the same or the next day, make a certificate stating the number of votes given for each person for each office, and shall file such statement and certificate on the day of election or the next day, with the clerk of the city, who shall forthwith notify the several Aldermen elect of their election.

§ Hill, 42.

Officers elect  
when to  
enter upon  
their office

§ 24. All officers elected as herein provided, except justices of the peace, shall enter upon their respective offices on the Tuesday next following such election, unless otherwise herein provided. The common council of the preceding year shall convene on the Thursday next succeeding such election, at two o'clock in the afternoon, at their usual place of meeting; and the statement of votes filed with the clerk of the city by the inspectors of election, shall be produced by the said clerk. The common council shall forthwith determine and certify, in the manner provided by law, what persons are duly elected at the said election to the several offices respectively. Such certificate shall be made in duplicate, one of which shall be filed with the clerk of the city, and the other with the clerk of Monroe county. The mayor and aldermen elect shall thereupon take the oath of office prescribed by the constitution, and enter upon their respective offices; and the term of office of any alderman, whose successor shall have thus been elected and entered upon his office, shall thereupon cease.

Certificate of  
election  
how made  
and filed.

Special elec-  
tions when  
ordered in  
case of tie.

§ 25. If at any election authorized by this act any officer, except the mayor, commissioners of common

schools, and inspectors of election, shall not have been chosen by reason of two or more candidates, having received an equal number of votes, a special election shall be ordered by the common council for the election of such officers as shall not have been chosen.

TITLE 2.

§ 26. If any vacancy shall occur in any elective office under this act, (excepting the office of mayor, inspector of election, or justice of the peace,) the common council may in their discretion direct a special election to supply the same, to be held in the same ward where it shall have happened.

Special elections when ordered in cases of vacancy.

§ 27. Whenever a vacancy shall occur in the office of alderman, or assessor, by his refusal or neglect to take the oath of office within the time required by law, by his resignation, death, ceasing to be an inhabitant of the city or ward for which he shall have been elected, removal from office, or by the decision of a competent tribunal declaring void his election, the common council of the city shall immediately appoint a special election to be held in the ward for which such officer was chosen, at some suitable place therein, not less than five days nor more than fifteen days from the time of such appointment.

Special election, when ordered in case of vacancy in the office of Alderman.

§ 28. In case any such vacancy shall occur in the said offices of alderman, or assessor, within three months before the first Tuesday in March in any year, it shall be optional with the common council to order a special election or not, as they shall deem expedient.

And when not.

§ 29. The common council shall, without delay, appoint a time and place for the holding of any such special election, which shall not be more than fifteen days nor less than five days from the time of such appointment; and they shall cause to be delivered to the inspectors of the last preceding election, in the

When to be held.

**TITLE 2.** ward and election districts where such officer was omitted to be chosen, a notice signed by them specifying the officer to be chosen, and the day and place at which such election is to be held.

**Notice how published.** § 30. Such notice shall also be published in two newspapers of the city, at least once before such special election.

**How and by whom held** § 31. The inspectors to whom such notice shall be delivered, shall, at the time and place appointed, open and hold an election in their election districts for the choice of the officer or officers designated in such notice; and shall proceed therein in all respects as herein directed in case of an annual election; they shall in like manner canvass and make a statement and certificate of the votes given, and shall file the same with the clerk of the city.

**Certificate of election, how made and filed.** § 32. The common council of the city shall, from the statement so furnished, determine and certify what persons have, by the greatest number of votes, been elected to the offices, for the filling of which such special election shall have been ordered, in the same manner as herein prescribed in relation to an annual election; which certificate shall be made in duplicate; one of which shall be filed with the clerk of the city, and the other with the clerk of Monroe county.

**Persons so elected, when to enter upon office.** § 33. The person so elected shall, after taking the oath of office, enter upon the duties of the office, and shall hold the same until the Tuesday next succeeding the next annual election, except as herein otherwise provided, and excepting the case of any person who shall be chosen to fill any vacancy in the office of alderman, who shall hold only for the unexpired term of said office.

**Vacancies in office of Constable.** § 34. In case a vacancy shall occur in the office of constable, or firewarden, by any of the means herein



before enumerated, as producing a vacancy in the office of alderman, the common council may appoint suitable persons, being electors and residents of the ward for which they shall be appointed, to fill such vacancy.

TITLE 2.

§ 35. In case a vacancy shall occur in the office of mayor, the common council shall by ballot elect a person to fill such vacancy; who shall hold his office until a successor shall be duly elected, and take the constitutional oath of office.

Vacancy in office of Mayor—how filled.

§ 36. In case a vacancy shall occur in any office where no provision is herein made for filling the same, or where the common council may, in their discretion provide for supplying such vacancy by a special election, the common council may, by ballot, appoint a person to fill such vacancy.

Other vacancies—how filled.

§ 37. Upon the determination by the common council of the result of any election being made, it shall be the duty of the clerk of the city, immediately to notify the persons so elected of their election; and shall also notify all persons appointed to any office by the common council of their respective appointments, immediately on the same being made, which notice may be served by depositing the same in the post-office in the said city, directed to such person.

Clerk to notify officers elected.

§ 38. Every person elected or appointed to the office of mayor, alderman, assessor, constable, collector, supervisor, treasurer, city clerk, or marshal in the city of Rochester, shall, before he enters on the duties of his office, and within five days after being notified of such election or appointment, take the oath of office prescribed by the constitution of the state, before some officer authorized to take affidavits to be read in the courts of justice, and file the same with the clerk of the city.

Mayor &c. to file oath of office.

Const. N. Y. Art. 6, § 1.  
R. S. 213—  
§ 50 (2 ed.)

§ 39. Every person chosen or appointed by the

**TITLE 2.** common council to any other office except those enumerated in the last section, before he enters on the duties of his office, and within five days after being notified of his election or appointment, shall cause to be filed in the office of the city clerk, a notice in writing, signifying his acceptance of such office.

Other officers  
to file ac-  
ceptance.

§ 40. If any person chosen or appointed to any office specified in the last two sections, shall not take and subscribe the oath of office, and file the same as therein directed, or shall not cause a notice of acceptance to be filed as therein directed, such neglect shall be deemed a refusal to serve.

Neglect to  
file deemed  
a refusal to  
serve.

§ 41. Every person elected or appointed collector, before he enters on the duties of his office, and within ten days after being notified of his election or appointment shall execute to the city, and lodge with the mayor, a bond with two or more freeholders of lands in the county of Monroe, as sureties, to be approved of by such mayor, in such penalty as the said mayor shall direct, conditioned for the faithful execution of his duties as such collector, and before any warrant for the collection of taxes that shall have been issued by the board of supervisors of the county of Monroe shall be delivered to any such collector, he shall execute an additional bond to the supervisors of the said city, with two or more sureties to be approved by them, in a penalty double the amount of the taxes directed to be collected by such warrant, conditioned that he shall faithfully collect such taxes and pay over the same according to law, which bond shall be delivered to one of the said supervisors.

Collector to  
give bond  
to the city.

Post title xii.  
§ 1.

And to su-  
pervisors.

Bonds to be  
filed—and  
where.  
See post title  
xii. § 1.

§ 42. The mayor and supervisor to whom such bond shall have been delivered, shall, within six days thereafter, file the same, with the approbation herein required endorsed thereon, in the office of the clerk of the county of Monroe.

§ 43. The said clerk shall cause an entry of such TITLE 2.  
bond to be made in the book provided for entering  
the bonds of town collectors, and in the same man-  
ner; and every such bond shall be a lien on the  
real estate of the said collector and his sureties, in the  
same manner and to the same extent as provided by  
law in relation to the bonds of town collectors; and  
in case of any breach of the conditions of such  
bonds, or either of them, suits may be maintained  
thereon, in the name of the city, and by the super-  
visors to whom they were given, or their successors  
in office, by their name of office.

Entry there-  
of and its  
effect.  
1 R. S. 339,  
§ 29, 2 ed.  
4 Hill, 92.

1 Cowen 670,  
4 Hill 136.

§ 44. Such collector and sureties shall also be  
liable to the same proceedings to enforce the pay-  
ment of money collected on any warrant issued by  
the supervisors of the county, as are provided by law  
in respect to town collectors.

Collector and  
sureties—  
how liable.  
1 R. S. 390,  
sec. 13, 14,  
2d ed.

§ 45. In case such collector shall refuse or neglect  
for ten days after being notified of the amount of  
taxes directed to be collected by the warrant of the  
supervisors of the county, to give the bond herein  
required, such neglect or refusal shall be immediately  
reported by the supervisors of the city to the common  
council, who shall immediately remove such collector  
from office, and appoint another in his place.

Neglect to  
give bonds  
deemed a  
refusal to  
serve.

§ 46. If such collector shall neglect to execute the  
bonds herein required, within the time limited for  
that purpose; such neglect shall be deemed a refusal  
to serve.

ib.

§ 47. Every person chosen or appointed to the  
office of constable in the said city, before he enters  
upon the duties of his office, and within ten days  
after he shall have been notified of his election or  
appointment, shall execute, in the presence of the  
mayor of the city and one of the aldermen thereof,  
with two or more sureties, to be approved by said

Constable to  
give secu-  
rity.  
Post title xii.  
sec. 1.  
1 R. S. 340,  
§ 30, 2d ed.

**TITLE 2.** mayor and alderman, in writing, an instrument in writing by which such constable and his 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 or distress warrant which shall be delivered to him for collection.

2 Wend. 281.  
2 " 615.  
4 " 414  
5 " 191.  
9 " 235.  
10 " 370.  
12 " 306.  
21 " 264.

To be acknowledged by sureties.

§ 48. The execution of such instrument by the sureties of such constable, shall be personally acknowledged and certified in the same manner required by law to entitle deeds to be recorded.

1 R. S. 746,  
§ 4. (2d ed.)

How endorsed and filed.

§ 49. Such instrument, with the approbation of the said mayor and alderman endorsed thereon, shall be filed with the clerk of the city: and a copy thereof certified by such clerk, shall be presumptive evidence of the execution thereof, by such constable and his sureties.

Proceedings thereupon.

1 R. S. 340,  
§ 32.  
2 R. S. 201,  
§ 286.  
2d ed.

§ 50. The same proceedings shall be had on such instruments by any persons entitled to prosecute the same, and within the same time as provided by law in respect to similar instruments executed by constables of towns.

Bond of marshal, how executed and approved.

Post title 12, § 1.

§ 51. Every person elected or appointed to the office of marshal of the said city, before entering on the duties of his office, and within ten days after being notified of his election or appointment, shall execute with two or more sureties to be approved by the mayor of the said city, a joint and several bond to the people of the state, in the penal sum of five thousand dollars, conditioned for the faithful execution of the duties of the said office by such person, during his continuance in the same.

Sureties to justify.

§ 52. At the time of the execution of such bond, the said mayor shall administer to each of the said sureties an oath that he is a freeholder of land in this state, and is worth such sum as shall be ascertained

by dividing the penalty of such bond by the number of sureties bound thereby, over and above all debts whatsoever owing, and responsibilities incurred by him, which oath shall be endorsed on said bond, and subscribed by such sureties in the presence of the said mayor, who shall, notwithstanding, judge of and determine the competency of such sureties.

TITLE 2.

§ 53. If such sureties are approved by the said mayor, he shall make an endorsement to that effect on the said bond, and shall file the same with the clerk of the city.

Bond how filed.

§ 54. Proceedings for the prosecution of any such bond, may be had in the cases and in the manner directed by law in respect to official bonds of sheriffs, except that application for that purpose may be made to the mayor's court of the city of Rochester, and each suit may be brought in such court, which shall proceed therein in the manner directed by law in respect to suits on sheriff's bonds.

How prosecuted.  
2 R. S. 390.  
sec. 1, &c.  
2d ed.

6 Wend. 454.  
4 Hill, 572.

§ 55. Every person appointed to the office of treasurer of the said city, before entering upon the duties thereof, and within ten days after being notified of his appointment, shall execute a bond to the city of Rochester, with two or more sureties being freeholders of lands within the county of Monroe, to be approved by the mayor of the city, in such penalty as shall have been directed by the common council of the said city, conditioned for the faithful execution of the duties of his office; and that he will pay over according to law and the ordinances of the said common council, all moneys which shall come to his hands as such treasurer, and render a just and true account thereof to the said common council when thereunto required.

Bond of Treasurer.

Title 12, § 14

§ 56. Such bond, with the approbation of the said mayor endorsed thereon, shall be filed with the clerk of the said city.

Where to be filed.

**TITLE 2.** § 57. If any constable, marshal, or treasurer of the said city, shall neglect to execute any bond or other instrument herein required, within the time for that purpose limited, such neglect shall be deemed a refusal to serve.

Constables, &c. neglect to give bond, a refusal to serve.

Penalty on officers elected, for refusal. § 58. If any person chosen to any one of the following offices, shall refuse to serve, he shall forfeit to the said city the following sums :

1. If chosen to the office of alderman or supervisor, he shall forfeit twenty-five dollars by such refusal.
2. If chosen to the office of assessor, he shall forfeit by such refusal, ten dollars.

Ib. on officers appointed.

§ 59. If any person appointed to any one of the following offices, shall refuse to serve therein, he shall forfeit to the said city the following sums :

1. If elected or appointed commissioner of common schools, inspector of streets and highways, fire-warden, inspector and examiner of weights and measures, he shall forfeit by such refusal, ten dollars.
2. If appointed to any other office than such as are herein before enumerated, he shall forfeit by such refusal, five dollars.

List of officers to be made by clerk, &c.

§ 60. At the expiration of ten days after any election or appointment of any officer or officers in the said city, the clerk of the said city shall deliver to the said common council a list of the persons elected or appointed, and of the offices to which they are chosen, therein specifying such as shall have filed with him the oath of office or notice of acceptance required by law, and such as shall have omitted to file the same within the time herein prescribed.

Mayor to report delinquents.

§ 61. The mayor shall report to the common council the names of such collectors and constables as shall have neglected to give the bond and security required by law.

§ 62. It shall be the duty of the common council

to direct suits to be brought for the recovery of all penalties incurred by the refusal of any person to serve in any office to which he shall have been elected or appointed in the said city.

TITLE 2.

Suits to be brought against delinquents.

§ 63. In case any office may be created or provided for by this act, and the mode of choosing some person to fill the same is not herein prescribed, the common council shall, by ballot, choose some person to fill such office, who shall hold the same during the pleasure of the common council, unless the duration of his term of office is herein otherwise specified.

Appointments of officers not otherwise provided for, how made.

§ 64. Resignations by any officer authorized to be chosen or appointed by this act, shall be made to the common council of the city, subject to their approval and acceptance; and if not approved by them, the person so resigning any office, shall be liable to the same penalty herein before prescribed for refusing to serve in such office.

Resignations how made.

§ 65. The common council shall have power at any time to remove any officer appointed by them, and to appoint another in his place; and they shall also have authority to remove any constable elected or appointed to office, for misconduct in the same, after giving to the person accused notice of the charge against him and an opportunity of being heard in his defence, but no officer shall be so removed by the common council, without having an opportunity of being first heard and allowed to show cause against such removal being made.

Appointed officers how removed.

§ 66. The justices of the peace for the said city, shall file their oath of office in the office of the clerk of the county of Monroe.

Official oaths of Justices where filed.

§ 67. The expenses of any election to be held as provided by this act shall be city charges, and defrayed in the same manner as the other contingent expenses of the city.

Expenses of annual elections—how paid.

TITLE 3.

TITLE III.

*Of the Common Council: its Powers and Duties, and  
the Manner of Conducting its Proceedings.*

Who to constitute the common council.

§ 1. The mayor, recorder and aldermen of the said city, shall constitute the common council. They shall meet at such times and places as they shall from time to time appoint, and on special occasions whenever the mayor or recorder, (in case of vacancy in the office of mayor, or of his absence from the city, or inability to officiate,) shall, by written notice, appoint, and which shall be served on the members, in such manner and for such time as the common council may by ordinance direct.


Mayor or Recorder to preside.

§ 2. The mayor when present, shall preside at the meetings of the common council; and in his absence, the recorder shall preside; and if both the mayor and recorder be absent, the common council may appoint one of their number who shall preside.

Mayor may suspend the operation of certain ordinances, &c.

§ 3. No ordinance or resolution passed by the common council authorizing any public improvement, or for or concerning the same, or for the payment of money by the treasurer, shall have any force or effect, if on the day of its passage, or the next day thereafter, the mayor or other officer legally discharging the duties of mayor, shall lodge in the office of the city clerk, a notice suspending the immediate operation of such ordinance or resolution. If the mayor, or officer legally exercising the office of mayor, shall, within twenty-four hours after the passage of such ordinance or resolution, lodge in the office of the city clerk his reasons in writing why the same should not go into effect, the same shall not go into effect, nor have any legal operation, unless it shall, at the next meeting of the common council, be re-passed by a majority of two-thirds of all the members



of the common council then in office, exclusive of TITLE 3.  
the mayor, and if so re-passed, shall go into effect,   
according to the terms thereof. If such reasons in  
writing shall not be lodged with the clerk as above  
provided, such ordinance or resolution shall have the  
same operation and effect as if no notice suspending  
the same had been lodged with the city clerk.

§ 4. It shall be the duty of the city clerk to com- Duty of the clerk.  
municate to the common council any paper that may  
be lodged with him, pursuant to the last preceding  
section, at the next meeting of the board.

§ 5. In the proceedings of the common council, Who may vote in the common council.  
each member present shall have a vote, except the  
mayor or recorder when presiding, who shall only  
have a casting vote when the votes of the other  
members are equally divided.

§ 6. The sittings of the common council shall be Sittings public—and minutes.  
public, and minutes of the proceedings shall be kept  
by the clerk, which shall be open to public inspection.

§ 7. Whenever required by two members, the Votes when to be entered at large.  
votes of all the members of the common council, in  
relation to any act, proceeding, or proposition, had  
at any meeting, shall be entered at large on the min-  
utes, and such votes shall also be so entered, in  
relation to the adoption of any resolution or ordi-  
nance, report of a committee, or other act, for tax-  
ing or assessing the citizens of the said city, or  
involving the appropriation of public moneys.

§ 8. A majority of the common council shall be a Quorum, &c. may pre- scribe rules  
quorum for the transaction of business; and the  
board shall prescribe the rules for its proceedings.

§ 9. No member of the common council shall, Members not to receive appoint ment. &c.  
during the period for which he was elected, be ap-  
pointed to, or be competent to hold any office, of  
which the emoluments are paid from the city treas-  
ury, or paid by fees directed to be paid by any act or

**TITLE 3.** ordinance of the common council, or be directly or indirectly interested in any contract as principal, surety or otherwise, the expenses or consideration whereof are to be paid under any ordinance of the common council; but this section shall not be construed to prevent the mayor from receiving any salary which may be fixed by the common council, nor to deprive any alderman of any emoluments or fees to which he may be entitled by virtue of his office.

Powers of the  
common  
council—

in relation to

corporate  
property,

police,

watchmen,

vagrants,

gaming hou-  
ses,

vending  
liquors,

driving in  
streets,

nuisances,  
bathing,

§ 10. The common council shall have power to pass and enact such by-laws and ordinances for the good government and order of the city, for the preservation of peace and good order, for the suppression of vice, and for the benefit of the trade, and commerce and health thereof, as they shall judge expedient, not repugnant to the general laws of the state; and for those purposes shall have authority,

1. To make such orders, regulations, and provisions concerning the corporate property of the city, its public buildings, and its rights and interests, as they shall deem expedient and necessary for the preservation and maintenance thereof; to regulate the police of the city, to preserve the public peace, and prevent riots, disturbances, and disorderly assemblages; to appoint watchmen, to prescribe their powers and duties, and to prescribe fines and penalties for their delinquencies; to restrain vagrants, mendicants, and other persons soliciting alms or subscriptions for any purpose whatever; and to suppress and restrain disorderly and gaming houses, billiard tables, and other devices and instruments for gaming; to prevent the vending or other disposition of liquors to be drank in any canal boat, or other place not duly licensed; to prevent and punish immoderate riding or driving in any street; to abate or remove nuisances; to prohibit bathing in any public water

within the city ; to prevent the encumbering of the streets, side-walks, walls, alleys, public pounds, bridges, aqueducts, wharves, or slips, in any manner whatever; to provide for clearing the Genesee river of drift-wood, and other obstructions; to regulate the keeping and carrying of gunpowder, and other combustible materials.

TITLE 3.

incumbrances in streets,

clearing riv'r

gun powder,

2. To establish, alter, and regulate markets; to regulate the vending of meats, vegetables, and fruits, pickled and other fish, and provisions of any kind, and to prescribe the time and place of selling the same, and of weighing and selling hay; and to regulate the measuring, weighing, and sale of coal, cord-wood and other fuel, lumber, shingles, salt, lime, fish, iron, or any other commodity exposed or intended to be exposed to sale in the said city; to provide for and regulate the guaging of all casks and other vessels containing liquors sold, or intended to be sold in the said city.

Markets,

3. To establish and regulate one or more pounds, and to restrain and regulate the running at large of horses, cattle, dogs, geese and other poultry, swine and other animals, and to impose taxes on the owners of dogs.

Pounds,

4. To regulate cartmen and cartage, porters, hackney carriages and their drivers, to limit their fees and compensation; to prevent runners, stage-drivers and others from soliciting passengers and others to travel in any boat or stage, or upon any railroad, or for any other purpose ; to regulate pawnbrokers ; to light the streets of the city ; to establish and preserve wells and cisterns, and prevent the waste of water.

Cartmen,

Runners,

Pawnbrokers  
lights,  
wells,

5. To regulate the burial of the dead, and to compel the keeping and return of bills of mortality.

burial of the  
dead,

6. To prescribe the bonds and securities to be

Bonds &c.  
of officers,

**TITLE 3.** given by the officers of the city for the discharge of their duties, in cases where no provision for that purpose is made by law.

to establish streets,

7. To ascertain, establish and settle the boundaries of all the streets and alleys in the said city, and to prevent and remove all encroachments thereon.

highways, schools, prevent fires, &c.

8. To exercise all other powers conferred on them by this act, in relation to highways, common and other schools, the prevention of fires, the levying of taxes, the supplying of the city with water, and other subjects of municipal regulations.

To control route of rail roads.

§ 11. The common council of the city shall also have power, whenever in their opinion, the public convenience requires it, to determine and designate the route and grade of any railroad within the limits of the said city ; and for that purpose, may, by ordinance, require the proprietors of such railroad to change and alter the route and grade thereof, and may prohibit the using of such railroad on any other route or grade than the one so designated by the said common council, under a penalty not exceeding one hundred dollars for each and every day during which the same shall be so used ; but this section shall be subject to the provisions of " an act to authorize the Tonawanda Rail Road Company to connect their railroad with the Auburn and Rochester railroad in the city of Rochester ;" passed March 19, 1844.

17 Wend.649

To regulate the use of locomotives in the city.

§ 12. The common council shall also have power to pass ordinances to restrain and regulate the use of locomotive engines and cars upon railroads in said city.

To require mill races to be covered.

§ 13. The common council shall also have power, by ordinance or otherwise, to require the owners or occupants of any mill-race within the said city, to cover the same with bridges or arches, to be constructed with such materials as the said common council shall direct ; or they may direct the same to be covered in

the same manner that other public improvements are directed to be made, and pursuant to the provisions of title seventh of this act, so far as the same are applicable.

TITLE 3.

§ 14. Whenever the owner or occupant of any mill-race shall refuse or neglect, within such time as the common council shall have appointed, to cover such mill-race in the manner and with the materials by them directed, it shall be lawful for the said common council to cause the same to be done at the expense of the city, and to recover the expenses thereof, with damages, at the rate of ten per cent. with costs of suit, from the owner or occupant of said mill-race.

or to do it at the expense of owner.

§ 15. The common council shall also have power to restrain and regulate all exhibitions of any natural or artificial curiosities, theatres, theatrical representations, and other shows and exhibitions, and also to restrain the sale, letting off, or firing squibs, rockets or gunpowder crackers; to prescribe the places where the same may be kept, or to cause the same to be destroyed, if found within the limits in said city, to be designated by the common council.

To regulate certain shows, &c.

§ 16. Where, by the provisions of this act, the common council have authority to pass ordinances on any subject, they may prescribe any penalty, not exceeding fifty dollars, (unless the imposition of a greater penalty be herein otherwise provided for,) for a violation thereof, and may provide that the offender, on failing to pay the penalty recovered, shall be imprisoned in the penitentiary, alms-house or county jail, for any term not exceeding thirty days, which penalties may be sued for and recovered, with costs, in the name of the city of Rochester. And the common council may subject the parent or guardian of any minor, or the master or mistress of any appren-

May impose certain penalties.

**TITLE 3.** tice or servant, to any such penalty for any such offence committed by such minor, apprentice or servant.

**Ordinance, when to take effect.** § 17. No ordinance of the common council, imposing a penalty, shall take effect until the expiration of at least three days after the first publication thereof, in a newspaper in the said city. A record or entry made by the clerk of the said city, or a copy of such record or entry, duly certified by him, shall be prima facie evidence of the time of such first publication; and all laws, regulations and ordinances of the common council may be read in evidence in all courts of justice, and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto; either,

- and how read in evidence**
1. From a copy thereof certified by the clerk of the city, with the seal of the corporation affixed; or
  2. From the volume of ordinances printed by authority of the common council.

**Common council to be board of excise for the city.** § 18. The common council shall be commissioners of excise for the said city, and have and exercise in and over the said city the same powers in relation to excise and the regulation of taverns and groceries, as are now or may hereafter be conferred by the general laws of the State upon boards of excise in towns, and subject to the same conditions and limitations; and the general laws of the state which may hereafter be enacted in relation to excise and the regulation of taverns and groceries, shall be deemed applicable to the said city unless otherwise limited by law. In case it shall be determined according to law to grant licenses during any year to tavern keepers and grocers to sell wines, liquors and ardent spirits; or to grant licenses to keep inns or taverns, not including a license to sell ardent spirits, liquors or wines, the common council may authorize the mayor or any other proper officer of the corporation, to grant such

**Excise licenses, how granted,**

1 R. S. 677, 2d ed.

1 R. S. 326, sec. 25, 2 ed.

licenses, and may direct the manner of issuing, countersigning, and registering the same, and may fix the fee to be paid therefor, at any sum not less than five dollars, nor more than fifty dollars ; and the sum to be paid to the mayor or other officer, for granting such license, not exceeding one dollar ; provided, however, that no fee shall be required for granting any license to keep an inn or tavern, not including therein a license to sell ardent spirits, liquors or wines, except the fee to be paid to the mayor or other officer who shall grant such license.

TITLE 3.

and the fees to be paid therefor.

§ 19. The bonds to be taken on granting such licenses, shall be the same as are, or may hereafter be prescribed by law, to be given by innkeepers who receive licenses to keep an inn or tavern, including a license to sell ardent spirits, liquors or wines ; except that the bonds to be taken on granting licenses to keep inns or taverns, not including therein a license to sell ardent spirits, liquors or wines, shall also contain a provision that the persons licensed shall not sell ardent spirits, liquors or wines. The said bonds shall be filed, may be prosecuted, and the moneys collected shall be applied, in the manner provided in the general laws of this State, in relation to excise and the regulation of taverns and groceries ; and the persons receiving such licenses shall be in all respects subject to the provisions of such laws, except so far as the same may be inconsistent with the provisions of this act.

Bonds to be given, &c.

1 R. S. 660, sec. 24, 2d ed.

§ 20. The mayor, together with any alderman of the city, may hear, in a summary way, any complaint against any person to whom a license may have been granted, to sell wine, liquors, or ardent spirits, or to keep an inn or tavern, for any violation of the laws of the State, or the ordinances of the corporation, and may compel the attendance of witnesses in the hearing of such complaint, in the same manner as justices

Mayor may annul license.

**TITLE 3.** of the peace in the trial of civil causes, and on such hearing may annul such license, or suspend the same for any certain time.

Notices of  
complaint  
to be served

§ 21. At least twenty-four hours notice of the time and place of hearing such complaint, shall be served on the person complained of ; and such person may appeal from the determination of the mayor and alderman within forty-eight hours after the same shall have been made, to the common council, who shall have power to reverse or affirm the same ; but such appeal shall not suspend, or in any manner affect such determination, until the decision of the common council thereon.

appeal.

Determina-  
tion to be  
filed and  
served.

§ 22. Every determination on such complaint shall be forthwith filed with the clerk of the city, who shall serve a certified copy thereof, on the person holding a license affected by such determination, either personally, or by leaving the same at his or her usual abode ; and from the time of such service, such license shall be deemed to be annulled or suspended, according to the tenor of such determination, until the same shall be reversed by the common council.

Cartmen, &c.  
to be licensed

§ 23. The common council may authorize the mayor to license cartmen, hackney carriages, truckmen, porters, and chimney-sweeps, and may prescribe the terms and conditions on which such licenses may be granted, and when and how forfeited, and may prescribe the fees to be paid into the city treasury on the granting of such licenses.

Markets, and  
butchers  
licenses.

§ 24. The common council shall establish and keep as many markets in the said city as they shall deem expedient, and shall regulate the same by ordinances, and prescribe the number of butchers to be licensed by the mayor, the terms on which licenses to the same shall be granted, and by what officers, and in what cases they may be revoked or suspended.



§ 25. The common council may establish a bride-  
well or house of correction, in the said city, and may  
pass all necessary ordinances for the regulation there-  
of; may appoint a keeper, and as many assistants as  
shall be necessary, and shall prescribe their duties and  
compensation, and the securities to be given by them.

TITLE 3.

Bridewell.

§ 26. In the said bridewell, or house of correction,  
shall be confined all the rogues, vagabonds, stragglers,  
idle or disorderly persons, who may be committed  
thereto by the mayor, or any justice of the peace in the  
said city, or alderman, acting as such; and all persons  
sentenced by any criminal court in the said city, or by  
the court of oyer and terminer or general sessions of  
the peace of the county of Monroe, for any assault and  
battery, petit larceny, or other misdemeanor, pun-  
ishable by imprisonment in a county jail, shall be  
kept therein, in the same manner as prisoners of that  
description are required to be kept in county jails.

Who confin-  
ed therein.

§ 27. The common council may appoint one or  
more sealers of weights and measures for the said city,  
who shall possess the like powers, and be subject to  
the like obligations as the sealers of the several towns  
of this state; and to whom on application for that  
purpose, the county sealer of weights and measures  
for the county of Monroe, shall furnish copies of the  
standards in his office at the expense of the said city.

Sealer of  
weights  
&c.  
R. S. 619,  
§ 30, &c.  
2d ed.

§ 28. The common council may, by ordinance,  
require every merchant, retailer, trader and dealer  
in merchandise, or property of any description, which  
is sold by measure or weight, to cause their weights  
and measures to be sealed by the city sealer, and to  
be subject to his inspection, and may impose penalties  
for any violation of any such ordinances.

Weights to  
be sealed.

§ 29. Commissioners of deeds shall be appointed  
in the said city, in the same manner that commissio-  
ners of deeds are now required to be appointed in

Commis'rs of  
deeds; how  
appointed,  
&c.

**TITLE 3.** other cities of this state, and shall hold their offices for two years, and shall possess all the powers and authority of commissioners of deeds appointed in other cities in this state.

1 R. S. 92,  
secs. 2, 3—  
2d ed.

**Number of Notaries and Commissioners.** § 30. The number of notaries public and commissioners of deeds to be appointed in the said city, shall be determined by the common council in the manner prescribed in the first title of the fifth chapter, part first of the Revised Statutes, and a copy of such determination shall be transmitted, and such appointments shall be made in the same manner prescribed in the said title in respect to those officers in other cities. The first determination shall be made on or before the first day of January, eighteen hundred and forty-five, and the subsequent determinations shall be made once at the end of every two years thereafter.

1 R. S. 92,  
secs. 2, 3, 4,  
2d ed.

**Salaries &c. of appointed officers, how determined.** § 31. The common council shall determine the salary or compensation to be given to the mayor, treasurer and clerk of the city, and of any other officer appointed by them, except the police justice, and at what times the same shall be payable; and they shall fix the compensation of the collectors of taxes in the said city, for collecting the county as well as the city taxes and assessments, not exceeding five per cent. of the amount actually collected by them.

**Collectors' compensation.**

**Limitation of penal ordinances.** § 32. No ordinance of the common council imposing any penalty shall be binding or have effect for any longer period than three years from the passage thereof.

**Limitation of penal ordinances.**

**Common council may purchase lands for a Hay Market.** § 33. The common council are hereby authorized to purchase, receive and hold, in the corporate name in fee, for the use of the said city as a wood and hay market, a certain lot of land situate north of Mumford street and south of the depot of the Auburn and Rochester Rail Road Company in the said city, and for this purpose to create a stock, not exceeding

**Common council may purchase lands for a Hay Market.**

ten thousand dollars, in such shares, and bearing such interest, as they may think proper; and the net proceeds of the said wood and hay market, and all accumulations on the same, shall constitute a sinking fund for the payment of said stock.

TITLE 4.  
and create a stock for that purpose,

§ 34. The common council shall annually levy and collect, in the manner in this act provided for the levying and collection of the contingent expenses of the city, an amount sufficient to pay the interest of the funded debt of the city for the then ensuing fiscal year; and the amounts so raised shall be specifically devoted to the payment of such interest.

and shall annually levy the interest of the funded debt.

#### TITLE IV.

#### *Of the Officers of the City, their Powers and Duties.*

§ 1. It shall be the duty of the mayor to take care that the laws of the state, and the ordinances of the common council be faithfully executed; to exercise a constant supervision and control over the conduct of all subordinate officers, and to receive and to examine into all complaints against them for neglect of duty; to recommend to the common council such measures as he shall deem expedient; to expedite such as shall be resolved upon by them, and in general, to maintain the peace and good order, and advance the prosperity of the city.

Duties of the Mayor.

§ 2. The mayor shall have the custody of the common seal of the city, and authenticate such acts of the common council as shall require it.

Has custody of the corporate seal.

§ 3. The mayor and aldermen of the city, by virtue of their offices, shall have and exercise all the power and authority of justices of the peace in criminal cases, and in enforcing the laws of this state relating to the police thereof, and as such, may be members of courts of special and general sessions in and

Powers of Aldermen as Justices.

**TITLE 4.** for the county of Monroe, but shall have no jurisdiction in civil cases, other than such as by this act shall be expressly conferred upon them.

**Duties of Supervisors.**

§ 4. The supervisors elected as herein before provided, shall have and exercise all the powers, authority and functions of supervisors of towns, except as herein otherwise provided, and shall be members of the board of supervisors of the county of Monroe.

**and of Assessors.**

§ 5. The assessors elected in the different wards of the city, as herein provided, shall perform all the duties in relation to the assessing of property in the city, in their respective wards, for the purposes of levying the taxes imposed by the common council thereof; and shall, also, in their respective wards, perform the duties of assessors of towns, in the same manner prescribed by law respecting town assessors.

**1 R. S. 380.  
2d ed.**

**How to proceed on completing assessment rolls.**

§ 6. On completing their assessment rolls, and after making a fair copy of the same, they shall give the like notice in their respective wards, required by law to be given by town assessors; and at the time and place specified in such notice, the assessors of the respective wards shall meet in their wards to review the assessment, and shall proceed in the manner prescribed by law, respecting assessors of towns; and having completed and subscribed their several assessment rolls, shall deliver the same to the supervisor of their respective wards, to be by him laid before the board of supervisors of the county of Monroe.

**1 R. S. 384.  
§ 18, 20, 22.  
2d ed.**

**Jury lists how made and returned.**

§ 7. The supervisors of the said city, with the assessors of the several wards, shall make out and return to the county clerk of the county of Monroe, a list of persons to serve as petit jurors, and as grand jurors in the several courts held in the county of Monroe, at the same time, and in the same manner as prescribed by law in relation to the supervisors, assessors, and town clerks of the several towns of this

**2 R. S. 332,  
sec. 13. &c.  
2d ed.**

state, and for that purpose they shall assemble at such place as the said supervisors shall appoint, and duplicates of the returns of jurors made by them, and duly certified by them, shall be filed in the office of the clerk of the mayor's court of the said city, within ten days after such returns are made out.

TITLE 4.



§ 8. The clerk of the city shall keep the minutes of the common council, and all papers and documents belonging to the city, except such as shall appertain to the other officers of the city; and shall be regulated in the performance of the duties of his office by the ordinances of the common council. It shall be his special duty to publish, for at least three weeks, in one of the newspapers printed in the city, all laws and ordinances passed by the common council, and all votes and resolutions directing the payment of money, of which the first publication shall be made within eight days after the passage of such law, ordinance, vote or resolution.

Duty of the city clerk.

To publish notice.

§ 9. The clerk shall countersign all licenses of every description granted by the mayor, pursuant to the ordinances of the common council, and shall enter in appropriate books the name of every person to whom a license is granted, the purpose for which granted, the date, the time during which it is to be in force, and the sum paid for such license; and no license for any purpose granted by the mayor, shall be valid until countersigned by the clerk.

To countersign licenses.

§ 10. The clerk shall, annually, before the first day of October in each year, certify and deliver to the supervisors elected in the said city, a list of the names of the assessors and collectors in the said city, to be laid before the board of supervisors of the county of Monroe.

To certify names of assessors and collectors to supervisors.

§ 11. The city treasurer shall receive and keep the money paid into the city treasury, which he shall de-

Duty of city Treasurer.

**TITLE 4.** posit in such bank or banks as the common council shall direct, to his credit in his official capacity. He shall keep regular accounts of all the moneys received and disbursed by him, in books to be provided by the common council, in such form as they shall direct ; but the name of every person to whom money shall be paid by the treasurer, shall in all cases be entered at length, and on what account the same was paid ; which books and entries shall, at reasonable hours, be open to the inspection of any elector of said city desiring the same.

See Title V,  
sec. 36 to 45  
inclusive.

**Duties of At-  
torney and  
Counsel.**

§ 12. The counsel and attorney of the city shall perform such duties as shall be assigned to him by the common council, and shall receive therefor such compensation as the said common council shall provide.

**Powers and  
duties of  
Marshal.**

§ 13. The marshal of the said city shall possess the power and authority of a constable at common law, and under the statutes of this State, except in relation to the service of process issued by justices of the peace in civil cases. The marshal shall also perform such duties as shall be prescribed by the common council, for the preservation of the public peace, and the maintenance of the public regulations of the said city.

**Of city su-  
perintend-  
ents.**

§ 14. The city superintendents shall have charge of the parks, streets, squares, alleys, lanes, and bridges of the city, and shall perform such other duties as shall be assigned them by the common council, with such powers and authority, and subject to such regulations and restrictions as the common council may provide.

**Recorder to  
act as Mayor  
or in cer-  
tain cases.**

§ 15. In case of the absence or inability of the mayor, his duties shall devolve on the recorder ; in which case, he is hereby authorized to discharge the same ; and in case of the absence or inability of both the mayor and recorder, the common council may

appoint one of their body, who shall possess the same powers and discharge the duties of mayor, during such absence or inability.

TITLE 4.

§ 16. The recorder of the city may constitute a member of any court of oyer and terminer, to be held in and for the county of Monroe; and for that purpose shall possess all the powers and authority, and be entitled to the same compensation, and be paid in the same manner, as a judge of the county courts.

and may be a member of courts of Oyer and Terminer.

2 R. S. 133, sec. 28. 2d ed.

§ 17. The police justice of the said city shall not have nor exercise any civil jurisdiction, but shall have sole and exclusive jurisdiction in preference to any other justice, to hear all complaints, and to conduct all examinations in criminal cases, except in case of his absence from the city or inability. It shall be his duty to preside in all courts of special sessions holden in the said city.

Powers and duties of Police Justice.

§ 18. Warrants may be issued, in criminal cases, for the apprehending of offenders, by any other justice of the said city; but they shall be returnable before the said police justice, except in case of his inability or absence from the city.

Warrants may be issued by other Justices.

§ 19. Whenever any person shall be arrested on a criminal warrant issued by the police justice, or any other magistrate exercising the criminal jurisdiction of a justice of the peace in the said city, and the officer making the arrest shall bring such person before any justice of the peace of said city, together with his return endorsed on such warrant, stating the absence from the city, or inability of the police justice, such justice of the peace shall thereupon have jurisdiction of the case.

Absence &c. of police Justice—how ascertained.

17 Wend. 211.

§ 20. It shall be the duty of the police justice to keep an office in the first ward in the said city, and attend to all complaints of a criminal nature which

Police Justice to keep an office &c.

TITLE 5. may be brought before him, at all reasonable hours.

§ 21. He shall not be entitled to receive any fee or reward for any service; but, in lieu thereof, he shall receive an annual salary, to be fixed from year to year, by the board of supervisors of the county of Monroe, which shall be allowed and paid by the said board of supervisors of said county, as other county charges are allowed and paid.

His salary  
and how  
paid.

### TITLE V.

*Of the Assessmen' and Collection of Taxes for City purposes, and of the Funds, Revenue and Expenditures of the City, and the administration thereof.*

Common  
council to  
allow ac-  
counts.

§ 1. The common council shall examine, settle and allow all accounts chargeable against the city, as well of its officers as of other persons; and shall have authority to direct the raising of such sum as shall be necessary to defray the same, and the contingent expenses of the said city, subject to the limitations and restrictions hereinafter contained.

To raise by  
tax \$3,000  
for lamp and  
watch fund  
and \$4,000  
for contin-  
gent fund.

§ 2. For the purpose of defraying such expenses, the common council may raise annually a sum not exceeding three thousand dollars, to be appropriated to the lighting of the city, and for the support of a night watch; and a further sum, not exceeding four thousand dollars, to defray all other charges against the city, for the general contingent expenses thereof, besides such sums as may be raised for the support of common schools, and exclusive of assessments for opening, working, paving, repairing, or altering streets, and exclusive of the sums authorized to be raised by the seventh section of the eighth title of this act, and by the second section of the seventh title of this act.

§ 3. The aggregate of the sums to be raised to de-



fray the expenses of lighting the city, and compensa-  
ting watchmen, and the prevention and extinguish-  
ment of fires, shall be separately stated, distinct from  
the other contingent charges, and shall be assessed  
on all the real and personal estate within the lamp  
and watch district, according to the valuation of the  
same in the last preceding assessment roll, which  
shall have been designated as hereinbefore provided.

TITLE 5.

Taxes on  
lamp and  
watch dis-  
tricts.

§ 4. All other sums so directed to be raised by the  
common council, shall be assessed on all real and per-  
sonal estate in the said city, according to the valuation  
of the same in the last preceding assessment rolls,  
which shall have been returned by the assessors of  
the different wards and filed in the office of the clerk  
of the city ; but no real or personal estate which shall  
be exempt from taxation by the general laws of this  
state, shall be liable to taxation or assessment for any  
purpose in the said city, except for the purposes of  
local improvement.

Other taxes  
on city at  
large.

R. S. 379,  
sec. 1, &c.  
do. 407, sec 5.  
do. 639, sec.  
78, 2d ed.

§ 5. The common council may, from time to time,  
direct any surveyor of the city to prepare and fur-  
nish to any assessor, a brief description of any or all  
the real estate in the ward of such assessor : or to  
prepare a roll for such assessor, exclusive of the val-  
uation, so far as the real estate of his ward is con-  
cerned ; and the descriptions or rolls thus furnished  
shall be followed and adopted by the respective as-  
sessors.

Surveyors  
may be di-  
rected to  
describe  
lands &c.

4 Hill 77 &c.  
" " 92]

§ 6. The common council of the city, previous to  
the assessment by them of any tax on the real estate  
within the said city, shall examine the assessment  
rolls of the several wards, and shall equalize the val-  
uation of real estate in any ward, in the same man-  
ner, and to the same extent, as the board of supervi-  
sors of counties may by law equalize and correct the  
town rolls of their county, and are vested with the

Common  
council to  
equalize  
valuation  
of lands.

**TITLE 5.** exclusive power to make such equalization. After such equalization and correction, the city clerk, or a surveyor thereof, under the direction of the common council, shall correct all clerical errors in the description or valuation of property, and make one correct and exact copy of each of the several ward rolls, and certify the same to be correct, and deliver the said copies to the supervisors of the respective wards, on or before the first day of October in each year, to be by them presented to the board of supervisors, as and for the ward rolls of the city.

**Assessment when made.** § 7. The said assessment shall be made by the common council at some meeting thereof during the month of October in each year, in the same manner in which county taxes are directed by law to be assessed by the board of supervisors, and the assessment rolls with the amount of taxes therein specified to be paid shall be deposited with the city treasurer on or before the fifteenth day of December in each year. Upon receiving said assessment roll, the said treasurer shall forthwith cause to be published daily, in two daily newspapers printed in the city of Rochester, for the space of thirty days, a notice that all persons named in the assessment who shall pay to the said treasurer the several sums assessed to them respectively, within thirty days after the first publication of said notice, will be entitled to a deduction of the per centage which shall have been included in such assessment for collector's fees; and on payment being made as aforesaid, the treasurer shall make such deduction, and discharge the tax or assessment on account of which such payment shall have been made; and in case of part payment, he shall make a rateable deduction and enter the amount of such part payment and of such deduction upon such assessment roll.

§ 8. If any tax or assessment shall remain unpaid,

such assessment rolls shall be delivered to the respective collectors of said city, on or before the sixteenth day of January in each year, with warrants annexed thereto under the hand of the mayor and clerk of the city, commanding such collector to collect from the several persons named in the assessment roll, the several sums mentioned in the last column of such roll opposite to their respective names; and in case any such person shall refuse or neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person, and after deducting from the amount so collected the compensation so allowed to such collector, to pay the residue into the city treasury, on or before the fifteenth day of February, ensuing after the date of the said warrant.

TITLE 5.

Collectors' Warrants.

§ 9. A separate column shall be provided in the said assessment rolls, in which shall be inserted by the common council, the amount of tax assessed upon the real estate being within and upon the personal property of the inhabitants residing within the lamp and watch district, to defray the expenses of lighting the city and compensating watchmen, and for the prevention and extinguishment of fires; which tax shall be assessed upon the valuation of the real and personal estate of the said freeholders and inhabitants, according to the last preceding assessment rolls as aforesaid, at the same time, and in the same manner as the general tax is herein before directed to be assessed.

Separate column for Lamp and Watch District.

§ 10. Duplicates of the said assessment rolls, verified by the signatures of the mayor and clerk of the city, shall be deposited with the city treasurer, with a receipt thereon from the collectors who shall have received the originals, specifying that he has received an original of which the same is a copy, for the purpose of collecting the taxes therein directed to be collected.

Duplicate assessment.

**TITLE 5.** § 11. The collector to whom any such assessment roll and warrant shall be delivered, shall proceed to collect the sums therein specified, in the same manner as provided by law in respect to the collection of county taxes, and shall have and possess all the power and authority conferred by law on the collectors of county taxes, and shall in like manner make returns to the city treasurer, of the amount collected and of the taxes remaining unpaid ; and upon making oath before the city treasurer, which oath he is hereby authorized to administer, similar in all respects to the oath required by law of collectors of county taxes, he shall be credited by the city treasurer with the amount so remaining due and unpaid. but shall not be paid or allowed to retain the amount included therein for the collector's fees for collecting the same.

  
Taxes collected.

1 R. S. 387,  
§ 1 & c.  
2d ed.

1 R. S. 389,  
§ 10. 2d ed.

Action may  
be main-  
tained for  
unpaid as-  
sessments.

§ 12. When any tax or assessment imposed by the said common council pursuant to law, shall be returned as unpaid, or shall not be paid within the time required by law, the said common council may maintain an action therefor, in the name of the corporation of the city, against the person liable for the payment of the same, either as owner or occupant of the real estate, or as owner of the personal property charged with such tax or assessment, in any court having cognizance thereof, and shall recover the same with interest from the time such tax was returned unpaid ; and in every such action the assessment roll, wherein such owner or occupant shall be assessed, and the return thereof unpaid by the collector, shall be presumptive evidence of the indebtedness of such owner or occupant, and of its amount.

Lands to be  
exposed for  
sale.

§ 13. On the first Tuesday of June, in each year, the common council shall cause to be exposed for sale, as hereinafter provided, all real estate charged with any tax or assessment, which shall have been return-

ed unpaid by the officer authorized to collect the same as herein provided, more than thirty days previous to the said first Tuesday of June. TITLE 5.

§ 14. The city treasurer shall cause a notice of the time and place of such sale to be published in two daily newspapers published in said city, at least ten days previous to such sale; and he shall also cause to be published in one or more of said papers, on some day not more than twenty nor less than ten days previous to such sale, a list of the several parcels of real estate so to be sold, describing therein each parcel of real estate in the same manner as the same is described in the assessment rolls, in which the said tax or assessment is imposed thereon, together with the name of the person to whom each parcel is assessed, and the amount of the tax or assessment thereon. Notice of sale how to be published. Wend. 254  
4 Hill 77.  
" " 92.

§ 15. It shall be the duty of the city treasurer to conduct all the proceedings, and render all the services necessary to perfect the sale and transfer of real estate in said city, where the same shall be sold or advertised for sale for the non-payment of any assessment imposed thereon by the common council; and for such services so rendered by the city treasurer, exclusive of the expense of advertising such real estate, the corporation shall be entitled to have and receive such fees as the common council shall from time to time previous to such sale fix, not exceeding twenty-five cents for each parcel of land so ordered to be sold, in case the sale thereof shall be stopped by payment after advertisement, and not exceeding one dollar for each parcel that shall be actually sold, which fees shall be paid into the city treasury, and carried to the contingent fund. Treasurer to conduct such sales and fees thereof.

§ 16. If such tax or assessment, and the expenses aforesaid, be not paid by the said first Tuesday of June, the city treasurer shall, at the time and place Lands to be sold.

**TITLE 5.** appointed in the notices required to be given as aforesaid, or on some day immediately thereafter, to which said sale may be adjourned, proceed to sell the said several parcels of real estate for the shortest time any bidder will take such premises and pay the said tax or assessment, with interest thereon from the time the same was returned unpaid, and the expenses of such sale; and on such sale he shall execute to the bidder a certificate of sale, in which the property purchased shall be described; the aggregate amount of tax or assessment, and interest thereon, and expense of such sale, and the time for which the premises were purchased, shall be specified; also, the time when the purchaser will be entitled to receive the lease hereinafter mentioned. Said treasurer shall cause a copy of said certificate to be filed in the clerk's office of the said city; and the amount included in such tax or assessment for collector's fees shall be carried to the contingent fund.

and certificates executed to the purchaser.

and copied in the clerk's office.

Costs and expenses of sale.

§ 17. The costs and expenses aforesaid shall be the fees here in allowed to the city, for the services herein required of the city treasurer in advertising said real estate for sale, and for conducting said sale, and the amount which shall be paid or agreed to be paid by the common council for advertising and publishing the several notices, and the list of the said several parcels of real estate, as hereinbefore required; which costs and expenses shall be charged equally upon the several parcels of real estate which shall be sold, but shall not exceed the sum of ten dollars, exclusive of the fees of advertising, against any one individual in any single year.

If paid before sale.

§ 18. If any tax or assessment shall be paid previous to such sale, the person paying the same shall also pay the proportion of the costs and expenses chargeable to the parcel of real estate on which such

tax or assessment is charged, as hereinbefore pro- TITLE 5.  
vided.

§ 19. If, at any such sale, no bid shall be made for any such parcel of land, the same shall be struck off to the city; and the proportion belonging to the school fund, of the moneys due on such tax at the time of the sale, if any, shall be paid to that fund by the city; and thereupon the city shall receive, in the corporate name, one of the certificates of the sale thereof, and shall be vested with the same rights as any other person would receive under a similar certificate; and in case such land shall not be redeemed as hereinafter provided, the said corporation, or their assignees, shall acquire an absolute title to the same in fee.

When lands to be struck off to the city.

§ 20. Any owner or claimant of the premises so sold, may, within two years after such sale, redeem the same, by paying to such grantee, his heirs or assigns, or into the city treasury for his benefit, the amount so paid by him, with the addition of ten per cent. per annum on such amount; and on such payment being made, the title of such grantee shall absolutely cease and determine.

Owner may redeem in two years.

§ 21. All persons residing in the city of Rochester, who are the owners of lands sold for taxes or assessments, under the foregoing provisions, shall have, in addition to the right of redemption above provided, thirty days to redeem such lands, after personal service upon such owners of a notice of such sale, which notice shall be in writing, signed by the person claiming the premises under such sale, or his agent, and shall specify the amount of the tax or assessment and charges at the time of such sale, and the time for which such premises were bid off, and that the owner is required to redeem the same, within thirty days; and all non-resident owners of premises sold as afore-

Further time of redemption.

Notice to be served on owners.

**TITLE 5.** said, shall have the same time for redemption as is hereby granted to resident owners, after the service of the like notice upon the agent of such owners, provided such non-resident owners shall have an agent residing in the said city, whose appointment shall be in writing, and his name entered in a book to be kept by the city clerk for that purpose; and in case of non-resident owners who shall not have such agents as aforesaid, the notice of such sale, and with the like effect, shall be served upon the tenant in possession, in case such premises shall be occupied; but in all cases to entitle non-resident owners to the service of such notice as aforesaid, such agent must have been appointed and his name registered as aforesaid, or such tenant be in possession of the premises at the expiration of the time of redemption of such lands, for the said space of two years, as above given by law to owners.

or agents of  
non-resi-  
dents;

or tenants in  
possession

Mortgagees  
& c. may  
redeem.

Laws of 1840  
chap. 387.

Laws of 1844,  
chap. 263.

4 Hill, 369.

And have a  
lien for the  
amount  
paid.


Term "mort-  
gagee" de-  
fined.

§ 22. Any judgment creditor, or mortgagee of the owner of premises sold for any tax or assessment, under the provisions of this act, may redeem the same, within the same time, and on complying with the conditions in this title, hereinbefore prescribed, for the redemption thereof by the owner.

§ 23. Every such mortgagee or judgment creditor shall have a lien on the premises redeemed by him, by virtue of this act, for the amount necessarily paid by him to effect such redemption, with the interest which may thereafter accrue thereon, at the rate of seven per cent. per annum, in like manner as if the same had been included in his mortgage or judgment, and may enforce the same in the same manner.

§ 24. The term "mortgagee" in this act, shall be construed to include assignees whose assignments shall be duly recorded, and their personal representatives.



§ 25. An affidavit of the service of the notice re- **TITLE 5.**  
quired by the preceding sections of this title, in order   
to determine the time of redemption of such lands, **Service of**  
specifying the time and mode of such service, and tak- **notice how**  
en before an officer authorized to take affidavits to be **proved.**  
read in courts of record, and filed with the clerk of  
the city within ten days after such service, shall be  
presumptive evidence of the facts contained therein.

§ 26. If the said lands so sold in the manner here- **Leases of**  
in above provided, shall not be redeemed by the **lands sold**  
owner or claimant, within the time and in the man- **when to be**  
ner in this title hereinbefore prescribed, the grantee **given.**  
of such certificate, his assigns or legal representa-  
tives, shall at the expiration of such time be entitled  
to a lease of said premises for the term for which he  
so bid off the same, which term shall commence two  
years from the time of the sale of said lands; said  
lease to be given by the mayor, or other officer le- **23 Wend.344**  
gally discharging the office of mayor, under the cor-  
porate seal of the said city, which lease shall be pre-  
sumptive evidence in all courts and places, that such **and effect**  
tax and assessment was legally imposed, and that the **thereof.**  
proceedings to authorize such sale were correct;  
and such grantee shall have, hold, and enjoy the said  
premises, during the term for which the same were  
granted to him, free and clear from all claim and de-  
mand of any other owner or occupant of the same,  
but subject to any taxes or assessments that may be  
charged thereon, during the said term; and at the  
expiration of such term, such grantee, his heirs or  
assigns, may remove any building or fixtures that may  
have been erected on the said premises during the  
said term.

§ 27. Whenever the said common council shall dis- **Reassess-**  
cover that any lands returned to the city treasurer **ment of**  
for the non-payment of any tax or assessment, have **lands mis-**  
**described.**

**TITLE 5.** been so imperfectly or erroneously described, that the same cannot, in their opinion, be located with certainty, or that a sale thereof would not convey to a purchaser a valid title to the lands intended to be charged with such tax or assessment, by reason of the misdescription thereof, the said common council shall cause an accurate description of the lands intended to be charged with such tax or assessment, to be annexed to the annual assessment roll for the general expenses of the said city; and shall charge the said land, with the amount of such taxes or assessments incurred, with the interest thereon, from the time the same ought to have been paid, specifying the purpose for which the same was originally assessed, and the time when the same was returned for non-payment; and the amount so charged shall be collected in the same manner, and the same proceedings shall be had in case of non-payment of the same, as in relation to taxes for the general expenses of the said city. The power conferred by this section may be exercised in respect to any lands heretofore returned to the city treasurer; and shall extend to all lands embraced in the terms of this section, whether the same may have been sold under such imperfect description or not.

Collector's  
warrant  
may be re-  
newed.

§ 28. The mayor, by the direction of the common council, may renew any warrants that may be lawfully issued for the collection of any tax or assessment, from time to time, as often as any tax or assessment shall be returned uncollected, or shall not be returned collected; or may issue a new warrant for the collection of such tax, and in such warrant shall specify the time when the same shall be returned, and the same proceedings shall in all respects be had on such renewed warrants, or new warrants, as are herein authorized upon the first warrant.

§ 29. If any collector shall refuse or neglect to pay over to the city treasurer the sums required by his warrant so to be paid over, or to account for the sums so unpaid, as required by law, the city treasurer shall issue a warrant under his hand and seal, directed to the marshal of the city, commanding him to the same effect as in the warrant authorized by law to be issued by a county treasurer against any delinquent collector, and also commanding him to collect interest on the amount specified in the said warrant from the time when the same ought to have been paid or accounted for by such collector, specifying such time in said warrant, upon which the marshal shall proceed as sheriffs are required by law to proceed upon such warrant issued by county treasurers; and if any moneys shall remain uncollected on such warrant, the city treasurer shall immediately give notice thereof to the mayor of the city, whose duty it shall be to cause the bond of such collector to be prosecuted, and the moneys collected in such suit shall be paid to the city treasurer.

TITLE 5.

If collector neglect to pay, warrant to be issued to Marshal.

1 R. S. 389, § 13, 14, 15. 2d edition.

§ 30. The same proceedings by attachment may be had against any marshal for neglecting to return such warrant, as are provided by law in cases of sheriffs, receiving similar warrants by county treasurers.

Attachment against Marshal.

1 R. S. 390, sec. 17. 2d ed.

§ 31. For any neglect of any collector to pay over moneys or to render an account upon any warrant issued by the supervisors of the county, the same proceedings may be had as against collectors of towns in similar cases.

Proceedings against collectors.

1 R. S. 389, sec. 13, 14, 15. 2d edition.

§ 32. Within four weeks and not less than two weeks before the annual election of aldermen, the common council shall audit and settle the accounts of the city treasurer, and the accounts of all other officers and persons having claims against the city, or accounts with it; and shall make out a statement, in

Accounts to be audited and statement to be published.

**TITLE 5.** detail, of the receipts and expenditures of the corporation during the preceding year; in which statement shall be clearly and distinctly specified, the several items of expenditure made by the common council, the objects and purposes for which the same were made, and the amount of money expended under each; the amount of taxes raised for the general contingent expenses; the amount raised for the lighting and watching the city; the amount of highway taxes and assessments; the amount of assessments for opening, paving, repairing, and altering streets, and for building and repairing bridges; the amount borrowed on the credit of the corporation, and the terms on which the same was obtained; and such other information as shall be necessary to a full understanding of the financial concerns of the city.

Statement to be signed and filed.

§ 33. The said statement shall be signed by the mayor and clerk, and filed with the papers of the city; and the same shall be published by the clerk, at the expense of the city, in some newspaper thereof, at least one week before the annual election of aldermen.

Moneys not to be borrowed &c.

§ 34. The common council shall not borrow any money on the credit of the corporation, unless authorized by this act, or by a special act of the legislature, except in anticipation, and not exceeding the amount of the revenue of the year in which such loan shall be made.

Nor notes &c issued.

§ 35. It shall not be lawful for the common council to issue or authorize the issuing of any bond, bill, promissory note, or other evidence of debt, unless the same shall be made payable within the period of six months from the time the same shall be issued, except as otherwise provided in this act. Any bond, bill, promissory note, or other evidence of debt, issued contrary to the provisions of this section, shall be void.

§ 36. No money shall be drawn from the city

treasury, unless it shall have been previously appropriated to the purpose for which it shall be drawn; and all ordinances, resolutions, and orders directing the payment of money, shall specify the object and purpose of such payment, and shall be certified by the clerk of the common council to the city treasurer, before any payment shall be made by him, except in the cases hereinafter provided in the sixth title of this act.

TITLE 5.

How money drawn from Treasury.

§ 37. All moneys received by the treasurer, belonging to the city, shall be deposited in one of the banks of the city, and the treasurer shall keep two separate bank books, with every bank in which any money of the city shall be deposited, in which shall be entered all sums received by such bank to the credit of the treasurer, and all sums paid out on his checks and drafts, which books shall be written up, and the balance stated, on the last day of each week, and any other time when the mayor shall so direct. One of the said books shall be kept by the treasurer, and the other shall be deposited with and kept by the clerk of the city, or other officer designated by the common council, who shall retain the same in his custody at all times, except when the same is left at the bank for the purpose of having entries made therein, and shall be at all times open for the inspection of any member of the common council. And every member of the common council shall be entitled, during usual banking hours, to inspect the account of the treasurer with any bank in which deposits of money are made.

Bank Books.

§ 38. Every check drawn by the city treasurer, and countersigned as hereinbefore provided, shall specify the particular fund out of which the payment by such check is to be made.

Checks on Banks.

§ 39. The common council shall not, in any one

**TITLE 5.** year, direct any moneys to be paid out of any of the general funds of the city as herein provided, after the appropriations and payments made as herein directed for such year shall amount to the sum authorized by this act to be raised for any such fund, nor shall the city treasurer make, nor the city clerk or any other officer countersign, any check for the payment of any money which shall have been appropriated or directed to be paid contrary to the provisions of this section: and any person who shall knowingly or wilfully violate the provisions of this section shall be deemed guilty of a misdemeanor; but it shall not be deemed a violation of the provisions of this section to make appropriations or payments out of and not exceeding such sums of money as may, under the provisions of this act, be paid into any general fund beyond the amount herein authorized to be annually raised by assessment for such fund.

General funds not to be over-drawn.

Treasurer to make monthly statement.

§ 40. The treasurer shall, once in each month and at the first regular meeting of the common council therein, report to the common council a statement showing the appropriations and payments out of each of the general funds since the last preceding annual report required to be made by the thirty-second section of this title.

Sinking Fund how constituted

§ 41. The city treasurer shall open an account in his office to be styled the "Sinking Fund," and shall debit to that account all moneys which shall be received by him from time to time from the following sources:

1st. From payments made to redeem lands sold for taxes or assessments before the passage of this act, and which shall have been bid off by or for the city, except such lands as shall have been sold for the non-payment of taxes or assessments for building school-houses.

2d. All moneys which shall be received into the treasury from the payments made upon bonds and mortgages now held by the city. TITLE 5.

3d. All moneys which shall be received into the treasury, to the credit of the following accounts, or which would otherwise be placed to the credit of such accounts, viz.: "Center Square Fund," "Deep Hollow Improvement Fund," "Buffalo-street Improvement Fund," "Genesee Valley Wall Fund," "Water-street Improvement Fund," "North Saint Paul-street Improvement Fund," "Exchange and Troup Street Improvement Fund," "Sophia-street Improvement (middle section) Fund," and "River Wall Fund," deducting therefrom the expenses which shall hereafter be paid by the city for assessing or collecting any of the moneys mentioned in this subdivision.

4th. All moneys which shall be received into the treasury as payments upon demands due to the city, and which are now debited to the account of "Bills Receivable."

§ 42. The moneys which shall be so debited to the said "Sinking Fund" account shall be applicable to the payment of the present funded debt of the city. And the common council shall not appropriate nor direct the payment of any moneys from such fund for any purpose whatever other than for the payment of some part of the principal of the said funded debt, except as is herein provided in the next section. and proceeds  
how applied.

§ 43. If at any time, and whenever there shall be in the treasury the sum of one thousand dollars of the moneys so as aforesaid directed to be placed to the debit of the sinking fund, and the common council shall not be able to apply the same to the payment of the principal of the said funded debt, nor to the purchase of the same at par, then and in that case And when  
deposited  
in Savings  
Bank.

**TITLE 6.** the common council shall deposit the same in the Rochester Savings Bank, until the said moneys can be applied to the payment or purchase, as aforesaid, of the principal of the said funded debt ; and the interest which shall be received upon the deposit of the said moneys, shall be debited in like manner to the said sinking fund, and shall in like manner be applicable to the payment of the principal of the said funded debt.

City monies  
how drawn  
out of Bank

§ 44. No money placed to the credit of the treasurer in any bank, shall be drawn out unless by a check signed by the treasurer, and countersigned by the clerk, or by the city superintendent of common schools as clerk of the board of education, in the cases provided by the sixth title of this act, or such other officer or person as the common council shall appoint for that purpose ; of which appointment notice shall be given to the banks in which such deposits shall be made, and a copy of this section shall be delivered to the cashier of every such bank, before making deposits therein.

Clerk to  
countersign  
checks.

§ 45. The clerk or other person authorized to countersign such checks, shall keep in a book to be provided for that purpose, regular entries of the checks countersigned by him ; and shall not countersign any check without having evidence before him that the same is authorized by some ordinance or resolution of the common council, or of the board of education as hereinafter provided.

## TITLE VI.

### *Of Common and other Schools.*

Two school  
commission-  
ers to be an-  
nually elec-  
ted in each  
Ward.

§ 1. There shall be annually elected, on the third Tuesday of June in each year, two commissioners of common schools in each of the wards in the said city, who shall be citizens of the wards for



which they are elected, and shall hold their offices for one year : the persons so elected shall take the oath of office prescribed by the constitution of this state, and shall file the same with the city clerk within the time prescribed by this act in respect to other elective officers of said city. TITLE 6.

§ 2. Notice of the said election shall be given in the same manner, and the same shall be held and conducted, the votes shall be canvassed and filed, and the result of the election determined, in the same manner as in the case of the annual election of other officers of the said city. Election how to be conducted.

§ 3. In case of vacancy in the office of any such commissioner, or in case no person shall be elected thereto, by reason of two or more persons having an equal number of votes, the common council shall appoint an inhabitant of the ward in which such vacancy shall happen, to fill the same, and the person appointed shall hold his office until the next election of commissioners of common schools. Vacancies how supplied.

§ 4. Such commissioners of common schools shall constitute, and are hereby denominated, the board of education for the city of Rochester ; they shall meet on the first Monday of each and every month, and as much oftener as they shall from time to time appoint ; a majority of the said board shall constitute a quorum for the transaction of business. The said board shall appoint one of their number president, who shall, when present, preside at all the meetings of said board, and shall have power to call special meetings of the board, in the manner prescribed by this act for the calling of special meetings of the common council. In the absence of the president, the said board shall appoint some other member to preside at such meetings, and perform the duties of the president. Board of Education how constituted

§ 5. The said board of education, in addition to the

**TITLE 6.** powers and duties prescribed by this act, shall possess all the powers, and are hereby authorized and required to perform all the duties of town superintendents of common schools, for the said city, and be subject to the same penalties.

Additional powers of Board.

Laws 1843, chap. 133.

To appoint a city Superintendent of common schools.

§ 6. The said board of education shall have power, and it shall be their duty to appoint a city superintendent of common schools, who shall hold his office for one year unless sooner removed by the said board. He shall attend the meetings and keep a record of the proceedings of the said board; he shall possess all the powers, and be required to perform all the duties in reference to the schools of said city, of county superintendents of common schools; and shall perform such other duties as the said board shall from time to time prescribe.

and fix his compensation.

§ 7. The board of education shall fix the compensation of the city superintendent of common schools for his services, and the same shall be paid by the treasurer of the said city, out of the moneys hereinafter in this title specified, and not otherwise.

To certify to the common council the amount to be raised for common schools, &c.

§ 8. The said board of education shall annually, on or before the third Tuesday of July, fix and determine, and certify and report to the common council, the amount of money which, when added to the money annually apportioned to the several school districts of the said city, out of the funds belonging to the state, shall be necessary to support all the common schools in said city and to pay the compensation of the clerk of the said board of education. The amount so certified shall in no case exceed five times the amount which shall have been apportioned out of the funds belonging to the state as aforesaid, for the year next preceding.

Common council to

§ 9. The common council of the said city shall annually levy and raise the amount of money so certi-

fied and reported by the board of education, and the sum of three hundred dollars in addition thereto, to provide for contingencies, unless the common council shall reduce the said amount so certified and reported, to an amount not less than four times the amount which shall have been apportioned out of the funds belonging to the state as aforesaid, for the year next preceding, which they are hereby authorized to do; and the said amount so to be raised, shall be levied and collected at the same time and in the same manner as the other general taxes of the said city are levied and raised, except as hereinafter provided in relation to colored persons; and a separate column shall be provided in the general assessment rolls of the said city, in which shall be inserted by the common council, the amount of tax assessed for the support of common schools and for the said contingencies. The board of supervisors of the county of Monroe shall not have power to levy any tax on the city of Rochester for the support of common schools.

TITLE 6.

raise the amount yearly unless &c.

§ 10. All moneys levied and raised for the support of common schools, together with the public money received from the state, shall be paid to the treasurer of the city of Rochester, and shall be kept by him in the same manner as other moneys of said city, and shall be paid out by the treasurer, from time to time upon the resolution of the board of education duly certified to the said treasurer by the president of the said board, and the city superintendent of common schools as clerk thereof, and not otherwise.

Moneys to be paid to Treasurer.

§ 11. The said board of education shall apportion the aforesaid moneys, levied and raised for the support of the common schools, in the same manner as town superintendents of common schools, in the several towns, are required by law to apportion the public moneys received from the state for the support of common schools.

And apportioned to Districts by the Board.

R. S. 465.  
2d ed. Laws  
1843 Chap.  
33.

**TITLE 6.** § 12. Whenever the inhabitants of any school district shall by vote determine to build a school house, it shall be the duty of the said board of education to fix the site of the said school house, and determine the sum necessary to be raised for the purchase of such site and the building of said school house, and report the same to the common council, which sum shall in no case exceed the sum of three thousand dollars.

Sites of school houses how located.

§ 13. It shall be the duty of the common council to levy and raise upon the said district the sum so reported, or the amount to which they may reduce the same, pursuant to the last section, in the same manner as the general taxes of the city are levied and raised, except that the same shall be collected on a separate warrant; and when the same shall be collected, it shall be paid to the city treasurer, and credited to the said district, and paid out by said treasurer, in behalf of said district, as hereinafter provided.

And expense of same how raised.

§ 14. The said board of education shall exclusively audit all accounts and claims against any school district in said city, and the payment of the same, or of such portions thereof as shall be allowed by the said board, shall be made directly to such claimants by the city treasurer, out of the moneys belonging to such school district, upon a resolution of said board, duly certified as hereinbefore provided.

Claims against districts how audited and paid.

§ 15. Within ten days after the election of trustees and other officers of the several school districts of the said city, it shall be the duty of the clerk of each of the said districts to certify to the said board of education, the names of the trustees and other officers of such school districts.

Names of trustees to be reported to Board

§ 16. It shall and may be lawful for the said board of education, to separate any portion of a school district in the said city, which may now or hereafter be annexed to, or united with a portion of any school

Portions of city districts may be set off from town districts.

district in any of the adjoining towns, without the consent of the supervisor, town clerk, or town superintendent of common schools, of such town or towns.

TITLE 6.

§ 17. The said board of education shall have power to establish and cause to be kept, such number of schools in said city for the instruction of colored children, as they shall deem expedient.

Schools for colored children.

§ 18. The said board of education shall possess all the power and be subject to all the duties and responsibilities of trustees of common schools in the towns, in respect to the schools mentioned in the last preceding section, so far as the same are applicable; and shall pay the compensation of the teachers of the said schools, and all the other expenses thereof, out of the moneys raised by tax under this act, for the support of common schools; and until such schools for the instruction of colored children shall be so provided, it shall not be lawful to impose any tax upon the property of any colored person in the said city, for the support of common schools.

Board to act as trustees of such schools.

R. S. 475 &c. 2d ed.

§ 19. Whenever the said board of education shall determine to establish any schools for the instruction of colored children, they shall divide the said city into convenient districts for the accommodation of such children, and enter the boundaries thereof on their records; they shall make an estimate of the expense of erecting a suitable school-house in each of said districts, and determine the sites thereof respectively, and report all their doings under this section, to the common council.

And divide city into districts for them.

§ 20. The common council shall have power to raise by general tax, in the manner hereinbefore provided, and on a separate warrant, such sum as shall be necessary to build a school-house in each of the said districts, or in as many of them as they may deem expedient, not exceeding in the aggregate the

Money may be raised to build school houses in such districts.

**TITLE 7.** sum of five thousand dollars, or the said common council may refuse to raise such tax.

*Or such houses may be leased.* § 21. In case the common council shall refuse to raise such tax, the said board of education shall have power to provide, and lease suitable rooms or buildings for the accommodation of such schools, or either of them; but the annual expenditure for this purpose shall not exceed the sum of five hundred dollars.

*Appeals from trustees to said Board.* § 22. Any person feeling himself aggrieved by any decision of the trustees of any school district in said city, may appeal to the said board of education; and the decision or determination of said board, shall be binding and conclusive upon such trustees, until the same shall have been reversed by competent authority. The said board may prescribe the form and manner of proceeding in respect to such appeal.

*Rochester Collegiate Institute to report to said Board.* § 23. It shall be the duty of the trustees of the Rochester Collegiate Institute, to make the reports and returns, which by law they are required to make as trustees of a school district, to the said board of education.

*Board to publish annual statement.* § 24. The said board of education shall annually publish in some newspaper of the city, a statement of the number of high schools and common schools in the said city, the number of pupils instructed therein, the year preceding; the several branches of education pursued by them; and the receipts and expenditures of each school, specifying the sources of such receipts, and the objects of such expenditures.

**TITLE VII.**

*Of Streets, Highways, Bridges, and Public Improvements.*

*Common council commissioners of high ways.* § 1. The common council shall be commissioners of highways for the said city, and shall have the care and superintendence of the highways, streets, bridg-

es, lanes, alleys, parks, and public squares therein, and it shall be their duty,

TITLE 7.



To direct re-

pairs.

1 Hill 545

2 " 406

1. To give directions for the repairing and preservation of such highways, streets, bridges, lanes alleys, parks, and public squares, and to cause them to be repaired, cleansed, improved, and secured from time to time, as may be necessary.

2. To regulate the roads, streets, lanes, parks and alleys, already laid out, or which shall be hereafter laid out, and to alter such of them as they shall deem inconvenient, subject to the restrictions hereinafter contained.

To regulate,

3. To cause such of the streets and roads as shall have been used for six years past, as are not sufficiently described, or have not been duly recorded, to be ascertained, described and entered of record in the city clerk's office; and the recording of such roads, streets, lanes, alleys or public squares, so ascertained and described, or which shall hereafter be laid out by the said common council, in books kept by the clerk of the said city, by order of the said common council, shall be evidence of the existence of such roads, streets, alleys, lanes and squares, as therein described.

and record streets

4. To divide the said city from time to time, into so many districts as they shall judge expedient, by an ordinance to be entered in their minutes; and,

To make road districts.

5. To appoint and assign to each of said districts, so many inspectors of streets, as they shall from time to time deem proper, who shall give security, if required, for the faithful performance of their duties, and assign to them such duties in relation to the opening, laying out, making repairs, and preservation of the said streets, roads, lanes, alleys and squares, as they shall think fit, and the said inspectors shall possess all the powers of overseers of high-

To appoint Inspectors.

**TITLE 7.** ways in towns, and be subject to all their duties and obligations, so far as the same may be applicable to the said city.

Highway  
fund of  
\$7000.

§ 2. The common council may annually raise by tax on the real and personal estate within the said city, such sums as they shall judge necessary to constitute a general fund for the construction and repair of highways, streets, alleys, lanes and public squares, and other public buildings and improvements belonging to said city, and for the construction and repair of wells, pumps, aqueducts and cisterns of water, not exceeding in any one year the sum of seven thousand dollars, which sum shall be assessed, raised, levied and collected in the same manner, and at the same time, as the taxes for the contingent expenses for the said city, and shall in like manner be paid into the city treasury, subject to the order of the common council.

Powers of  
common  
council.

§ 3. The common council shall have power, subject to the restrictions and limitations hereinafter contained,

Sewers ;  
3 Hill 612.

1. To cause common sewers, drains and vaults, arches and bridges, wells, pumps and reservoirs to be made in any part of the city:

paving  
streets ;

2. To cause the pitching, raising, levelling, repairing, cleansing, amending, covering with broken or pounded stone, and paving any of the streets, alleys, lanes, roads, squares, highways and walks in the said city:

laying out  
streets ;

3. To lay out, make and open any street, alley, square, park, road, highway or walk in the said city, and to cause any street, alley, square, park, road, highway or walk already laid out, or that may hereafter be laid out or used as such, to be opened or altered by widening or altering the course of the same, whenever they shall judge the public good requires the same to be done.



§ 4. But the said common council shall not lay out any street, alley, square, park, road, highway or walk, or alter any such as may already be laid out or used, so as to run across or over the site of any building at the time actually erected, which shall be of the value of one thousand dollars, without having obtained the consent of the owner of such building in writing or without having purchased such building.

TITLE 7.

Restrictions.

6 Wend. 564  
12 " 165

§ 5. The common council shall not have power to create or incur any charge or liability in respect to any public improvement, the expense of which is to be defrayed by assessment, until they shall have complied with the requisitions specified in the next succeeding section, and until the proceedings mentioned in said section shall have been completed.

Further restrictions.

1811

§ 6. Whenever the common council shall determine to make any such public improvement, they shall make an order directing some officer or officers of the city, to be designated in such order, to ascertain and report to the common council an estimate of the whole expense thereof; the common council shall then, by an entry on their minutes, describe the portion or part of the city which they deem proper to be assessed for the expense of such improvement. They shall cause a notice to be published daily in two daily newspapers printed in the city of Rochester, for one week, which notice shall specify such improvement, the estimated expense thereof, and the portion or part of the city to be assessed for such expense; and shall require all persons interested in the subject matter of such improvement, to attend the common council at the time appointed in such notice. At the time appointed in such notice the common council shall proceed to hear the allegation of the owners and occupants of houses and lots situated within the portion or part of the city so described as aforesaid, and after

To order estimates of public improvements.

Publish notice.

**TITLE 7.** hearing the same, shall make such further order in respect to such improvement as they shall deem proper.

In case of lands taken for public improvements.

§ 7. Whenever the common council of the city of Rochester shall determine to make any of the improvements hereinbefore in this title specified, and that the lands of any person will be necessary for that purpose, they shall enter in their minutes a resolution or ordinance, declaring such determination, containing a description of the land so deemed necessary, and also of that part or portion of the said city which will be benefited by said improvement, with the like certainty as is required by law in writs of *ad quod damnum*; they may purchase the land so deemed necessary of the owner thereof, and make him such compensation as they shall judge reasonable; and thereupon shall receive, from such owner, a conveyance of such land to the said city.

11 Wend. 149

2 R. S. 488  
231 § 8 2d ed.

Copy of resolution and map to be filed.

§ 8. In case no agreement for such purchase can be made, the common council shall cause a copy of such resolution, together with a map of the street, alley, square, park, or other public improvement to be made, designating, on such map, the lots, tracts and parcels of land which are deemed necessary to be taken, and showing the commencement and termination of the road, street, park, or alley proposed to be laid out, and also the part or portion of the said city deemed to be benefited by such improvement, to be filed in the office of the clerk of the mayor's court.

10 Wend. 659

Notice to be published for two weeks.

§ 9. The common council shall cause to be published, for two weeks, in a newspaper published in said city, a notice specifying and describing the land necessary for such public improvement, and the portion of the city deemed to be benefited by the making thereof, and that the damages and recompense which the owner or owners of such land may be entitled to for the same, will be inquired into and assess-

4 Hill 76  
4 " 92

ed, and such damages and recompense, together with **TITLE 7.**  
the costs and charges of the proceedings for the purpose of acquiring title to such lands, and of making apportionment thereof, will be apportioned and assessed upon the owners and occupants of houses and lots, and other real estate to be benefited thereby, by commissioners to be appointed by the mayor's court of said city, at a term thereof to be specified in such notice, not less than three nor more than ten weeks from the first publication thereof. The common council shall also cause a copy of such notice to be served upon each of the owners of the premises to be taken for such improvement, and of the lands and tenements within the territory deemed to be benefited by making the same, who are residents of the said city, or upon the occupants of such premises, either personally or by leaving the same at their place of abode, and upon the usual agents and attorneys, who shall theretofore have had charge of such lands of said owners as may be non-residents of the said city, if said agents or attorneys may be found in said city; in case any of such premises are vacant, then by affixing a copy of such notice in some conspicuous place upon such premises, at least ten days previous to the term of the mayor's court specified in such notice.

§ 10. At the term in such notice specified, the said mayor's court, upon filing proof by affidavit of the publication and service of such notice, as heretofore required, or sufficient reason for the non-service thereof as hereinbefore provided being shown, and upon hearing the city attorney and the parties interested, shall appoint five discreet persons, freeholders of the said city, not interested in any of the lands and tenements described in such notice, nor of kin to any owner or occupant thereof, commissioners of appraisal and assessment.

Mayor's court  
to appoint  
commission-  
ers of ap-  
praisal.

19 Wend.

203.

47

**TITLE 7.** § 11. The said commissioners shall be sworn faithfully to discharge their duties according to the provisions of this act, without favor or partiality ; they shall proceed to view the lands and tenements mentioned in the notice aforesaid, and may examine witnesses on oath, to be administered by any one of them, and shall keep minutes of the testimony so taken by them ; in case of any controversy or doubt respecting any legal principle involved in their proceedings, or any determination to be made by them, they shall apply to the said mayor's court for instruction, and shall enter upon their minutes the substance of any charge or instruction given them by the court. They shall appraise the damage which the owner or owners, and, if there be any occupants who are not owners, which such occupants of the lands and tenements to be taken for such public improvement will severally sustain by being deprived thereof, and shall apportion and assess the whole amount of such damages, together with the costs and charges of the common council in the proceedings, to be taxed by the said court, upon all the owners and occupants of lands and houses within the territory deemed by the resolution of the common council to be benefited by such improvement, as near as may be, in proportion to the benefit which each shall be deemed to acquire by the making thereof.

Commissioners to be sworn, &c.

Commissioners to make report.

§ 12. The said commissioners shall make report thereof under their hands, or the hands of a majority of them, to the said mayor's court, in which report they shall describe, with all practicable certainty, the several pieces and parcels of land taken for such improvement, and the names and residences of the owner or owners thereof respectively, and the right of such owners, so far as they can be ascertained, and the sum of money which should be paid to each

of the owners and occupants of the said several parcels of lands, as his or their recompense for being deprived thereof, or of his or their estate and interest therein. They shall also in such report specify, in the form prescribed by law for assessment rolls in said city, the sums of money which each and every owner or occupant of houses and lands, deemed to be benefited by such improvement, should pay towards the expense of making the same, and the lands in respect to which he shall be deemed by them to be so benefited; and in case the land in respect to which any person shall be deemed benefited, shall be the same of which any portion, held under the same title, shall be taken for such improvement, that fact shall be stated in their report; they shall also file a duplicate of such report in the office of the city clerk.

§ 13. Upon the filing of such report, the mayor's court shall assign a day for hearing objection to the confirmation thereof; and on the day assigned, shall hear the allegations of all persons interested, and may take proof in relation thereto, from time to time, and shall confirm the said report, or may set the same aside, and refer the matter to the same or to new commissioners, who shall thereupon proceed as hereinbefore provided. The said mayor's court may, for the purpose of proceedings under this title, be continued and held until and during the second Saturday after the commencement of any term thereof.

§ 14. Upon the confirmation of the report of commissioners of appraisal and assessments, the mayor's court shall enter an order that the city of Rochester shall be entitled to take the lands and tenements specified in the report of such commissioners, as necessary for the making of such public improvement, on paying the amount of damages assessed to the owners and occupants thereof, in such report; and where

TITLE 7.



1890

Objections to be heard on day assigned.

|    |       |     |
|----|-------|-----|
| 2  | Wend. | 377 |
| 8  | "     | 47  |
| 10 | "     | 659 |
| 13 | "     | 664 |
| 1  | Hill  | 189 |
| 1  | "     | 191 |

(see references to § 20.)

Possession of the lands when taken.

**TITLE 7.** any damages shall be awarded, and any assessments for benefits of the improvements, in respect to which such damages are awarded, shall be made upon the same person or persons, or in respect to the ownership of any entire parcel of land, a part of which shall be taken for such improvement ; in that case the said city of Rochester shall become vested with the title of such land (free from all incumbrances) upon paying or depositing, according to law, the amount of the difference between the sums of money so awarded and assessed.

**Fees of commissioners.**

§ 15. The said commissioners shall be entitled to the sum of two dollars for every day on which they are actually and necessarily employed, for their services under this title, to be certified by the said mayor's court, and taxed by said court as a part of the expenses of the proceedings.

**Appeal from report to Supreme Court.**

§ 16. Any person conceiving himself aggrieved by any part of such report, that shall have been confirmed by the said mayor's court, may, within three months after such confirmation, give notice to the common council of said city, of his intention to apply to the supreme court for the appointment of commissioners to review and correct the said report, and shall accompany such notice with a bond, executed to the said city, by such person, and one or more sureties to be approved by the mayor and aldermen of the said city, or any judge of the county courts of the county of Monroe, or executed by any two sufficient persons, and approved of as aforesaid, in the penalty of two hundred and fifty dollars, conditioned for the diligent prosecution of the said application, and for the payment of all costs and charges which may be incurred by the said city, in resisting the same and defending the said report, in case the same shall be confirmed.

**Bond to be given.**

§ 17. The giving of such notice and delivering such bond, shall suspend all further proceedings of the common council, in relation to the taking of the lands and tenements which shall be the subject of such notice, until a decision thereon, as hereinafter provided.

TITLE 7.

Appeal to suspend proceedings.

§ 18. At the next term of the supreme court, or at the next term of the said court held for hearing non-enumerated motions, which shall be held after such notice shall have been served eight days, or on any day of such term which shall be eight days after the service of such notice, and which day shall be specified therein, the supreme court, by rule of court, shall appoint three reputable and disinterested electors of said city to examine and review such part of the said report as shall have been complained of by the person or persons giving such notice.

Supreme Court to appoint three electors.

12 Wend 503.  
8 47

§ 19. The said commissioners, so appointed, shall be sworn by an officer authorized to take affidavits to be read in courts of record, faithfully and impartially to examine and review the said report, and make such correction thereof as shall be just and equitable. They shall appoint a time and place of meeting, of which the like notice as of hearing before referees shall be given to the mayor of the said city, and shall possess all the powers of referees in suits pending in courts of record, and shall be subject to the same obligations and duties, and may be compelled to report in like manner, and they shall be entitled to the same fees and expenses as referees, to be paid in the first instance by the applicants.

Who shall review the report.

2 R. S. 213.  
sec. 50, 2d ed.  
7 Wend. 516.  
7 Paige 548.

1 Hill 189.

§ 20. After hearing the allegations and proofs of the parties, the commissioners, or any two of them, shall report to the supreme court at the next general or special term after the hearing before them, the corrections which should justly and equitably be made in any assessment contained in such report, and the

And report to the supreme court.

**TITLE 7.** said supreme court shall proceed to consider the same, and for that purpose shall give the said report a preference over any enumerated or non-enumerated motion at such term, and shall confirm, annul, or modify such report, as the said court shall deem just; and the decision of the said court thereon shall be final and conclusive, except that in case of annulling the said report, the said court may direct a re-hearing before the said commissioners, or before any others that the said court may appoint: and in such case the same proceedings shall be had for the examination, correction, and review of the said report as hereinbefore provided on the appointment of commissioners in the supreme court.

11 Weend. 154  
13 " 664  
17 " 649  
19 " 630  
" " 651  
" " 678

When costs  
to be paid.

§ 21. In case the said report so made and confirmed as aforesaid in the said mayor's court, shall be confirmed in the supreme court, the obligors in the bond given to the said city, as before provided, shall be liable to pay all the taxable costs necessarily incurred; and in case the said report shall be corrected or modified, the supreme court shall determine under the circumstances of the case, whether the applicant shall be entitled to his costs and expenses, and if the same be awarded to such applicant, they shall be paid on taxation by the common council of the said city, as part of the contingent expenses thereof.

Duty of the  
Mayor when  
report is  
confirmed.

§ 22. Whenever the amount of damages for taking any lands as aforesaid, and the assessment thereof shall be finally ascertained and fixed, either by confirmation of the mayor's court as aforesaid, and no notice and bond being given as hereinbefore prescribed, or by the confirmation of the report of the commissioners by the supreme court, the mayor of the said city shall cause a transcript to be made, and in the form used for assessment rolls in said city, except that in such assessment roll to be made from such re-



port so confirmed, shall be set down in separate columns, first, the names of all persons assessed; second, the description of the land in respect to which they are assessed; third, the amount to which such persons shall respectively be assessed; fourth, the amount of damages, if any, to which such persons are respectively entitled by the award of the commissioners; fifth, the amount of the excess, if any, to be collected, to which said transcript, when so made, the mayor shall annex his warrant, and the same shall be thereupon collected in the manner prescribed in this title.

TITLE 7.  
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§ 23. The expenses of any public improvement herein authorized, shall be defrayed by assessment on the owners and occupants of houses and lands that may be benefited thereby.

Expenses of improvement how defrayed.

§ 24. Whenever the amount of any damages for taking any lands as aforesaid shall be finally ascertained and fixed, either by confirmation of the mayor's court as aforesaid, and no notice and bond being given within the time above prescribed, or by the report of commissioners and the confirmation thereof by the supreme court, the common council shall, within sixty days thereafter, pay the amount of such damages to the owners and occupants of lands and tenements, or to persons having any liens thereon, to whom the same shall have been allowed; and in case such owners be unknown, non-residents of the said city, married women, infants, idiots, or lunatics, or the rights and interests of persons claiming the same shall, in the opinion of the common council, be doubtful, it shall be lawful for the said common council, in any such case, to pay the amount of such damages, into the office of the clerk of the court of chancery which shall be in or nearest to the said city, accompanied by a statement of the facts and circum-

Damages when and how to be paid.

1	Wend.	53
5	"	603
15	"	464
20	"	619
24	"	254
23	"	458

TITLE 7. stances under which such payment is made, and describing the lands and tenements taken by the said city, for which such damages have been awarded.

To be paid before land taken.

§ 25. Until such damages shall be paid as afore-said, it shall not be lawful for the said common council, or any of their officers or agents, to take or enter upon any lands or tenements, for the taking of which any such damages shall have been allowed.

How disposed of when paid into chancery.

§ 26. Upon such damages being paid into the court of chancery, the said court shall take order for the investment thereof, and of the interest arising thereupon; and shall cause the securities taken on such investments to be transferred, and the money on hand to be paid over to the persons entitled to such damages, their guardians or legal representatives, in the manner prescribed by law, respecting damages assessed on writs of *ad quod damnum*, and the same proceedings, in all respects, shall be had to ascertain the rights and interests of such persons.

2 R. S. 488, 2d ed.

Treasurer to give notice of expenses of public improvements.

§ 27. Whenever the common council shall determine that the whole or any part of any public improvement not requiring the taking of any lands by the said city, should be defrayed by an assessment on such owners and occupants, they shall declare the same by an entry in their minutes, and shall direct estimates of such expenses to be made and laid before them by such officers or citizens as they shall appoint for the purpose, and after correcting such estimates as they shall think proper, they shall declare by an entry in their minutes what portion thereof shall be assessed upon the owners and occupants of lands and houses that will be benefited thereby, specifying the sum to be assessed, and the portion or part of the said city which will be benefited by such improvement. The costs and expenses of making the assessments, and the collectors' and treasurers'

fees, shall be deemed a part of the expense of such public improvement. TITLE 7.

§ 28. The said common council shall thereupon make an order reciting the public improvement so as aforesaid intended to be made, the amount of expense to be assessed, as aforesaid, and the portion or part of city on which the same is to be assessed, directing the assessors of the different wards of the said city, or any number of assessors not less than three, not interested in any of the property so benefited, and not of kin to any person so interested, to make an assessment upon all the owners and occupants of lands and houses within the portion or part so designated, of the amount of such expense in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire by the making of such improvements; which order shall be certified by the clerk of the city, and delivered to some one of the said assessors, together with a map or profile of the proposed improvement, in cases where the same shall be applicable.

Order for assessment.

§ 29. It shall be the duty of the assessors so designated to meet together, at such time and place as shall have been appointed by the common council, or by the assessor to whom the said order shall have been delivered, and thereupon, severally, to take and subscribe an oath before some officer authorized to take affidavits to be read in courts of record, that they are not interested in the premises described in said order, nor of kin to any person so interested, and that they will faithfully and impartially discharge the duty imposed upon them by the said order, which said oath shall be forthwith returned and filed with the clerk of the city. In case any such assessor shall not be able to take such oath, the city clerk shall forthwith report the fact to the common coun-

Assessors to meet and take oath.

R. S. 213
§ 50 2d ed.

TITLE 7. cil, and the same proceedings as hereinbefore prescribed shall be had, until at least three assessors shall have been designated, and have taken such oath, or it shall be found that such three are not in office in the said city.

When new assessors to be appointed.

§ 30. If there shall not be at least three assessors found, indifferent as aforesaid, the common council shall appoint one or more commissioners, not exceeding three, not interested and not of kin as aforesaid, to act with the assessors so found indifferent, or in case no assessor shall be found indifferent, then to act separately; who shall be sworn as aforesaid.

Assessment how made.

§ 31. The assessors or persons thus sworn shall proceed to make an assessment according to the said order, and shall make out an assessment roll, in which shall be entered the names of the persons assessed, the value of the property for which they are assessed, and the amount assessed to them respectively; and in case any lots or parts of lots shall be unoccupied, belonging to any person residing in the city of Rochester, such person shall be assessed for the same, and his name entered accordingly; and in case such lots or parts of lots shall belong to a non-resident or owner unknown, the same shall be entered accordingly, with such a description of such lots as is required by law in assessment rolls made by town assessors, with the value thereof, and the amount assessed thereon; which assessment roll shall be subscribed by them, or a majority of them, who acted in the premises, and returned as speedily as may be, to the common council of the said city.

1 R. S. 389
§ 10. &c
2d ed.

Fees of Assessors.

§ 32. The said assessors and persons shall receive such compensation for their services as shall be allowed by the common council, to be paid out of the contingent funds of the said city, not exceeding two dollars per day for each.

§ 33. Upon such return being made and filed, the clerk of the city shall cause notice of the names being returned to his office to be published in a newspaper of the said city, for at least two weeks, and that the common council will, on such day as they shall have appointed, proceed to hear any appeals from the said assessment.

TITLE 7.

Notice of Assessment how published.

§ 34. At the day appointed for that purpose, and such other days as the hearing shall be adjourned to, the common council shall hear the allegations and proofs of all persons who may complain of such assessment, and may rectify and amend the said assessment list, in whole or in part, or may set the same aside and direct a new assessment, either by the same persons and assessors, or by such other persons as the common council shall appoint for that purpose ; and in such case the same proceedings shall be had as are herein provided upon the first order of the assessment ; or the said common council may ratify and confirm such assessment without any corrections, or with such corrections therein as they may think proper.

Appeals to be heard.

§ 35. Every assessment so ratified and confirmed by the common council shall be final and conclusive.

Assessment, when final.

§ 36. All assessments for defraying the expenses of public improvements in the said city, shall first be deposited with the city treasurer, who shall thereupon cause to be published daily, in two daily newspapers printed in the said city, for such time as the common council shall direct, a notice that all persons named in the said assessment who shall pay to the said treasurer the several sums assessed to them respectively, within such time as the common council shall direct, to be specified in such notice, will be entitled to a deduction of the per centage which shall have been included in such assessment for collector's fees ; on

Treasurer to give notice when assessments are left with him.

TITLE 7. such payment being made, the treasurer shall make such deduction, and discharge the assessment on account of which such payment is made ; and in case of part payment, he shall make rateable deduction, and enter the amount of such payment and of such deduction upon the assessment roll.

Collector's
warrant to
be issued by
Mayor.

§ 37. The mayor of the said city shall make out a transcript of the assessment roll so confirmed, containing the amount assessed to each person and lot, and shall annex thereto a warrant to be signed by him, and directed to the collector or collectors of the ward or wards in which said lots may be situated, commanding them to collect the several amounts therein specified according to law, and to pay the amount so collected, exclusive of the collector's fees, to the treasurer of the said city, by such day as shall be therein appointed.

Warrants
embracing
lands in two
or more
wards, how
executed.

§ 38. Whenever it shall so happen that any warrant for the collection of taxes or assessments shall embrace, within the limits of the taxed territory, a portion of two or more wards of said city, the common council shall designate a collector of any one of such wards to execute such warrant, who shall thereupon, in reference to such warrant, be invested with all the powers he would have on a warrant for the collection of taxes or assessments in his own ward.

Proceedings
on warrant

§ 39. Every collector to whom such assessment roll and warrant shall be delivered, shall proceed to collect the same in the manner hereinbefore prescribed in relation to the collection of taxes in the said city, and shall have like power and authority, and shall in like manner make returns and payment to the treasurer of the city, and shall be credited with amounts uncollected, upon the like affidavit, and the same proceedings shall be had in all respects to collect the amount of any assessment remaining unpaid,

Title 5. § 11
&c.

which shall have been made on any lands, lots or parcels of land or tenements, or the owners or occupants thereof, as are provided hereinbefore in respect to taxes and assessment; and a sale of such lands, lots and tenements, and tracts, shall be made in like cases and with like effects in all respects, and in case of a surplus, the amount included in such assessments for collector's fees shall be carried to the contingent fund.

TITLE 7.

Title 5 § 16
&c.

§ 40. In all cases where there is no agreement to the contrary, the owner or landlord, and not the occupant or tenant, shall be deemed in law the person who ought to bear and pay every such assessment made for the expense of any public improvement in the said city.

Landlords or owners liable.

§ 41. Where any such assessment shall be made upon or paid by any person, when by agreement or by law the same ought to be borne or paid by any other person, it shall be lawful for the one so paying to sue for and recover of the person bound to pay the same, the amount so paid, with interest, in an action for money paid, laid out, and expended for the benefit of such defendant.

Persons paying, may sue.

§ 42. Nothing herein contained shall impair, or in any way affect any agreement between any landlord and tenant, or other persons, respecting the payment of any such assessments.

Not to affect rights of landlord and tenant.

§ 43. If, upon the completion of any such improvement, for which such assessment shall have been made, it shall appear that a greater amount has been assessed and collected than is necessary to defray the expenses thereof, the common council shall apportion such excess among the persons and property assessed, in proportion to the amount collected of them, and shall pay the same to such persons, and the owners of such property, entitled thereto, on demand, ex-

Surplus to be refunded.

TITLE 7. cept as hereinbefore provided in relation to the amount included therein for collectors' fees.

Deficiency
to be reas-
sessed.

§ 44. If it shall appear that a greater sum of money has been expended in the completion of such improvements than was estimated as aforesaid, the common council may direct the assessment of the same on the owners and occupants of houses and lands benefited by such improvements, in the same manner as herein directed, and the same proceeding in all respects shall be had thereon, and the common council may enlarge the territory to be assessed for such improvements.

Lien of tax
or assess-
ment.
4 Hill 76
" " 92

§ 45. Every tax or assessment for public improvements, or for other purposes authorized by this act, assessed upon any lands, tenements, or real estate, or upon the owners or occupants thereof, shall be and remain a lien on such lands, tenements, and real estate, on which or in respect to which the same shall be made, from the time of filing the roll containing the same, with the city clerk, until the same shall be paid or satisfied.

Sidewalks
may be
made by
ordinance.
2 Hill 466.

§ 46. Whenever the common council shall deem it expedient to construct any sidewalk or pavement within the said city, they may, by ordinance or otherwise, require the owner or occupant of any lot or house adjoining such street to lay such sidewalk, or construct such pavement, to the center of the said street, in front of his or her lot or house; or they may direct such sidewalks and pavements to be made according to the provisions of this title.

Owners may
be sued for
expense.

§ 47. Whenever the owner or occupant of any lot or house shall refuse or neglect, within such time as the common council shall have appointed, to conform to any regulation made by the said council, for widening streets, or for any other purpose, it shall be lawful for the said common council to cause such re-

gulation to be enforced at the expense of the city, and to recover the amount of such expenses with damages, at the rate of ten per cent., with costs of suit, from the owner or occupant of such lot or house, whose duty it was to conform to such regulation.

TITLE 7.

§ 48. The said city may hold, occupy, and enjoy any real estate, or any rights or appurtenances to real estate, which may be granted, leased, or otherwise conveyed to the said city for the purpose of maintaining bridges, roads, streets, markets, or any other public improvement; and on obtaining the consent and license of the owners of the bed of the Genesee river, may erect and maintain any markets over the said river, and may let the stalls, rooms, and shops in such market, and exercise all the rights, powers, and authority given by this section, or heretofore enjoyed and acquired by the mayor and common council of the city of Rochester, in respect to any erections made over the Genesee river, by the consent of the owners of the bed thereof.

City may hold certain real estate.

§ 49. Mount Hope Cemetery, and all lots and plats therein, which have been or shall hereafter be conveyed by the corporation of said city, as places for the burial of the dead, shall for ever be exempt from taxation, and from assessment for the improvement thereof, or for any purpose whatever, and shall not be liable to be sold on execution, or be applied to the payment of debts, by any assignment under any insolvent law, or by any compulsory process of law.

Mt. Hope cemetery not liable to taxation, &c.

TITLE 8.



TITLE VIII.

Of the Prevention and Extinguishment of Fires.

Fire limits ;
no wooden
buildings.

§ 1. For the purpose of guarding against the calamities of fire, the common council may from time to time, by ordinance, designate such portions and parts of the said city as they shall think proper, within which no buildings of wood shall be erected ; and may regulate and direct the erection of buildings within such portions and parts, and the size and materials thereof, and the size of the chimneys therein ; and every person who shall violate any such ordinance or regulation, shall forfeit to the city the sum of one hundred dollars. And every building erected contrary to such ordinance, is hereby declared to be a common nuisance, and may be abated and removed as such, by the common council.

Scuttles.

§ 2. The common council may, by ordinance, require the owners and occupants of houses and other buildings, to have scuttles on the roofs of such houses and buildings, and stairs or ladders leading to the same ; and whenever any penalty shall have been recovered against the owner or occupant of any house or other building, for not complying with such ordinance, the common council may, at the expiration of twenty days after such recovery, cause such scuttles and stairs, or ladders, to be constructed, and may recover the expense thereof, with ten per cent. in addition, of the owner or occupant whose duty it was to comply with such ordinance.

Fire buckets.

§ 3. The common council may, by ordinance, require the inhabitants of the city to provide such and so many fire-buckets for each house or tenement therein, and within such time as they shall prescribe, and may require such buckets to be produced at every fire.

§ 4. The common council may regulate and direct the construction of safe depositories for ashes, and may compel the clearing of chimneys, flues, stove pipes, and all other conductors of smoke; and upon the neglect of the owner or occupant of any house, tenement, or building of any description, having therein any chimney, flues, stove-pipes, or other conductors of smoke, to clean the same, as shall have been directed by any ordinance, the common council may cause the same to be cleaned, and may collect the expense thereof, and ten per cent. in addition, from the owner or occupant, whose duty it was to have the same cleaned.

TITLE 8.

Fire places,
ashes, &c.

§ 5. The common council may regulate the use of lights and candles in livery stables and other buildings in which combustible articles may be deposited, and may prescribe the use of lanterns or safety lamps in such buildings, and may regulate the transporting, keeping, and deposit of gunpowder, or other dangerous or combustible materials, and may prevent or regulate the carrying on of manufactories dangerous in causing or promoting fires, and may authorize and direct the removal of any hearth, fireplace, stove-pipe, flue, chimney, or any other conductor of smoke, or any other apparatus or device in which fire may be used, or to which fire may be applied, that shall be considered dangerous, and liable to cause or promote fires; and generally may adopt such other regulations for the prevention and suppression of fires as may be necessary.

Lights in sta-
bles, gun-
powder &c.

§ 6. For the purpose of enforcing such regulations, the common council may authorize any of the officers of the said city, and may appoint persons at all reasonable times to enter into and examine all dwelling-houses, buildings, and tenements of every description, and all lots, yards, or inclosures, and to cause such as are

Officers may
enter pre-
mises to
examine.

TITLE 8. dangerous to be put in a safe condition ; and may authorize such officers and persons to inspect all hearths, fire-places, stoves, pipes, flues, chimneys, or any other conductor of smoke, or any apparatus or device in which fire may be used, or to which fire may be applied ; and remove and make the same safe, at the expense of the owners or occupants of the buildings in which the same may be, and to ascertain the number and condition of the fire-buckets, and the situation of any building in respect to its exposure to fire, and whether scuttles and ladders thereto have been provided, and generally with such other powers and duties as the common council shall deem necessary to guard the city from the calamities of fire.

Fire Engines
houses, &c.

§ 7. The common council may procure, own, build, erect, and keep in repair, such and so many fire engines, with their hose and other apparatus, engine-houses, ladders, fire-hooks, and fire-buckets and other implements and conveniences for the extinguishment of fires, and to prevent injuries by fire, and such and so many public cisterns, wells, reservoirs of water, and engine-houses, as they shall from time to time judge necessary ; and may raise annually a sum not exceeding three thousand and five hundred dollars, to defray the expense thereof, by tax on the real estate within the said city, and the personal property of the inhabitants thereof.

\$3,500 tax.

Fire Department.

§ 8. The common council may organize and maintain a fire department for the said city, to consist of one chief-engineer, two assistant-engineers, twice the number of wardens that there are wards in the said city, a proper number of firemen, not exceeding forty to each engine ; such number of hook-and-ladder men, and such number of tub-and-hose men as may be appointed by the said common council, and to hold their appointment during the pleasure of the board.

Firemen how
appointed.

§ 9. The common council may make rules and regulations for the government of the said engineers, wardens, firemen, hook-and-ladder men, and tub-and-hose men ; may prescribe their respective duties in case of fire or alarms of fire ; may direct the dresses and badges of authority to be worn by them ; may prescribe and regulate the time and manner of their exercise, and may impose reasonable fines for the breach of any such regulations.

TITLE 8.

Their duties to be prescribed.

§ 10. The engineers and fire-wardens, under the direction of the common council, shall have the custody and general superintendence of the fire-engines, engine-houses, hooks, ladders, hose, public cisterns, and other conveniences for the extinguishment and prevention of fires, and it shall be their duty to see that the same are kept in proper order, and to see that the laws and ordinances relative to the prevention and extinguishment of fires are duly executed, and to make detailed and particular reports of the state of their department, and of the conduct of the firemen, hook-and-ladder men, and tub-and-hose men, to the common council at stated periods, to be prescribed by the said common council, and to make such reports to the mayor whenever required by him ; and for any neglect or violation of duty imposed upon them by law, or by the ordinances of the common council, in addition to any penalties that may be imposed, they may be removed from office by the common council, after having had notice of the charges against them, and an opportunity of being heard in their defence.

Duties of Engineers and Wardens.

§ 11. The said engineers, wardens, firemen, hook-and-ladder men, and tub-and-hose men, during their continuance in the said offices and appointments, shall respectively be exempt from serving in the militia, except in case of war, invasion, or insurrection, and

Privileges of Firemen.

TITLE 8. from serving on any jury, and the certificate of the clerk of the said city, stating that any person holds such appointment, accompanied by evidence that such person is then an acting fireman under such appointment, shall be evidence in all courts and places, of such exemption ; but no greater number of persons than thirty, to each engine, shall be entitled to any privilege or exemption as firemen, by virtue of their being attached to any fire-engine as hosemen, or in any other capacity.

Exemptions
of Firemen.

§ 12. Every person who shall have served as a fireman, hook-and-ladder man, or tub-and-hose man, in the said city, under the appointment of the common council, for ten years after he shall have arrived to the age of eighteen years, shall for ever be exempt from serving in the militia, except in case of war, invasion, or insurrection, and the certificate of the clerk of the city to such fact shall be evidence of such exemption in all courts and places, on proof of the genuineness of such certificate.

Fire Bells.

§ 13. The common council may, by ordinance, direct the manner in which the bells in the city shall be tolled or rung in cases of fire or alarms of fire, and may impose penalties for ringing or tolling of such bells, in such manner, at any other time than during a fire or an alarm of fire.

Compensation to
injured Fire-
men.

§ 14. The common council may provide suitable compensation for any injury that any fireman, hook-and-ladder man, or tub-and-hose man, may receive either in his person or property, in consequence of his exertions at any fire.

Common
council may
prescribe
duties of
Wardens,
&c. at fires.

§ 15. The common council may, by ordinance,
1. Prescribe the duties and power of the engineers and wardens at fires, and in cases of alarms of fire, and may vest in them such powers as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires.

2. Prescribe the powers and duties of the mayor and aldermen, at such fires and in cases of alarm ; but in no case shall the mayor, or any alderman, control or direct the chief engineer, or his assistant, during any fire.

TITLE 8.
of Mayor and Aldermen ;

3. Provide for the removal and keeping away from such fires, of all idle, disorderly, or suspicious persons, and may confer powers for that purpose on the engineers, fire-wardens, or officers of the city.

remove idle persons ;

4. Provide for compelling persons to bring their fire-buckets, to any place of fire, and to aid in the extinguishment thereof, by forming lines or ranks for the purpose of carrying water, and by all proper means, and to aid in the preservation, removal, and securing of property exposed to danger by such fire.

compel the bringing of buckets &c ;

5. To compel the marshals, constables, and watchmen of the city to be present at such fire, and to perform such duties as said common council shall prescribe.

compel Marshal, &c, to attend fires.

§ 16. Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor, or alderman, at any fire, it shall be lawful for the officer giving such order, to arrest, or to direct orally the marshal, constable, watchman, or any citizen, to arrest such person and confine him temporarily, in any safe place, until such fire shall be extinguished ; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire, who shall be intoxicated or disorderly.

Persons refusing, may be arrested.

§ 17. When any building in the said city shall be on fire, it shall be the duty, and be lawful, for the chief-engineer, with the consent of the mayor or any alderman, or for the mayor, or for any two aldermen, to order and direct such building, or any other building which they may deem hazardous, and likely to

Building may be pulled down.

TITLE 8. communicate fire to other buildings, or any part of such building, to be pulled down and destroyed, and no action shall be maintained against any person or against the said city therefor. But any person interested in any such building, so destroyed or injured, may, within three months thereafter, apply to the common council to assess and pay the damages he has sustained. At the expiration of the three months, if any such application shall have been made in writing, the common council shall either pay the said claimant such sum as shall be agreed upon by them and the said claimant for such damages, or if no such agreement shall be effected, shall proceed to ascertain the amount of such damages; and shall provide for the appraisal, assessment, collection, and payment of the same, in the same manner as is provided by title seven of this act, for the ascertainment, assessment, collection, and payment of damages sustained by the taking of lands for purposes of public improvement.

Damages occasioned thereby how paid.

How appraised and paid and effect thereof.

§ 18. The commissioners appointed to appraise and assess the damages incurred by the said claimant by the pulling down or destruction of such building, by the direction of the said officers of the city, as above provided, shall take into account the probability of the same having been destroyed or injured by fire if it had not been so pulled down or destroyed, and may report, that no damages should equitably be allowed to such claimant. Whenever a report shall be made and finally confirmed, in the said proceedings for appraising and assessing the said damages, a compliance with the terms thereof by the common council shall be deemed a full satisfaction of all said damages of the said claimant.

TITLE IX.

TITLE 9.

Of the Support of the Poor, and of Persons likely to become chargeable to the City.

§ 1. The mayor and aldermen of the said city, by virtue of their offices, shall be overseers of the poor for the said city, and shall possess all the powers and authority of overseers of the poor in the several towns in this state, in relation to the support and relief of indigent persons, the binding out of children who shall solicit alms, or who, or whose parents, shall become chargeable to the said city, or to the county of Monroe, in the said city; the safe keeping and care of lunatics; the care of habitual drunkards; the binding out and contracting for the service of disorderly persons; the support of bastards, and proceedings to charge the fathers and mothers of such bastards; and all such other powers as are conferred on overseers of the poor in the respective towns, and shall be subject to the same duties, obligations, and liabilities.

Mayor and Aldermen, Overseers of the Poor

§ 2. The common council of the city of Rochester shall have power to assess, levy, and collect, annually, a sum not exceeding two thousand five hundred dollars, for the support of the poor of the said city, which sum shall be assessed and collected in the same manner and at the same time as the taxes for the contingent expenses of said city.

Poor Fund of \$2,500 may be raised annually.

§ 3. Until provision shall otherwise be made, as hereinafter authorized, the indigent persons, and such others as shall be entitled to relief under the laws of this state, who are or shall become chargeable, or likely to become chargeable to the said city, being in the said city, shall continue to be supported and relieved in the manner provided by law in respect to the county of Monroe.

Poor to be supported as they now are in the county.

TITLE 9. § 4. Whenever the common council shall deem it expedient, they may cause an almshouse to be erected in the said city, being authorized thereto as herein provided, and may appoint as many commissioners to take charge thereof as they shall judge necessary, and may raise the expense of the maintaining of the almshouse by a tax or taxes on the real estate within the said city, and on the personal property of residents therein, in the same manner as hereinbefore provided in respect to taxes for the general expenses of the said city. And the same proceedings for that purpose shall be had in all respects.


Alms House
and Com-
missioners
thereof.

Other officers
and regu-
lations
thereof.

§ 5. The common council may appoint such other officers and servants for the government and management of the said almshouse as they shall deem necessary, and they, together with the said commissioners, shall hold their appointment during the pleasure of the common council; and the common council shall make such regulations as they think necessary for the government, management, support, and good order of the said almshouse, its tenants, officers, keepers, and servants.

Overseers of
the Poor
may be ap-
pointed.

§ 6. The common council may also appoint the said commissioners, or any other citizens of the said city, not exceeding five, overseers of the poor, who shall hold their offices at the pleasure of the common council, and who shall thereupon possess all the powers and authority of such overseers, and be subject to all the duties, liabilities, obligations, and penalties herein conferred on the mayor and aldermen of the said city; and the said mayor and aldermen shall thereupon cease to possess any such powers as overseers of the poor, and shall be discharged from all the duties and obligations of such office.

Oath of Over-
seers, &c.

§ 7. The persons appointed commissioners and overseers as aforesaid, shall take the same oath of of-

fice, and within the same time, and shall file the same with the clerk of the city as hereinbefore provided respecting supervisors of the said city, and a neglect therein shall be deemed a refusal to serve.

TITLE 9.

Title 2, § 38.

§ 8. The common council may provide a reasonable compensation for the services of the said commissioners and overseers, and for such other officers and servants as they may employ in the almshouse, and may require from them such bonds for the faithful discharge of their duties, with such penalties and sureties, as they may deem expedient.

And their compensation.

§ 9. The common council may cause such labor in manufactures, or otherwise, to be performed by the tenants of such almshouse as they shall prescribe, and may provide the materials and implements therefor at the expense of the city, and they may also erect, in the said almshouse, proper cells and rooms for the confinement and care of lunatics and idiots, and other persons confined therein, and may provide for them, and for the cure of such lunatics, and may contract with the supervisors of the county of Monroe, and with any other person, for the support and care, and medical and surgical attendance of any lunatics, idiots, insane, sick, diseased, or maimed persons.

Tenants of Alms House may be required to labor.

§ 10. All moneys that shall be raised in the said city, by licenses to grocers and tavern-keepers to sell liquors and wines, and for penalties for the violation of the excise laws of this state, that shall be paid into the city treasury, shall belong to and constitute a part of the fund of the said city for the support of the poor therein, and shall be deposited by the treasurer; and accounts thereof shall be kept, and the same shall be drawn, in the manner hereinbefore prescribed in relation to the funds of the said city.

Excise money to go to the Poor fund.

§ 11. The common council shall have the power to loan such portion of the funds for the support of

Portions of

TITLE 10. the poor of the said city; not necessary for immediate use, upon such security and for such period, not exceeding three years, as they may deem proper; but no loan for any longer period than one year shall be made without security by bond and mortgage on real estate.


Poor fund
may be
loaned.

Police Justice to grant orders for relief.

§ 12. Every application which may be hereafter made by the overseers of the poor of said city, to a justice of the peace, for an order for the temporary relief of any poor person, shall be made, in the first instance, to the police justice of said city, who shall determine upon such application, but shall receive no fee for the same, or for any service in such proceeding. In case of his absence from his office, or inability, or of a vacancy in his office, such application may be made to any other justice of the peace of said city.

TITLE X.

Of Courts of Justice, and Proceedings therein.

Mayor's court, by whom and how held.

§ 1. The recorder of the city of Rochester alone, or with the mayor, or with any two or more aldermen thereof, and the mayor, with any two or more aldermen of the said city, shall hold a court of common pleas, to be called "The Mayor's Court of the City of Rochester," which shall be a court of record, and shall be held six times in each year, commencing on the first Tuesday of every alternate month, beginning with the first Tuesday of January, and may continue and be held for five days; and shall have power to hear, try, and determine, according to law, all actions arising within the said city, and not elsewhere, and also all transitory actions, although the same may not have arisen within the said city, and all suits brought for penalties in the name or for the use of the said

city ; and shall have jurisdiction in all cases of ap-
peal and certioraries on judgments rendered by jus-
tices of the peace of the said city.

TITLE 10.
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§ 2. The said court shall possess all the powers
and authority of courts of common pleas of the sev-
eral counties of this state in relation to civil actions,
and the process and proceedings therein; and all laws
regulating the practice of the said courts, conferring
judicial powers on them, authorizing the commence-
ment of suits therein, regulating the removal of such
suits, and authorizing the issuing of process, shall be
applicable to and binding on the said mayor's court.

Powers.

§ 3. The clerk of the said court shall be appointed
by said court, and shall provide, at the expense of the
said city, such seal as the common council shall de-
vise and direct, which shall be the seal of the said
court ; and also such necessary books as may be re-
quired for the discharge of his duties as such clerk,
and may appoint a deputy, who shall, in the absence
of the clerk from his office, possess all his powers
and perform all his duties.

Clerk how
appointed
and his de-
puty.

§ 4. The marshal of the said city, and so many
constables of the said city as shall be directed by the
mayor and summoned by the said marshal, shall at-
tend the sittings of the said court, and shall receive
the same compensations therefor as are by law allow-
ed to constables for attending courts of common
pleas.

Marshal and
constables
to attend
court.

§ 5. Whenever a transcript of any judgment reco-
vered in the said mayor's court shall be docketed in
the office of the clerk of the county of Monroe, in
the manner provided by law, such judgment shall be-
come a lien upon the real estate, lands, tenements,
and chattels real of the person against whom such
judgment is rendered, which is situate in the said
county, in the same manner and to the same extent

Effect of
docketing
judgments
of the May-
or's court.

TITLE 10. as is provided in relation to judgments obtained in the supreme court and docketed in the said clerk's office: final process upon such judgments of the said mayor's court may be issued to the city marshal and executed by him in any part of the said county; such process shall be returned to and filed with the clerk of the said mayor's court.

Laws 1840
chap. 326.
§ 26.

Ib. in other
counties.

§ 6. The judgments of the said mayor's court may be docketed in other counties, in the same manner and with the like effect: final process may be issued thereupon in the same manner as is by law provided in relation to judgments recovered in courts of common pleas; such process shall be returned to and filed with the clerk of the said mayor's court.

Laws 1840,
chap. 286,
§ 29, 30.

Criminal jur-
isdiction of
Mayor's
court.

§ 7. The mayor's court of the city of Rochester shall have criminal jurisdiction to the same extent, and in the same manner, as a court of general sessions of the peace, for the trial of all offences committed in the said city, whenever any bill of indictment for any such offence shall have been transmitted to the said court, pursuant to the provisions of the next section; and the proceedings thereon shall be, in all respects, the same as on indictments in a court of general sessions.

2 R. S. 135
2d ed.

Indictments
may be sent
to it for trial,
and remand-
ed.

§ 8. When any indictment shall be found in the court of oyer and terminer, or in the court of general sessions of the county of Monroe, for any offence specified in the last preceding section, triable by a court of general sessions, either of the said courts in which said indictment shall be, may order the same to be transmitted to the said mayor's court, and shall bind over, in the manner now prescribed by law, the witnesses and the party or parties to said indictment, to appear at the next term thereof; and where any recognizance thus taken shall have become forfeited, the same may be prosecuted in the said mayor's court.

And the said mayor's court shall have power, in their discretion, to remand such indictment to the said court of oyer and terminer, or general sessions.

TITLE 10.

§ 9. The said mayor's court shall also have criminal jurisdiction as a court of special sessions of the peace, in the same manner and to the same extent as any three justices of the peace, under the provisions of the first article of the second chapter of the fourth part of the Revised Statutes; and shall proceed therein in the manner prescribed in the said article, and in the third article of the same chapter, except as herein otherwise provided; and the said first and third articles, and the fourth article of the same chapter, shall be applicable to and control and regulate, the jurisdiction and proceedings of the said court, so far as the same may be applicable.

Jurisdiction
as special
sessions.

2 R. S. 599
2d ed.

§ 10. From the duplicate lists of petit jurors, returned by the supervisors and assessors of the several wards of the city, and filed in the office of the clerk of the mayor's court of the said city, as hereinbefore directed, the said clerk shall write on separate pieces of paper, the names of the persons contained in the said lists, with their additions and places of residence, and deposite the same in a box to be provided for that purpose; and fourteen days before the holding of any term of the mayor's court of the said city, the said clerk in the presence of the marshal of the said city, or one of the aldermen of the said city, shall draw out the names of thirty-six persons to serve as petit jurors at such court, without any previous notice for that purpose.

Names of Ju-
rors.

§ 11. The said drawing shall be conducted in the manner prescribed by law, in relation to the drawing of petit jurors by clerks of counties, and a list of the names of the persons so drawn, certified by the clerk and attending officer, shall be delivered to the mar-

Jurors how
drawn and
summoed.

TITLE 10. shal, who shall summon the persons so named, in the manner sheriffs are required to summon petit jurors to attend courts of common pleas, and sha'l in like manner return the said list to the said mayor's court, specifying who were summoned and the manner in which each person was notified.

2 R. S. 335.
2d ed.

May be fined,
&c.

§ 12. The said court shall possess the same powers to fine any of the persons so summoned as jurors, and to excuse and discharge them in like cases, and in default of jurors, to order by-standers to be summoned, as are vested by law in other courts of record ; and the clerk of the said court shall make the same disposition of the ballots containing the names of the jurors who shall have served, and of those who did not appear, and of those who were discharged, as is provided by law in respect to other courts of record.

2 R. S. 334
&c. 340 &c.
2d ed.

Jurors how
paid.

§ 13. All persons serving as jurors in the said mayor's court on the trial of criminal causes, as hereinbefore provided, shall, on the certificate of the clerk of the said court, be paid the same fees and in the same manner as jurors in courts of general sessions.

2 R. S. 535
§38, 2d ed.

Juror's fees.

§ 14. The jurors who shall attend the mayor's court, shall receive twenty-five cents each for every civil cause in which they may be empaneled as jurors.

District At-
torney to
prosecute
indictment.

§ 15. The district attorney of the county of Monroe, shall prosecute all indictments which shall be transmitted to the said mayor's court, in the same manner as if such indictment had been tried in the court of general sessions, and shall have the same power in all respects.

Fees of Re-
corder.

§ 16. The recorder of the said city shall be entitled to a fee of seventy-five cents, on the first motion that shall be made in the said court in civil causes ; and the counsellors, attorneys and inferior officers of

the said court, shall be entitled to the same fees and compensation for services rendered therein, and for attendance at the terms of the said court, as are provided by law for similar services in and attendance on courts of common pleas and general sessions of the peace, in counties of this state; and such of the said fees and compensation as are charges against the public, shall be audited, allowed and paid by the board of supervisors of Monroe county, in the same manner as other county charges are audited, allowed and paid.

TITLE 10.



Public charges to be paid by Board of Supervisors.

§ 17. All charges and expenses incurred for fees and compensation to officers and to jurors in criminal causes in holding the said mayor's court, shall be deemed county charges, and shall be audited, allowed and paid by the board of supervisors of Monroe county, in the same manner that other county charges are allowed by law.

Expenses of Mayor's court to be county charges.

§ 18. Persons convicted of any criminal charge, on conviction, or upon charge or conviction for violation of the laws of this state, in the said city, shall be confined in the county jail of the county of Monroe, in the same manner as when committed by the justices of any town in the said county, until the common council shall erect a penitentiary or alms-house therein, when such persons as shall not be committed to such penitentiary or alms-house, shall be committed to, and confined in, the said jail.

Criminals may be committed to jail, &c.

§ 19. When any convict shall be sentenced to imprisonment in a state prison or in the house of correction or refuge, by the said mayor's court, the clerk thereof shall forthwith deliver a certified copy of such sentence to the city marshal, who shall without delay, either in person or by a general or special deputy, cause such person to be transported to the proper prison or house of correction or refuge; and

Marshal shall take certain convicts to state prison, &c.

TITLE 10. in executing the said duties, shall possess the same powers, and shall be paid the same compensation therefor, and in the same manner as sheriffs of counties are paid for similar services.

2 R. S. 619,
§ 12. 13.
2d ed.

Alms House
&c. to be
controlled
by common
council.

§ 20. The penitentiary or bridewell, or almshouse, shall be subject to the control and regulations of the common council, who shall appoint the necessary officers therefor, and prescribe their duties and powers; and the expense thereof shall be defrayed as part of the contingent expenses of the said city; and the common council shall have power to pass ordinances for the regulation and government of such almshouse, penitentiary, and workhouse, and make all necessary provisions to carry into effect the authority hereby granted to them.

Certain persons to be deemed disorderly.

§ 21. All persons being habitual drunkards, destitute, and without visible means of support, or who being such habitual drunkards, shall abandon, neglect, or refuse to aid in the support of their families, being complained of by such families; all able-bodied and sturdy beggars, who may apply for alms or solicit charity; all persons wandering abroad, lodging in watch-houses, out-houses, market-places, sheds, stables, or uninhabited dwellings, or in the open air, and not giving a good account of themselves; all common brawlers and disturbers of the public quiet; all persons wandering abroad and begging, or who go about from door to door, or place themselves in the streets, highways, passages, or other public places, or beg or receive alms within the said city, shall be deemed vagrants, and may, upon conviction before the police justice of such city, or any other justice, in case of his absence from the city or inability, be sentenced to confinement in the county jail, almshouse, or penitentiary, for any time not exceeding sixty days, at hard labor.

§ 22. All persons who shall have actually abandoned their wives or children, in the city of Rochester, or who may neglect to provide, according to their means, for their wives or children, are hereby declared to be disorderly persons, within the meaning of title fifth of chapter twentieth of part first of the Revised Statutes, and may be proceeded against as such, in the manner directed by said title. And it shall be the duty of the magistrate before whom any such person may be brought for examination, to judge and determine from the facts and circumstances of the case, whether the conduct of any such person amounts to such desertion or neglect to provide for his wife or children.

TITLE 10.

Also persons neglecting to provide for their families.

1 R. S. 645
2d ed.
23 Wend. 47.
1 Hill 355.

§ 23. The common council of the said city shall have power and authority to appoint a person being an inhabitant and elector of said city, as high constable, and also two persons, being inhabitants and electors as aforesaid, from each of the wards of said city, as police constables; and the mayor shall have authority to appoint additional police constables, in cases of emergency, when he shall deem it necessary for the preservation of the peace of the city, or for the purposes of justice.

High and police constables.

§ 24. The high constable and police constables shall have and receive the same fees, and have the like powers and authority, and be subject to the same duties as the constables of the several towns of this state; but they shall not serve any civil process, nor enforce any execution, nor exercise any other powers in any civil suit or proceeding, except in suits for a violation of the city ordinances, or in suits and proceedings under the laws concerning the internal police of this state. The high constable shall, in the absence or inability of the marshal of said city, possess all the powers and be subject to all the liability

Their powers and fees.

TITLE 10. of the marshal of said city, and may as such execute process and receive the legal fees therefor, notwithstanding anything contained in this section; but shall not be liable to any penalty for not attending courts as an officer thereof, except for not attending the mayor's court, when acting as marshal of said city.

To obey orders of Mayor &c.

§ 25. The high constable, police constables, and city constables shall obey the orders of the mayor, recorder, aldermen, and of the police justice, or of any person legally exercising the criminal jurisdiction of a justice of the peace in said city, in enforcing the laws of this state or the ordinances of said city; and in case of refusal or neglect so to do, he or they shall be subject to a penalty of not less than one dollar nor more than ten dollars.

Their term of office.

§ 26. The high constable and police constables shall hold their offices during the pleasure of the common council.

Stolen property.

§ 27. It shall be the duty of the police justice of the city of Rochester, for the time being, on the first Monday of May and November, in every year hereafter, to account on oath, before the mayor or recorder, for all such moneys, goods, wares, and merchandise as shall then remain unclaimed in the said police office, and immediately thereafter to give notice for four weeks, in one of the public newspapers printed in the said city of Rochester, to all persons interested or claiming such property: Provided always, that if any goods, wares, merchandise or chattels of a perishable nature, or which shall be expensive to keep, shall at any time remain unclaimed in said police office, it shall be lawful for said police justice to sell the same at public auction, at such time and after such notice as to him and the said mayor and recorder shall seem proper.

§ 28. It shall be the duty of the police justice aforesaid, who may recover or obtain possession of any stolen property, on his receiving satisfactory proof of property from the owner, to deliver such property to the owner thereof, on his paying all necessary and reasonable expenses, which may have been incurred for the preservation or sustenance of such property.

TITLE 10.

When to be delivered to owner.

§ 29. It shall be the duty of the police justice aforesaid to cause all property unclaimed, after the expiration of the notice specified in the last preceding section but one of this act, money excepted, to be sold at public auction to the highest bidder; unless the district attorney of the county of Monroe shall direct that it shall remain unsold for a longer period, to be used as evidence in the administration of justice, and the proceeds thereof forthwith to pay to the treasurer of the county of Monroe, together with all money, if any, which shall remain in his hands after such notice as aforesaid, first deducting the charges of said notice and sale.

When to be sold.

§ 30. The expense of apprehending, examining, and committing offenders against any law of the state in the said city, and of their confinement, shall be audited, allowed, and paid by the supervisors of the county of Monroe, in the same manner as if such expenses had been incurred in any town of the said county.

Expense of detecting offenders, how paid.

§ 31. The marshal of the said city shall execute all process issuing out of the mayor's court of the said city in the same manner as is provided by law in respect to the execution by sheriffs of process issued by the court of common pleas of the county of Monroe, and shall be liable for any delinquency or neglect therein, in like manner, and process against him may be executed by the sheriff of the county of Monroe.

Marshal to execute process, &c.

§ 32. The justices of the peace in the said city ex-

TITLE 10. exercising civil jurisdiction, shall be subject to the general laws of the state, in relation to civil causes before justices of the peace; and appeals from their judgment, and certioraries thereon, may be made to and returnable at the said mayor's court, or the court of common pleas of the said county, in the same manner as appeals and certioraries upon justices' judgments in towns are made to courts of common pleas.

Civil jurisdiction of Justices.

Suits for penalties where brought.

§ 33. Suits brought to recover any forfeiture or penalty for the violation of any ordinance of the common council of the said city, shall be prosecuted under the direction of such officer as the common council may direct; and whenever such penalty or forfeiture amounts to twenty-five dollars or more, a suit for the recovery thereof may be brought in the mayor's court of the said city; but in such case no greater amount of costs shall be taxed in any event than could have been recovered by either party, if such suit had been brought before a justice of the peace, except when the recovery shall amount to fifty dollars or more.

First process for penalties &c.
2 Hill 296.

§ 34. In any suit to recover any penalty or forfeiture for the violation of any ordinance of the common council, the first process shall be a warrant or summons at the option of the plaintiffs, if before a justice, and by writ requiring bail, if in a court of record, and the plaintiff may declare generally in action of debt or assumpsit, and give the special matter in evidence; and the defendant may plead the general issue, and give the special matter in evidence without any further notice for that purpose; and no inhabitant, freeman, or freeholder of the said city, shall be disqualified for that cause from acting as a judge, justice, or juror, in the trial or other proceedings in such suit, nor from being a witness, or serving any pro-

cess, or summoning a jury in such suit, or from act-
ing in any such capacity, or being a witness in the
trial of any issue, or upon the taking or making any
inquisition or assessment, or any judicial investigation
of facts, to which issue, inquest, or investigation, the
said city is a party, or in which it is interested.

TITLE 10.

§ 35. Whenever any suit shall be brought in any
justice's court in the said city, for the recovery of any
penalty for the violation of any statute, or of any
ordinance of the common council, the justice before
whom the said suit shall be brought, may, in his dis-
cretion, instead of causing a jury to be summoned in
the usual manner, draw the names of twelve persons
from the lists of petit jurors, which shall have been
returned to the clerk of the mayor's court of the said
city as jurors for the mayor's court ; which names so
drawn shall be inserted in the venire to be issued by
the justice ; and in case a sufficient number shall not
attend to constitute a jury of six persons, the justice
shall draw the names of six others, who shall in like
manner, be summoned ; and if a sufficient number
shall not then attend, he may proceed in like manner
until the requisite number shall be procured, who
shall constitute the jury for the trial of the cause.

When justi-
ces may
draw jury
for Mayor's
court.

§ 36. The clerk of the mayor's court shall furnish
to any justice of the peace of the said city, whenever
required by him, a list, duly certified, of the names of
the jurors which shall have been returned by the su-
pervisors and assessors.

Clerk to fur-
nish jury
lists.

§ 37. If judgment in any such action shall be ren-
dered against the city by any justice of the peace,
such judgment may be removed by a certiorari or ap-
peal to the mayor's court of the said city, or to the
court of common pleas of the county of Monroe, in
the same manner and with the same effect as though
the city were a natural person, except that no bond

Appeals &c.
on behalf of
the city.

2 R. S. 184
2d ed.

TITLE 11. shall be necessary to be executed by or on behalf of the said city, for either purpose.

Form and time of issue of execution.

§ 38. Every execution for any penalty or forfeiture recovered for the violation of any ordinance of the corporation, may be issued immediately on the rendition of the judgment, and shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail, or city penitentiary, for such time as shall have been directed by the common council.

Extra expenses, how paid.

§ 39. The common council may direct any moneys that may have been recovered for penalties or forfeitures, to be applied to the payment of any extra expenses that may have been incurred in apprehending offenders, or in subpoenaing or defraying the expenses of witnesses in any suit for such penalties or forfeitures, or in conducting such suits.

TITLE XI.

Of the Public Health and the Cleanliness of the City.

Board of Health, how constituted.

§ 1. The common council shall annually appoint, by ballot, not less than three nor more than ten health commissioners, who, with the mayor, shall constitute the board of health of the said city. The clerk of the city shall be clerk of the said board, and the mayor, if present, shall preside at its meetings. The common council shall also appoint a health physician, and may appoint so many health inspectors as they may deem necessary, and shall prescribe, by ordinance, the powers and duties of the board and its members, and of the physicians and inspectors.

Prevention of infectious diseases.

§ 2. The common council shall have power to take such measures as they shall deem effectual to prevent the entrance of any pestilential or infectious disease.

into the city ; to stop, detain, and examine, for that TITLE 11.
purpose, every person coming from any place infect-
ed, or believed to be infected with such a disease ;
to establish, maintain, and regulate a pest-house or
hospital at some place within the city, or not exceed-
ing three miles beyond its bounds ; to cause any per-
son who shall be suspected of being infected with any
such disease, and who is not an inhabitant of the
state, to be sent to such pest-house or hospital ; to
cause any person, not being a resident of the city,
who shall be, or be suspected of being infected with
any such disease, to be sent to such pest-house or
hospital ; to cause any resident of the city, infected
with any such disease, to be removed to such pest-
house or hospital, if the health physician and two
other physicians of the city, including the attend-
ing physician of the sick person, if he have one,
shall certify that the removal of such resident is ne-
cessary for the preservation of the public health ; to re-
move from the city or to destroy any furniture, wear-
ing apparel, or goods, wares or merchandise, or other
articles or property of any kind, which shall be, or be
suspected of being tainted or infected with any pes-
tilence, or which shall be, or be likely to pass into
such a state as to generate or propagate disease ; to
abate all nuisances of every description which are or
may be injurious to the public health, in any way and
in any manner they may deem expedient ; and from
time to time, to do all acts, make all regulations, and
pass all ordinances which they shall deem necessary
or expedient for the preservation of health and the
suppression of disease in the city, and to carry into
effect and execute the powers hereby granted.

§ 3. The captain, master, or person in charge of
any canal-boat, steam-boat, or other craft or vessel,
which shall enter the city, having on board thereof

Penalty for
bringing in-
fected per-
sons into the
city in boats
&c.

TITLE 11. any person sick of any malignant fever, or other pestilential or infectious disease, shall be guilty of a misdemeanor, punishable by fine and imprisonment, unless the person so diseased became so on the way, and could not be left. It shall be the duty of such captain, master, or person in charge, within two hours after his arrival, to report, in writing, to the mayor, or some other health officer, the fact of such sick person's being on board, and the name, description, and location of his craft; and he shall not permit such sick person to land, or to be landed, until the board of health or some member thereof shall give permission for that purpose; and any neglect or violation of these provisions, or of any or either of them, shall be a misdemeanor punishable with fine and imprisonment.

Owners of stages, &c., to report sick persons.

§ 4. The owner, driver, conductor, or person in charge of any stage, railroad car, or other public conveyance, which shall enter the city, having on board any person sick of a malignant fever, or pestilential or infectious disease, shall, within two hours after the arrival of such sick person, report in writing the fact, with the name of such person, and the house or place where he was put down in the city, to the mayor or some member or officer of the board of health; and any and every neglect to comply with these provisions, or any of them, shall be a misdemeanor punishable by fine and imprisonment.

Penalty for bringing infected property into the city.

§ 5. Any person who shall, knowingly, bring, or procure or cause to be brought into the city, any property, of any kind, tainted or infected, or supposed by him to be tainted or infected with any malignant fever or pestilential or infectious disease, shall be guilty of a misdemeanor, punishable by fine and imprisonment.

Board of Health may remove boats, &c.

§ 6. The board of health shall have power, by an order in writing for that purpose, to be served on the master, captain, or person in charge of any canal-

boat, steam-boat, or other vessel or craft, or on any owner or consignee thereof, if such boat, craft, or vessel be by them suspected to have on board any infected or diseased person or property, to require such boat or vessel not to enter the city, or to remove to some certain distance not exceeding three miles from the city; and every such master, captain, person in charge, consignee, or owner, who shall be served with such order, shall be guilty of a misdemeanor, punishable with fine and imprisonment, if such boat, vessel, or craft shall enter the city, in violation of such order, or shall not be removed according to the tenor of such order, within a reasonable time, not exceeding three hours after the service of such notice.

§ 7. Every keeper of an inn, or boarding or lodging house in the city, who shall have in his house at any time any sick traveller, boatman or sailor, shall report the fact and the name of the person in writing, within six hours after he came to the house or was taken sick therein, to the mayor or some officer or member of the board of health; every physician in the city shall report under his hand, to one of the officers above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease, within six hours after he shall have visited such patient. A violation of either of the provisions of this section, or of any part of either of them, shall be a misdemeanor, punishable by fine and imprisonment; the fine not to exceed one hundred dollars, nor the imprisonment six months.

§ 8. All fines imposed under the last five sections, shall belong to the city, and when collected shall be paid into the city treasury, and be devoted to the maintenance and support of the pest house, or of any

TITLE 11.



Inn keepers to report sick persons.

Physicians to report, &c.

Fines how collected and applied.

TITLE 11. hospital that may hereafter be established by the city.

Removal of nuisances.

§ 9. The common council shall have power to pass and enact such by-laws and ordinances, as they shall from time to time deem necessary and proper, for the filling up, draining, cleansing, cleaning and regulating any grounds, yards, basins, slips or cellars within the said city, that shall be sunken, damp, foul, incumbered with filth and rubbish, or unwholesome, and for filling or altering, and amending all sinks and privies within the said city, and for directing the mode of constructing them in future; and to cause all such works as may be necessary for the purpose aforesaid, and for the preservation of the public health and the cleanliness of the city, to be executed and done at the expense of the city corporation, on account of the persons respectively upon whom the same may be assessed; and for that purpose to cause the expenses thereof to be estimated, assessed and collected, and the lands charged therewith, to be sold in case of non-payment, in the same manner as is provided by law with respect to other public improvements within said city; and in all cases where the said by-laws or ordinances shall require any thing to be done in respect to the property of several persons, the expenses thereof may be included in one assessment, and the several houses and lots in respect to which such expenses shall have been incurred, shall be briefly described in the manner required by law in the assesment roll for the general expenses of the city, and the sum of money assessed to each owner or occupant of any such house or lot, shall be the amount of money expended in making such improvement upon such premises, together with a rateable proportion of the expenses of assessing and collecting the moneys expended in making such improvements.

§ 10. Whenever in the opinion of the common council, any building, fence or other erection of any kind, or any part thereof, is liable to fall down, and persons or property may thereby be endangered, they may order any owner or occupant of the premises, on which such building, fence or other erection stands, to take down the same or any part thereof, within a reasonable time, to be fixed by the order, or immediately, as the case may require; or may immediately, or in case the order is not complied with, cause the same to be taken down at the expense of the city, on account of the owner of the premises, and assess the expense on the land on which it stood. The order if not immediate in its terms, may be served on any occupant of the premises, or be published in the city paper, as the common council shall direct.

TITLE 11.


Insecure
buildings,
&c. may be
removed.

§ 11. The common council shall have power to pass all such ordinances as they shall think proper and necessary, to preserve the Genesee river, and all canals, slips, and basins in the city; to prevent and punish the casting or depositing therein or on the banks thereof, any earth, ashes, or other heavy substances, filth, logs or floating matter; to prevent and remove all obstructions, and accumulations of filth or rubbish therein, and to punish the authors thereof; regulate and prescribe the mode and speed of coming to and departing from the wharves and streets of the city, by steamboats, canal boats, and other craft and vessels and the disposition of the sails, yards, anchors and appurtenances thereof, while entering, leaving or abiding in the said city; and to regulate and prescribe by such ordinances, or through their officers, such a location of every canal boat, steamboat, or other craft or vessel, or float, and such changes of station in and use of the same, as may

Genesee
River &c.
to be pro-
tected from
nuisances.

TITLE 11. be proper in order to promote order therein, and the safety and equal convenience, as near as may be, of all such boats, vessels, craft and floats, and may impose penalties, not exceeding one hundred dollars, for any offence against any such ordinance; and may by such ordinance, charge any such penalty upon the steam-boat, canal boat or other vessel, craft or float, the captain, master, owner, consignee or person in charge of which, is thereby liable therefor. Nothing in this section contained, shall be construed to authorize the common council, or any of its officers, to interfere with any of the laws of this state, now or hereafter to be enacted, or with the acts and regulations of the canal board in relation to the Erie canal or any other canal, being the property of the state of New York.

Suits under
the last sec-
tion, how
conducted.

§ 12. At, or at any time after, the commencement of any suit for a penalty imposed in pursuance of the last section, against any person liable therefor, on the production of a certified copy of the ordinance imposing the penalty, and an affidavit showing the connection between the persons sued and any steam-boat, canal boat, vessel, craft or float, the justice of the peace before whom, or any judge of the court in which suit is brought, shall issue or order the issuing of an attachment against such boat, vessel, craft or float, commanding the sheriff or any one of the constables of the county, to attach and safely keep the same, until discharged in due course of law. The fees allowed by law for serving an attachment against a non-resident debtor, and all reasonable expenses incurred in keeping the property attached, shall be allowed to the attaching officer, and be taxed by such justice or the proper officer, and added to and included in the final costs, if the city recover judgment. The attachment shall be discharged on the delivery

to such justice or judge, of a bond executed to the city, by any claimant of the property, in a penalty, and with two sureties to be approved by such justice or judge, conditioned for the payment of any judgment recovered against the defendant in the suit, in thirty days after the recovery thereof. If such property be not so discharged, execution upon any judgment obtained by the city in the suit, shall be issued immediately, and shall be levied on such property, and the same shall be sold thereunder in the manner prescribed by law, in the same manner, and with the same effect, as though it were the sole and unincumbered property of the defendant.

§ 13. All flour or meal not manufactured within this state, which shall be offered for sale in the city of Rochester, in casks, except damaged flour, sold as such at auction, shall be inspected previous to its being so offered, in the same manner as flour intended for exportation, and be subject to all the provisions and penalties of article first, title first, chapter seventeenth and part first of the Revised Statutes.

Certain flour and meal to be inspected.
R. S. 530
2d ed.

TITLE XII.

Miscellaneous Provisions.

§ 1. The common council, or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer of whom a bond or instrument in writing may be required under the provisions of this act, shall examine into the sufficiency of such sureties, and shall require them to submit to an examination under oath as to their property. Such oath may be administered by the mayor or any alderman of said city. The deposition of the surety shall be reduced to writing, be

Sureties of officers to be examined on oath.

TITLE 12. signed by him, certified by the person taking the same, and annexed to and filed with the bond or instrument in writing to which it relates.

Mayor &c,
to administer
certain
oaths.

§ 2. The mayor or the chairman of any committee or special committee of the common council, shall have power to administer any oath or take any affidavit in respect to any matter pending before the common council or such committee.

False swearing
under
this act,
perjury.

§ 3. Any person who may be required to take any oath or affirmation, or to make any affidavit or statement under oath or affirmation, under or by virtue of any provision of this act, who shall, under such oath or affirmation in any statement, or affidavit, or otherwise, wilfully swear falsely as to any material fact or matter, shall be guilty of perjury.

Officers &c
to plead
general issue.

§ 4. Every person now or hereafter elected or appointed under this act to any office, who shall be sued for any act done, or omitted to be done, under such election or appointment; and any person who shall be sued for having done any thing or act by the command of any such officer, shall be permitted to plead the general issue, and give the special matter in evidence; and if any final judgment shall be rendered therein, whereby any such defendant shall be entitled to costs, such defendant shall recover double costs in the manner defined by law.

Money raised,
how to
be applied.

§ 5. Whenever, by this or any other act, the common council are authorized to raise or borrow money for any particular purpose, the money so raised or borrowed shall be applied to that purpose only; and every member of the common council who shall, in his official capacity, knowingly vote for any misappropriation, and every officer of the city who shall knowingly carry, or assist in carrying into effect any such misappropriation, shall be guilty of a misdemeanor, punishable with fine and imprisonment.

§ 6. From and after the passage of this act, all acts and parts of acts inconsistent with or repugnant to this act, are hereby repealed. But nothing herein contained shall be construed so as to destroy, impair, or take away any right or remedy acquired or given by any act hereby repealed ; and all proceedings commenced under any such former act, shall and may be carried out and completed, and all prosecutions for any offence committed, or penalty or forfeiture incurred, shall be carried on in all respects in the same manner, and with the same effect, as though this act had not been passed.

TITLE 12.

Repealing clause.

§ 7. The said corporation by its corporate name of "The City of Rochester," shall succeed to all the rights and liabilities of the said corporation, under the corporate name of "The Mayor and Common Council of the City of Rochester," and all such rights and liabilities may be enforced by or against the said corporation, with the same effect and to the same extent as if this act had not been passed.

Rights and liabilities continued.

§ 8. This act shall be deemed a public act, and the legislature may at any time repeal, modify or alter the same.

This act declared a public act.

§ 6. From and after the passage of this act all the
acts and parts of said instrument with or without
to this act and hereby repealed. But nothing herein
contained shall be construed so as to destroy, impair,
or take away any right or remedy provided or given
by any act hereby repealed, and all proceedings con-
tinued under any such former act shall and may be
carried out and completed, and all proceedings law-
fully commenced or pending or to be commenced here-
after shall be carried on in all respects in the same
manner, and with the same effect, as though this act
had not been passed.

1875
1876
1877

§ 7. The said corporation be its corporate name of
"The City of Rochester," shall succeed to all the
rights and liabilities of the said corporation under
the corporate name of "The Mayor and Common-
Council of the City of Rochester," and all such rights
and liabilities may be enforced by or against the said
corporation, with the same effect and to the same
extent as if this act had not been passed.

1878
1879
1880

§ 8. This act shall be deemed a public act, and the
legislative tax at any time equal, annually or other-
wise, shall be levied thereon as such.

ORDINANCES
OF THE
**COMMON COUNCIL OF THE CITY
OF ROCHESTER,**
PASSED JUNE 11, 1844.

The Common Council of the City of Rochester do ordain and determine as follows :

AN ORDINANCE RELATING TO FIRES.

Passed June 11, 1844.

CHAPTER I.—ARTICLE I.

§ 1. The common council shall annually choose, by ballot, a chief engineer and two assistant engineers of the fire department, who shall hold their offices for one year, unless sooner removed by the common council, and until their successors shall have been appointed and been qualified.

Chief Engineer &c.
Charter p. 17
§ 1. p. 31.
§ 63.

§ 2. It shall be the duty of the committee on the fire department, as soon as practicable after the occurrence of any fire within the said city, to investigate and ascertain the cause thereof, the amount of property destroyed or of injury done, and the amount of insurance thereon, by the oaths of witnesses to be summoned before the said committee, and sworn by the chairman of said committee, or by the mayor. The depositions of such witnesses shall be entered in writing, in a book to be provided for that purpose, and shall be signed by the witness, and attested by the person administering such oath; which book shall be carefully preserved among the records of the city.

Fire Dept.
committee
to examine
cause of
fires.

CHAP. 1. § 3. The said committee shall, as soon as practicable after making such investigation, report to the common council their opinion as to the origin of such fire, the amount of property destroyed and the injury done thereby, and the amount of insurance thereon ; and the substance of their report shall be published with the proceedings of the common council.

And report thereon.

Chief engineer to make semi-annual report. § 4. The chief engineer shall report, semi-annually, to the common council, the condition of the engines, hose, hooks and ladders, and other fire apparatus ; and also the names of members of the fire department, and the respective associations to which they belong ; and recommend such alterations and improvements in the fire department and the fire apparatus as he may deem necessary and proper. He shall also report to the said common council the names of such firemen as have disobeyed orders, and neglected or refused to attend to their duty ; and when the engines or other fire apparatus shall require repairs, he shall cause the same to be done at the expense of the city, provided the expense of any particular repair shall not exceed twenty-five dollars. It shall be the duty of the officers of the several fire companies, hook-and-ladder, and hose companies, hereafter to render their accounts for the ordinary contingent expenses of their respective companies on the first Tuesdays of January and July in each year, to the chief engineer, who shall adjust and settle the same when the amount is under twenty-five dollars, and report the same to the common council when it exceeds that sum, with his certificate of the correctness thereof, and that such expenses were necessarily incurred.

His duties at fires. Charter p. 93, sec. 9. p. 94, sec. 15. § 5. It shall be the duty of the chief engineer, and he is hereby authorized, to take the management and control of the fire department at all fires within the

city, when present, and to direct at such fires the efforts and labors, and prescribe the duties of the assistant engineers, and firemen, and citizens, and all other persons present. CHAP. 1.

§ 6. The chief engineer shall, once in each month, examine into the condition of the fire-engines, hose, hooks and ladders, and other fire apparatus, and shall report to this board at the first meeting held in the months of June and December in each and every year, the condition thereof, with the amount of expenses incurred, and for what purpose ; and shall at the same time report the cause of any fire that shall have occurred since his last report, as far as the same can be ascertained. To examine engines &c. monthly.

§ 7. Whenever, in the opinion of the chief engineer, any expenditure shall be necessary for the fire department, amounting to more than twenty-five dollars for any one purpose, he shall cause an estimate thereof to be laid before the common council. And estimate expenditures.

§ 8. No person except the chief engineer shall be authorized to incur any expense, or contract any debt, in relation to the fire department, except the ordinary contingent expenses of any fire company, which contingent expenses shall not include the expense of any repairs to any engine-house, engine, or other fire apparatus. Only chief engineer to contract debts.

§ 9. The first assistant engineer, in all cases when the chief engineer shall be absent, or there shall be a vacancy in the office, shall perform all the duties and possess all the powers of the chief engineer ; and in case the chief engineer and the first assistant shall be absent, or if there shall be a vacancy in both of these offices, then the second assistant engineer shall perform those duties and possess such powers. Duty of assistant engineer. Charter p. 93, sec. 9, p. 94, sec. 15.

§ 10. It shall be the duty of the fire-wardens, in their respective wards,

CHAP. 1. 1. To examine carefully, at least once in each month, from the months of November to April inclusive, in each year, and in the months of June, August, and October, and as much oftener as they think proper, every building and yard, and to ascertain and note any violation of the provisions of this ordinance, and to report to the common council at their first meeting in each of the said several months a specific report, setting forth that they have faithfully examined every building and yard within their respective districts, and found them in good order; or if otherwise, stating the facts in the case, and also all violations of this ordinance which may come to their knowledge; and that the clerk shall procure printed blanks suitable for such reports.


Duty of Fire
Wardens.

2. To remove or abate, with the consent of the mayor, or any alderman, any cause from which immediate danger from fire may be apprehended.

3. To report to the city attorney the name of the owner or occupant of any building or premises who shall neglect to remove any cause from which damages by fire may be apprehended, to the end that such owner or occupant may be prosecuted.

4. In all cases of fire, to immediately repair to the same, and require and compel all persons present to obey all lawful orders.

Penalty.

§ 11. If any fire-warden shall fail or neglect to perform his duty, as prescribed in the preceding section, he shall forfeit and pay the sum of ten dollars.

Duty of
Foreman
of a fire
company.
Charter p.93,
sec. 9.

§ 12. It shall be the duty of the foreman, and in case of his absence, of the assistant foreman, of each and every company,

1. To immediately repair to all fires, with the apparatus of his company.

2. To direct and control his company, under the direction of the chief engineer or assistant, if pre-

sent, until the fire is extinguished and the company is discharged by the engineer. CHAP. I.

3. The foreman of engine companies shall cause the engine and apparatus to be kept in the best order for immediate use, and have the same washed and cleansed by the firemen belonging thereto, at least every month, from the first day of May to the first day of October in each year, and at such other times as may be required by the chief engineer. Foremen to inspect engines.

4. The foremen of all other companies shall cause the apparatus to be kept in such place or places as the common council shall designate, and shall frequently examine into their condition, and cause them to be kept in a state of readiness to be used in case of fire.

§ 13. It shall be the duty of the engineers and fire-wardens, from time to time, to recommend to the common council the number of persons that should compose companies of hook-and-ladder men, and tub-and-hose men. Engineers to report the number of persons for hook and ladder companies.

§ 14. All the fire-engine companies, hook-and-ladder companies, and tub-and-hose companies, shall be under the general control and direction of the chief engineer, and subject to the provisions of this ordinance, and to such ordinances and by-laws as may be made from time to time for the regulation of the fire department, so far as the same may be applicable. Companies to be under Chief Engineer.

§ 15. Said companies shall respectively be under the immediate control and direction of a foreman and assistant foreman, who shall be elected once in each year by said companies respectively, on the first Tuesday of December. Foreman's control.

§ 16. Said companies shall have the custody of such hose belonging to the city as the chief engineer may direct, except such as may be attached to the fire-engines; and the same shall be kept in such a Hose, by whom kept.

CHAP. I. place or places as the common council shall designate.
The respective foremen or assistant foremen shall frequently examine into the condition of said hose, and see that it is kept in a state of preparation for service in case of fire.

Duty of Firemen.

§ 17. It shall be the duty of the firemen, and hook-and-ladder men, and tub-and-hose men of said city,

1. Upon any alarm of fire, to immediately repair to such fire, with the engine and implements under the care of the company to which they shall respectively belong, and there work and manage the same, under the direction of their proper officers, until the same be extinguished, and the company is discharged by the engineer.

2. To attend regularly every meeting of the company.

3. To regularly discharge the duties imposed upon them by the regulations and by-laws of their company.

Fines for neglect, and how collected.

§ 18. If any fireman, hook-and-ladder man, or tub-and-hose man, shall neglect or refuse to attend any fire, except in case of sickness or absence from the city, he shall forfeit and pay into the treasury of the company to which he belongs the sum of two dollars and fifty cents; and if he shall refuse to do his duty in working his fire-engine or other apparatus to which he is attached, at any fire, or in cleansing such engine or apparatus, or shall disobey the orders of his proper officers, he shall forfeit and pay into the treasury of said company the sum of five dollars; and if he shall neglect or refuse to attend any meeting of his company, for exercising the men or cleansing the engine or apparatus to which he is attached, unless in case of sickness or absence from the city, he shall forfeit and pay into the treasury of his company the sum of one dollar; which said sums shall be collected in the name of the city of Rochester, in a suit or suits to be

brought for that purpose against such delinquent or delinquents. CHAP. 1.

§ 19. At fires, the members of the common council and other officers, and the firemen, shall be distinguished as follows: Officers &c.
how distin-
guished at
fires.

1. The members of the common council, marshal, and police, shall carry a staff, painted white with a red top.

2. The chief engineer shall wear a white hat, with the words "Chief Engineer" painted thereon in black; he shall also carry a speaking-trumpet, painted white, with the same words in black.

3. The assistant engineers shall have similar hats and trumpets, with the words "Assistant Engineer" painted thereon.

4. Fire-wardens shall wear hats painted black, with the word "Fire-warden" painted thereon in white, and shall carry a staff painted white.

5. Foremen, assistants, and firemen, hook-and-ladder men, and hose-and-tub men, shall wear fire-hats of the same kind and form now used by them respectively.

§ 20. Any person offending against the last section, between nine o'clock in the evening and daylight in the morning, shall forfeit and pay unto the city of Rochester the sum of two dollars. Penalty.

§ 21. The marshals and constables, and city watch, not detained from the watch of the night, shall attend at all fires, for the protection and preservation of property, and prevent any goods or merchandise from being carried away, unless by the owner, or his authority. Marshal &c.
to attend
fires.
Charter, p. 95
§ 15, sub. 5.

§ 22. Upon any alarm of fire, it shall be the duty of the watchmen then on duty immediately to procure the ringing of the Court House bell, and to spread the alarm as soon and as generally as possible. Court house
bell to be
rung.
Charter, p. 94
§ 13.

CHAP. 1.

§ 23. The mayor or chief engineer, or, in case of their absence, any two aldermen, may in their discretion employ any discreet persons to watch any fire after the engines have left the same.

Engine Warden.

§ 24. It shall be the duty of the fire-wardens, in each year, within one week after their appointment, to meet and designate from their number one warden for each fire company, whose particular duty it shall be, at any fire, to station himself by the engine to which he shall be so attached; and other fire-wardens, not so attached, shall, immediately upon arriving at any fire, report themselves to the chief engineer.

Engines not to be drawn on pavement.

§ 25. No fire-engine, nor hook-and-ladder, nor hose nor bucket cart, shall, in going to or returning from any fire, or at any other time, be run, driven, wheeled, drawn, or placed upon any side-walk, on Buffalo-street east of Sophia-street, or on Main-street west of Clinton-street, or on State-street south of Mumford-street, or on Exchange-street north of Spring-street, except in going to or from the engine-house to the street in front thereof, under the penalty of twenty-five dollars for each offence, to be forfeited and paid by every person aiding or assisting in, or consenting to, the violation of any one of the provisions of this section, for the use of the city of Rochester.

Mayor may remit penalty.

§ 26. It shall be lawful for the mayor on the application of any person who shall have incurred the penalty prescribed in the foregoing section, to remit the same, whenever he shall be satisfied that at the time the same was incurred, such engine, hook and ladder, or hose, or bucket cart could not, by reason of mud or other obstruction in the said streets, be conveniently or safely drawn through the same.

Other prohibitions.

§ 27. No fire engine, or hook and ladder, or bucket cart shall, in returning from any fire, be driv-

en, wheeled, or drawn upon any side walk in the city faster than upon a walk, under the penalty of twenty-five dollars for each offence, to be forfeited and paid by every person aiding or assisting in or consenting to the violation of the provisions of this section. CHAP. 1.

§ 28. The respective members of each fire company, hook-and-ladder, and tub-and-hose companies shall elect annually one foreman, one assistant foreman, and secretary, for their respective companies. Company elections.


§ 29. Every execution for any penalty or forfeiture recovered for the violation of any of the provisions of this article, shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of ten days. Execution for penalties, Charter, p. 112, § 38.

ARTICLE II.

Of the Duty of Citizens and Miscellaneous Provisions.

§ 1. The citizens, or any person who may be present at any fire, shall be obedient to the orders of the members of the common council and other officers of the fire department, in the extinguishment of the fire and the removal of property. They shall also form ranks for the conveyance of water, if required by the same authority. Any person who shall neglect or refuse to obey the orders herein authorized to be given, shall forfeit and pay to the city of Rochester, the sum of five dollars. Duty of citizens at fires.

§ 2. It shall be lawful for any one having charge of an engine company or hook and ladder company, for any member of the common council, or any other officer of the fire department, to require the aid of any citizen or inhabitant in drawing any engine, hose or hook-and-ladder carriage to any place for the ex- Their aid may be commanded.

CHAP. 1.  extinguishment of any fire; and any person refusing to obey such requirement, shall forfeit and pay to the city of Rochester a penalty of five dollars.

Maliciously
entering
engine
houses.

§ 3. If any person or persons shall enter any house or place where engines, fire apparatus, or implements for the extinguishment of fires shall be kept, with intent to injure, or shall injure any such engine, fire apparatus, or impliment, or shall do any injury to any public well or other reservoir of water, he or she shall forfeit and pay a penalty of fifty dollars.

Stove pipes
how put up.
Charter
p. 91. § 5, 6,
&c.

§ 4. No person shall put up any pipe to any stove, unless it be conducted into a chimney made of brick or stone; and where the same shall pass through any wooden partition or partitions, floor or wooden wall or walls, unless the same is well protected by a sufficient thimble or guard of stone, or earthen, except in cases where the chief engineer or one of the assistant engineers, or one of the fire-wardens shall give permission in writing to have it otherwise put up; and in all cases of such pipe passing through a guard or thimble as aforesaid, there shall be a space of one inch all around said pipe, between it and the sides of such guard or thimble. All stoves at any time erected, shall not be placed nearer than one foot to any wall or walls composed in whole or in part of wood, and shall stand upon iron legs and a foundation of metal, brick or stone, such foundation to be twice as large as the bottom plate of said stove; subject always to the direction of the fire-wardens or either of them, in the ward in which such stove shall be situated. No person shall hereafter have stove pipe enter perpendicularly into any chimney, but the same shall be conducted into the chimney horizontally, and at least two feet from any floor or roof of the building in which the same shall be situated. Every person violating any of the provisions of this section, shall

forfeit and pay the sum of two dollars for each and every such violation, and the further sum of one dollar for every twenty-four hours such violation shall be continued. CHAP. 1.

§ 5. No hay, straw, stubble, or other combustible substance shall be deposited within fifteen feet of any place where fire or ashes are kept unless within a close and secure building, under the penalty of two dollars for each offence, and one dollar for every twenty-four hours the same shall remain so deposited; and if the same shall not be removed within twenty-four hours after notice given by the city superintendent, chief engineer, either of the assistant engineers, or firewardens, it shall be removed by the city superintendent, at the expense of the owner; recoverable in an action of debt in favor of the city of Rochester.

Hay, straw,
&c. how
kept.
Charter
p. 91, sec 5.

§ 6. No person shall use any lighted candle, lamp, or torch in any stable or other place or building, where hay, straw, or other combustible substance shall be kept, unless the same be well secured in a lantern or other cover: nor enter or be in any such place with any lighted cigar or pipe, under the penalty of five dollars for each offence.

Use of lamps,
&c.

Charter p. 91.
sec. 5, &c.

§ 7. No unslacked lime shall be deposited nearer than twenty feet to any building within the lamp and watch district; nor shall any ashes be put or deposited in any place whatever, unless in some receptacle made wholly of iron, stone or brick, and appropriated to that purpose. Any person offending against the provisions of this section, shall forfeit and pay a penalty of five dollars, and the further penalty of three dollars for every twenty-four hours such offence shall continue, and it shall be lawful for any alderman or police justice to cause such lime or ashes to be removed to a place of safety, at the expense of the person depositing the same, or owner thereof, recoverable at the suit of the city of Rochester.

Lime, ashes,
&c. how
kept.
Charter p. 91
sec. 5, &c.

CHAP. I. § 8. No person shall burn or cause to be burnt, or aid or assist in burning any hay, straw, chips, shavings or other combustible matter, in any street or alley within the limits of the lamp and watch district of this city, without first having obtained permission to do so in writing from the chief engineer, mayor, or city superintendent, under the penalty of five dollars for each offence.

Burning
straw, &c.
Charter p. 91,
sec. 5, &c.

Shavings, &c.
to be re-
moved
weekly.
Charter p. 91,
sec. 5, &c.


§ 9. Every carpenter, joiner, or other mechanic, or person keeping a shop or other building where chips, shavings, or other combustible matter may be contained, shall clear and remove the same out of his shop or other building and the yard belonging thereto, at least three times in each week; and no lighted candle, lamp, or torch, shall be used in the work-shop of any carpenter, joiner, or other mechanic, unless the same shall be safely placed in a lantern or metallic candlestick. Any person offending against the provisions of this section, or either of them, shall forfeit and pay a penalty of two dollars for each offence.

Depositing
shavings,
&c. in the
street.
Charter p. 91,
sec. 5, &c.

§ 10. If any carpenter, joiner, or other person, shall scatter, or throw, or deposit, any shavings, chips, or other combustible matter, in any street, lane, or alley, or shall at any time direct, permit, or suffer any chips, shavings, or any other combustible matter, to be taken to, or thrown or scattered on any street or alley, he shall forfeit and pay for every such offence a penalty of two dollars.

Scuttles to be
made on
houses.
Charter p. 90,
sec. 2.

§ 11. Every building of two stories or more in height, shall have a scuttle in the roof, and a suitable stairway or ladder leading to the same, so as to afford a convenient access to the roof thereof; and any person neglecting to comply with the requisition of this section, shall forfeit and pay a penalty of twenty-five dollars; and the further sum of five dollars for every ten days that said offence shall continue.

§ 12. No chimney or flue shall be burnt out except CHAP. I.
between sunrise and three o'clock in the afternoon,  Burning out
chimneys.
nor during that time unless the roof be wet or covered
with snow; and whenever any chimney or flue
shall take fire at any other time, each person using or occupying
the same shall incur a penalty of three dollars.

§ 13. Every chimney which shall hereafter be Chimneys
how built.
erected within the lamp and watch district of this
city, shall be well plastered on the inside; the aperture
or top of such chimney shall be at least two feet
above the highest part of the roof of such building;
and every person violating the provision of this section
shall forfeit and pay a penalty of twenty-five
dollars.

§ 14. In case of any alarm of fire, the Court House Fire bells
how to be
rung.
Charter, p. 94
§ 13.
bell shall immediately be rung, and likewise the several
church bells in the city, by the respective sextons,
as rapidly as a due regard to the security of the bells
will allow; and for at least fifteen minutes, when
fires actually occur.

§ 15. Every person who shall make, or cause to be False alarms.
made, any false alarm of fire within the limits of the
city, and every person who shall aid, countenance,
or assist in making or spreading any false alarm of
fire, within the limits aforesaid, knowing the same
to be false, shall severally forfeit and pay for each
offence a penalty of twenty-five dollars.

§ 16. No building shall hereafter be erected or re- Buildings
how con-
structed.
Charter p. 90,
sec. 1.
moved, nor shall any addition be made to any building
already erected within the limits of the lamp and
watch district, without the permission of the common
council, unless the outside wall thereof shall be constructed
of brick or stone, or some metallic or incombustible
material, except such portions thereof as are usually
constructed of wood in brick and stone
buildings.

CHAP. 1. § 17. The owner of every building which shall hereafter be erected, to or upon which a new roof shall be constructed, within the limits of the lamp and watch district, shall cause the roof thereof to be covered with tile, slate, or metal, or have the shingles thereof laid in lime mortar, at least one-half an inch in thickness.

Roofs, how constructed.

Penalty. Charter, p. 90 § 1. § 18. Every person violating either of the two last sections of this ordinance, shall be subject to the penalties and consequences of such violation prescribed by section one of title eight of the city charter.

Drying lumber by fire.

§ 19. No person or persons shall use or erect any building for the purpose of drying lumber by fire heat, within the city of Rochester, under a penalty of ten dollars for each and every day such erection, or use of such building, shall be continued.

Certain chimneys how secured.

§ 20. The owner or occupant of any blacksmith shop, or other shop in which charcoal is used in mechanical operations, shall cause to be fixed upon the chimney of such shop a cap-piece, or screw, made of wire or sheet iron, so as to prevent the sparks from escaping, under the penalty of ten dollars, and the further sum of two dollars for each week that such owner or occupant shall neglect or refuse to comply with the provisions of this section.

Certain fires prohibited.

§ 21. No person shall make, or cause to be made any fire in any yard or premises, within the lamp and watch district of said city, owned or occupied by him, except within a building, without the consent of an alderman or fire-warden of said city, under the penalty of ten dollars for each offence.

Chimneys how built.

§ 22. No person shall hereafter erect, within the city of Rochester, any chimney upon a wooden foundation, unless the bottom thereof is two feet in thickness of brick, well laid in lime mortar.

§ 23. Every applicant for the erection or removal

of any wooden building within the lamp and watch district, is required to give notice of his intended application to every owner or occupant of houses and lots within the distance of two hundred feet from the place where the building is to be erected, or to which it is to be removed ; and shall furnish to the common council satisfactory proof of the service of such notice.*

CHAP. 1.

Removal of wooden buildings.

§ 23. Every execution for any penalty or forfeiture recovered for the violation of any of the provisions of this article, shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of twenty days.

Executions for penalties. Charter p. 112 § 38.

ARTICLE III.

Of the Powder Magazine, and of the Vending and Keeping of Gunpowder.

§ 1. The powder magazine erected by the city of Rochester shall be under the direction of a keeper, or overseer, to be appointed by the common council, and subject to such rules, regulations, and ordinances as they may think just and equitable.

Powder Magazine.

§ 2. All gunpowder which now is, or hereafter may be brought into this city, shall be deposited and kept in the said powder magazine ; and no person hereafter shall keep or have, or suffer to be kept or had, in any building or place by him or her owned or occupied in the said city, except in the said powder magazine, any greater quantity of gunpowder than twelve and a half pounds, for any longer period than three hours ; nor twelve and a half pounds, or any less quantity, unless the same is securely kept in a tin canister, with a tin cap or cover, and no such canister shall be opened after candle-light, under a pen-

Powder how kept. Charter p. 91. § 5 &c.

CHAP. 1. alty of twenty-five dollars for each and every offence.

§ 3. All gunpowder kept within the limits of the said city of Rochester, except as above excepted, shall be deposited and stored in the magazine called "The Powder Magazine."

Duty of
keeper of
powder
magazine.

§ 4. The tenant, or keeper of the powder magazine, shall receive all gunpowder delivered to said magazine, on each and every day (Sundays excepted) from eight o'clock in the morning till sun-down, and shall be deemed responsible for all powder so delivered to his care, and shall give his receipt for the same, specifying marks, and quantity, and quality, whenever required; and shall deliver the same out, from sun-rise till two o'clock in the afternoon, when demanded by the owner, or those legally entitled to the possession thereof.

His fees.

§ 5. The tenant, overseer, or keeper of the said powder magazine shall be authorized to receive and collect of the owners or persons depositing or storing powder in said magazine, for the receiving, storing, and delivering the same, the following rates, to wit:

For each and every keg or box containing twenty-five pounds or less, for the first three months or less time, ten cents; and for every month thereafter, one cent. For each and every half-barrel, keg, or box, containing more than twenty-five pounds, he shall receive double the above rates.

In addition to the above fees, the said tenant or keeper shall be entitled to demand and receive for every parcel of powder, if not more than two hundred and fifty pounds, which he shall deliver at any one time from the said magazine, ten cents, and for any greater quantity delivered at one time, twenty cents.

To have a
lien therefor.

§ 6. The above charges or fees, hereby allowed to be charged and received by the tenant or keeper, to be a lien on the powder so stored in the said magazine, until the same are fully paid.

§ 7. No canal-boat, sloop, schooner, or vessel, wagon, or other conveyance for the transportation of powder, with gunpowder on board, shall be allowed to enter and remain within the limits of the said city, under any circumstances, for a longer time than three hours, without reporting the same to the keeper of the powder magazine, and taking his order in relation thereto, in writing, under a penalty of fifty dollars for every hour they so remain.

CHAP. 1.

Boats, &c.
having powder on board

§ 8. The tenant, overseer, or keeper of the said magazine, shall be required to keep an office, in the central part of the city, and a safe and careful messenger, to attend to the duties herein imposed.

Office of
keeper of
magazine.

§ 9. No person shall be allowed to enter the said magazine without permission from the keeper or overseer, and the said keeper or overseer shall provide strips of coarse carpeting to be laid upon the brick floor, to walk upon in passing in and out.

His further
duties.

§ 10. The tenant or keeper shall, once in each and every month, cause all the powder stored in said magazine, to be carefully and thoroughly shaken, and the kegs and boxes turned over; and for any neglect of this, or any of the several duties hereby or herein imposed, in receiving, shaking, turning, &c., the said tenant, overseer, or keeper, shall forfeit and pay the sum of five dollars. And the said keeper or tenant is further required, under a like penalty, at the expiration of each and every three months, to make a full and complete report to the common council, setting forth the quantity of powder received, the owners or depositors of the same, its quality and condition, and the amount of fees charged and received.

lb.

§ 11. The mayor, recorder, marshal, any alderman or police justice, or any person to be deputed by the common council or police justice, may enter any building, canal boat, sloop, or conveyance, for the

Mayor &c.
may enter
places
where powder is kept
and remove the same.

CHAP. 2. transportation of powder, or any other place or places whatsoever within the limits of the city, where powder shall be kept; and if any greater quantity than is hereby allowed to be kept shall be found therein, he shall remove such excess to the powder magazine, at the expense of the owners thereof. Any person or persons who shall offer any resistance whatsoever to the execution of the authority herein granted, shall forfeit the sum of fifty dollars for every such offence.

Executions
for penalty.
Charter
c. 112. § 38.

§ 12. Every execution for any penalty or forfeiture recovered for the violation of any of the provisions of this article, shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for thirty days.

CHAPTER II.

AN ORDINANCE RELATING TO STREETS.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

Placing
boards &c.
in streets.
Charter
p. 36, sub. 7.

§ 1. No person shall place, or cause to be placed, any stone, bricks, boards, plank, timber, lumber, or other materials for building, in or upon any street, alley, or public square within the city, without permission in writing from the mayor, the recorder, or a city superintendent, under a penalty of five dollars for each offence, and the further penalty of five dollars for every twenty-four hours the same shall remain in any such street, alley, or public square, without permission as aforesaid.

When per-
mitted.

§ 2. The mayor, the recorder, or a city superintendent, is authorized to grant any person permission

to place and keep any building materials in any of the streets, alleys, and public squares of the city; such permission, however, shall not be for a longer period than three months, nor authorize the obstruction of any part of the side-walk, nor more than one-half of the carriage-way of the street opposite the lot or place where the building is proposed to be erected. Any such permission may be revoked by the common council at any time.

CHAP. 2.

§ 3. Any person to whom permission is granted as aforesaid, shall cause all such building materials, and all the rubbish arising therefrom, to be removed from the street by the expiration of the time limited in such permission, under the penalty of five dollars for every twenty-four hours the same shall remain in such street, after the expiration of the time aforesaid.

Penalty.

§ 4. No person shall suffer his or her carriage, wagon, cart, or sleigh, without horses or oxen, to remain or stand in any street, alley, or public square, within the lamp and watch district, for more than one hour at a time, under a penalty of one dollar for each offence.

Leaving wagon &c. in street.

§ 5. No person shall fasten any horse in any street so that such horse, or the reins or lines with which the horse is fastened, shall obstruct the free passage of persons on any part of any side-walk. Any person offending against the provisions of this section shall forfeit and pay a penalty of two dollars for each offence.

Horses obstructing street.

§ 6. No person shall place, or cause to be placed, or keep or suffer to remain, any log, timber, box, cask, stone, planks, boards, or other articles, in any street or alley, so as to incommode or obstruct the free passage or use thereof; nor shall any person place any cask, box, plank, board, or other articles, on any side-walk within the city. Any person offend-

Boxes &c. obstructing streets.

CHAP. 2. ing against the provisions of this section, or either of them, shall forfeit and pay a penalty of five dollars ; and the further penalty of five dollars for every twenty-four hours that any street or side-walk shall be so obstructed ; but nothing contained in this section shall prohibit merchants and others from placing goods and merchandise, and household furniture, on the sidewalks for the purpose of loading and unloading the same, provided it be done without any unreasonable delay.

Fixtures in front of stores.

§ 7. No owner or occupant of any store or other building in Buffalo, State, Exchange, Front, Main, or St. Paul streets, or other persons, shall place, or erect, or suffer to be placed or erected, any sign post or fixture of any kind, in such street, or any sign projecting more than two feet from such store or building into any such street, or over any side walk therein. Any person offending against the provisions of this section shall forfeit and pay a penalty of ten dollars for each offence, and the further sum of five dollars for every twenty-four hours such sign post or fixture shall remain standing in such street, or for every twenty-four hours any such sign shall remain projected more than the space aforesaid, after the notice to remove the same shall be given to the occupant or owner of such store or other building, by the mayor or city superintendent.

Awnings regulated.

§ 8. Nothing contained in the preceding section, shall prohibit the erection of awnings in front of stores or shops on the streets in said section mentioned ; but all awning posts shall be of a uniform size, and be constructed in a uniform manner. The standard for such awning posts shall be as follows : The awning post shall be round and seven feet high, and not less than five inches in diameter, and shall be set in the ground at the outer edge of the side walk, in a line with the

curb stone. The awning shall extend from the building to which the same is attached, quite to the awning posts and no further ; and shall be supported by hooks fastened to the building, and to a slat or rail running across the top of the awning posts, and resting upon them. Lamp posts shall be placed in the ground in a line with the awning posts. Any person violating the provisions of this section, or either of them, shall forfeit and pay a penalty of ten dollars for each offence.

CHAP. 2.



§ 9. No bow window or other windows, shall hereafter be constructed so as to extend into any street more than fourteen inches ; and no porch, stoop, or steps, cellar door, cellar way, or platform, in either of the streets mentioned in the seventh section of this ordinance, shall extend into such street, including the side walk, more than five feet, and in any other street in the city, including the side walk, more than three feet, without permission of the common council. Every cellar way leading into any cellar from any street or side walk, shall have trap doors so constructed, as to be on a level with the side walk, or the platform, if any, in front of the building under which such cellar is situate, and so as to be entirely secure for passengers in such street or on such side walk or platform, to pass over the same with safety ; or shall have a substantial railing on the sides thereof, at least two and a half feet high. Any person violating the provisions of this section, or either of them, shall forfeit and pay a penalty of three dollars for each offence, and the further penalty of one dollar for every day such person shall neglect or refuse to conform his or her window, stoop, steps, cellar door, cellar way, or platform, to the requirements of this section, after notice so to do from the city superintendent or mayor.

Windows,
steps, &c.

§ 10. No person shall place any goods, wares, mer-

CHAP. 2. chandise, or other articles, in front of any store, shop or other building, further than three feet into the street: and no owner or occupant of any building shall cause or permit any firewood to be placed or remain on any side or cross walk opposite or adjoining his lot, nor shall he suffer the same to be placed or remain in the street opposite his lot further than five feet from the outer edge of the side walk, and then only for the purpose of being sawed or cut, and not to remain more than two days, under the penalty of five dollars for each offence.


Goods, fire-wood &c.

Carrriages &c. not to be passed over side walks.

§ 11. No person shall cause any wheel-barrow, hand cart, sleigh or other carriage or vehicle, or any horse, beast of burden, or any cattle or swine, to be passed over or upon any side walk, except in passing into or from any lot, where pavements shall be constructed for that purpose, under the penalty of five dollars for each offence.

Shade trees, how set out.

§ 12. All ornamental or shade trees hereafter to be set out in any street shall be inside, and within one foot of the outer edge of the side walk in such street. Any person violating the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence; and in case any person shall neglect or refuse to remove such trees, where otherwise placed, on being required so to do by a city superintendent, it shall be lawful for such superintendent to remove the same at the expense of the owner of the lot in front of which such trees shall be placed, recoverable of such owner in the name of the city of Rochester, in an action of debt, with costs; and shall forfeit a further penalty of five dollars for every twenty-four hours the same shall be suffered to remain after such requirement from the superintendent.

§ 13. Every owner or occupant of any house or other building, and every owner or the person having

the care or charge of any vacant lot, shall, during the winter season, and during the time snow shall continue on the ground, keep the side walk in front of such house or other building, or vacant lot, free from snow, ice, and all dirt, filth, or other obstruction or incumbrance. Any person neglecting or refusing to comply with the provisions of this section, shall forfeit and pay a penalty of three dollars for each offence.

CHAP. 2.

Snow, ice, &c. to be removed from side walks.

§ 14. If any owner or occupant of any lot or house, shall neglect or refuse to comply with either or any of the requirements of the last two preceding sections, within twenty-four hours after being thereunto required by one of the city superintendents, it shall be the duty of each superintendent to cause the foregoing regulations, to be enforced under the provisions of section forty-seven of title seven of "an act to consolidate and amend the 'act to incorporate the city of Rochester, passed April 28, 1834; and the several acts amendatory thereof," passed April 11, 1844.

Further consequence of neglect.

Charter p. 88 § 47.

§ 15. No person shall, with a cart, wagon, or other carriage, pass over any pavement which has not been completed, or is not well settled, under the penalty of ten dollars for each offence; but no person shall be liable to such penalty, unless there shall be placed at the end of such pavement, a fence or other obstruction, indicating that the same is in an unfinished and unsettled state.

Carriages &c. not to pass over incompletd pavements.

§ 16. Any person who shall injure or tear up any pavement, side or cross walk, drain or sewer, or any part thereof, or who shall dig any hole or drain in any street, or remove any earth or stone therefrom, without authority from a city superintendent or the common council, or who shall hinder or obstruct the making or repairing any pavement, side or cross walk, drain or sewer, which shall be constructing under any ordinance, by-law, or resolution of the common coun-

Penalty for injuring side walks, sewers, &c.

CHAP. 2. cil ; or who shall hinder or obstruct a city superintendent, or street inspector, or either of them, or any person employed by them, or either of them, in cleaning any street, or in constructing or repairing any street, or any public work or improvement directed by the common council, shall forfeit and pay a penalty of twenty-five dollars for each offence.

1b. § 17. No person shall cast or throw, or cause to be cast or thrown, into any of the drains or sewers within the city, any wood or stones, or cause any obstruction, nuisance, or injury in or to the same. Any person violating the provisions of this section, or either of them, shall forfeit and pay a penalty of ten dollars for each offence.

Obstructing cross walks. § 18. Any person who shall cause or suffer, or permit his horse or oxen, wagon or other carriage, to stand on any cross-walk within the city, or either of the bridges across the Genesee river, in said city, shall forfeit and pay a penalty of five dollars for each offence.

Owner of houses &c. to sweep streets once a week. § 19. Every owner or occupant of any house or building, and every owner of any vacant lot upon any street which is or shall be paved or macadamized, or partly paved and partly macadamized, (except lots on which buildings are erecting, or in front of which materials for building are laid,) shall between the hours of four and nine o'clock in the afternoon of Friday in each week, between the first days of April and November in each year, cause the street or alley in front of any such house, building or vacant lot, to the middle thereof, to be scraped and swept, and the dirt and manure to be collected into heaps convenient for carting away ; and where any such house or building, or lot, shall be situated on the corner formed by the intersection of an alley with any such street, the owner or occupant of any such house or building, or

the owner of any such vacant lot, shall in like man-
ner scrape and sweep the street in front of any such
alley, one-half the width of such alley, and to the
center of such street. Previous to the scraping and
sweeping of any such street, the owner or occupant,
whose duty it shall be to scrape and sweep the same,
shall cause the same to be well sprinkled with water,
to prevent the dust from rising. Any person who
shall violate the provisions of this section, or any part
thereof, shall forfeit and pay a penalty of three dol-
lars for each offence ; and in case any owner of any
vacant lot shall be a non-resident of the city, it shall
be the duty of the person having charge of such va-
cant lot, if he resides in the city, to cause the street
in front of such lot to be scraped and swept as afore-
said ; and in case such person shall neglect or refuse
so to do, he shall be liable to the same penalty herein
imposed upon the owner of any such lot, for the like
neglect or refusal.

§ 20. No person shall construct any drain or trunk
from his cellar or lot to any common sewer, without
permission in writing from a city superintendent; and
every such drain or trunk shall be constructed under
the direction of the committee on streets, or city su-
perintendent. Any person who shall construct any
drain or trunk contrary to the provisions of this sec-
tion, shall forfeit and pay a penalty of five dollars,
and the common council may also direct that such
drain or trunk shall be destroyed, filled up, or altered,
in their discretion, which shall be done at the expense
of the person who shall have constructed the same, to
be recovered of such person in the name of the city
of Rochester.

§ 21. No person shall expose for sale any fruit, ve-
getables, or confectionaries, upon any side-walk or in
any street of the city, without permission from the

CHAP. 2.



Penalty for
constructing
drains
to a com-
mon sewer.

Selling fruit
in the
streets.

CHAP. 2. common council, under the penalty of three dollars for each offence. This section shall not apply to any farmer or other person, not being a resident of the city, selling fruit or vegetables in the carriage-way of the street, nor to any person offering or selling nuts, fruit, or confectionaries from a basket or other vessel, carried by him or her, of a size that will not contain more than the half of one bushel, provided no street or side-walk shall be obstructed thereby.

Selling nuts
&c. in cer-
tain places.

§ 22. No person shall offer or expose for sale on Exchange-street bridge, or on any side-walk, or in the public streets at any place within three rods of said bridge, any fruit, nuts, candy, or any other articles of merchandise, under a penalty of five dollars for each offence. But this section shall not prohibit the sale of fruit or other articles from wagons, within the limits aforesaid, nor the offering or exposing for sale by store-keepers or grocers, or the keepers of fruit stores or shops, of the articles aforesaid in front of their stores or shops.

Auctions not
to be held
on side
walks &c.

§ 23. No auctioneer shall, by himself or agent, sell or expose for sale at auction any goods, wares, or merchandise upon any side-walk, or in any street, alley, highway, or public place in the city, under the penalty of ten dollars for each offence, to be sued for and recovered of the seller or auctioneer, or his agent, severally and respectively; but this section shall not extend to the sale of household furniture in the carriage-way of any street.

Nor to per-
sons in the
streets.

§ 24. No auctioneer, or his agent or servant, or other person, shall sell or expose for sale at public auction any goods, wares, merchandise, or other things, except household furniture, and horses and carriages, and cattle of any kind, to any person or persons who at the time of bidding for the same, or whilst examining the same, shall be on the side-walk

or carriage-way of any of the streets of the city, under the penalty of ten dollars for every offence, to be recovered of the auctioneer or the person who shall sell such goods, wares, and merchandise, severally and respectively. CHAP. 2.

§ 25. The city is hereby divided into two highway districts ; one of which shall be composed of all that portion of the city lying east of the west bank of the Genesee river ; excepting so much as lies south of the dam near the jail, from which the west highway section shall extend south to the city line on the east side of the river ; and the other shall be composed of the residue of the said city : and there shall be one superintendent appointed for each of the said districts, who shall respectively perform such duties as shall be assigned to them by the common council. High way
Districts.

§ 26. It shall be the duty of the superintendents to repair, or cause to be repaired, all streets, alleys, roads, and public squares within their respective districts. It shall be also their duty to report to the city attorney every infraction of any ordinance of the common council relating to streets or nuisances which shall come to their knowledge. They shall also report to the common council, every month, a true account, on oath, of the amounts of labor bestowed by them, or the persons employed by them, in repairing the streets, alleys, roads, and public squares of the city, together with the names of the persons employed by them respectively, and also an account of the money expended in the repair of such streets, alleys, roads, or public squares, and the manner in which the same has been expended, and to whom paid. Duty of su-
perintend-
ents of
High ways.

§ 27. No city superintendent of any highway district in the city of Rochester shall be directly or indirectly personally interested in any team or teams employed in the work of the said city, nor in the wa- Restrictions
on them.

CHAP. 2. ges earned by such team or teams, or by any laborer
or laborers so employed, or in contracting for any materials furnished.

Manure &c.
not to be
thrown in
the street.

§ 28. No person shall throw or deposit any manure in any street, lane or alley, in the city, under a penalty of not less than three, nor more than ten dollars for each offence.

Certain re-
movals pro-
hibited.

§ 29. No person shall remove, displace or destroy timbers or stones laid by either of the city superintendents, or by their direction, on any macadamized street in the city for the purpose of turning or directing the travel on any particular part of such street. Any person violating the provisions of this section, shall forfeit and pay the sum of five dollars.

Embank-
ments on
public im-
provements
to be walled.

§ 30. Whenever any improvement shall be made in the city of Rochester, by which any embankment or filling up shall be made in any street or alley of the depth of one and a half feet, and over that, then, and in that case, all owners and occupants of lots or houses on each side of each street or alley, opposite and adjoining to such embankment or filling up, shall cause a sufficient stone wall to be erected on the line of said lots, of the length of the side walks adjacent thereto, or shall cause their said lots to be filled up with earth, stone or sand, to the level of said side walks, and such filling up shall extend back on the upper surface thereof at least one and a half feet from the line of said lots with a suitable slope ; such filling up shall be made, or such stone wall shall be erected under the direction of the city superintendent.

Consequen-
ces of neg-
lect.

§ 31. In case the owner or occupant of such lot or house shall refuse or neglect to comply with the requirement of the last section, within twenty days after being thereunto required by a city superintendent, it shall be the duty of said superintendent to cause this regulation to be enforced under the provisions of

section forty-seven, of title seven of the "act to con-
solidate and amend the act to incorporate the city of
Rochester, passed April 28, 1834, and the several
acts amendatory thereof," passed April, 11, 1844.

CHAP. 2.

Charter
p. 88 § 47.

§ 32. If the owner of any building which now is or
may hereafter be erected within the city of Roches-
ter, and which shall extend into, or in any manner
encroach upon or obstruct, any highway, street, alley,
or public square, shall not remove the same from off
the said highway, street, alley or public square, with-
in forty days after being required so to do by a writ-
ten notice from a city superintendent, which notice
shall specify the location and extent of the said en-
croachment ; said owner shall be subject to a penalty
of five dollars for every day thereafter, until said build-
ing shall be removed from off such highway, street,
alley, or public square.

Buildings
encroaching
on streets to
be removed.

Penalty.

§ 33. In case of the recovery of any penalty for
the violation of the last foregoing section, if the per-
son against whom such recovery shall have been had,
shall not within twenty days thereafter, remove the
said building from off the said highway, street, alley,
or public square so encroached upon, the said city su-
perintendent is hereby authorized to remove the same,
under the direction of the common council, at the ex-
pense of the said owner, who shall be liable to pay the
same with interest, at the rate of ten per cent. per
annum, as provided by section forty-seven of title
seven, of the "act to consolidate and amend the act
to incorporate the city of Rochester, passed April 28,
1834, and the several acts amendatory thereof," pass-
ed April 11th, 1844.

Further con-
sequences of
neglect.

Charter, p. 88
§ 47.

[An Ordinance respecting Pavements ; passed July
23, 1844.

The common council of the city of Rochester do
ordain as follows :

CHAP. 2. § 1. It shall be the duty of the owner or occupant of every house or lot within the city, to keep the pavement or side-walk in front of such house or lot free from grass, weeds, and rubbish, and to keep such pavement or side-walk in repair, and also to repair all lateral sewers, and whenever such side-walk or lateral sewer shall have remained at any time incumbered with rubbish, or any part thereof overgrown with grass or weeds, or out of repair for the space of three days, it shall be the duty of the city superintendent of the district in which such pavement or sidewalk may be, to remove such rubbish, grass, or weeds, or to repair such pavement, side-walk, or lateral sewer, at the expense of the city; and the amount of such expenses, with damages at the rate of ten per cent., with costs of suit, shall be recovered in the corporate name of the city, from the owner or occupant of such house or lot.]


Pavements to be kept in repair.

Consequences of neglect.

Side walks how to be repaired &c.

§ 34. Whenever the side-walk in front of any vacant or occupied lot shall be out of repair, it shall be the duty of the city superintendent to notify the owner or occupant of said lot to repair the same; and in case of his neglect or refusal to make such repairs within six days after such notice, it shall be the duty of the city superintendent to make the same, and report the expense thereof to the city attorney, for collection. In case such lot be unoccupied, such notice may be served by posting it in some conspicuous place on the premises. All platforms shall be constructed on a level with the side-walks, and at the same inclination, except where a superintendent shall otherwise direct; and every cellar constructed or used for storing, shall have good and substantial cellar doors or gratings, even with the platform; and those used or constructed for dwellings, stores, or shops, that require open steps, shall be properly and securely

Platforms how constructed.

railed in, so as to insure the safety of passengers at all times. None of the above-mentioned erections or constructions shall be made without the written consent and directions of the mayor or a superintendent, specifying the location, form, dimensions, and materials of such erection or construction. Any person violating any provision or requirement of this section, shall forfeit and pay a fine of five dollars for each offence, and one dollar for each day that the owner or occupant of the premises on which any such construction or erection may be made, or the construction thereof, shall neglect or refuse to comply with the said provisions or requirements, after notice from the said superintendent.

CHAP. 2.



§ 35. No person shall play at any game of ball, or any sport with a ball, by throwing, bounding, catching, or knocking the same, in any street or alley, or upon any side-walk within the lamp and watch district, or upon any improved squares, or upon or within the square upon which the Court House stands, under the penalty of two dollars for each offense.

Certain games of sport prohibited within lamp district.

§ 36. No person shall cart, carry, or transport sand, dirt, or any other loose material, across or over any paved, macadamized, or graveled street within the city of Rochester, in any cart, wagon, or other vehicle, in such a manner that any portion of such sand, dirt, rubbish, or other loose material, shall be scattered or thrown therefrom upon any such street, under the penalty of five dollars for every such offense.

Carting gravel &c.

§ 37. No person shall remove, or do any damage or injury to any ornamental shade trees, planted or growing in any street in the city of Rochester, nor shall any person tie or fasten any horse, mare, or gelding, or other animal, to or near to, or permit his horse, mare, gelding, or other animal, to be tied or fastened to, or near to, any such tree or

Injuring shade trees.

CHAP. 2. trees. Any person offending against the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence.

Uncovering
reservoirs.

§ 38. No person shall remove the covering from any reservoir within the city, except for the purpose of procuring water therefrom for necessary use, nor shall any person, having opened the same, suffer any reservoir to remain uncovered in any case, under a penalty of twenty-five dollars for each offence.

Numbering
buildings.

§ 39. Every owner and occupant of any building or tenement situated in that part of Buffalo-street between Front-street and State-street, shall cause the same to be numbered in such manner and according to such specifications as the superintendent for the western highway district shall direct ; and if at any time the number of any building or tenement within the limits aforesaid shall be removed or effaced, the owner or occupant of such building or tenement shall within ten days thereafter cause the same to be re-numbered in the same manner as the same was before numbered, under the provision of this section.

Penalty for
neglect.

§ 40. If any owner or occupant of any building or tenement within the limits aforesaid shall omit, for the space of ten days after he shall have been required so to do by the superintendent for the western highway district, to cause the building or tenement owned or occupied by him to be numbered or re-numbered, as in the last section provided, every such owner and occupant shall forfeit and pay a penalty of one dollar for every day thereafter until the said building or tenement shall be numbered or renumbered as aforesaid.

Duty of City
Sup't.

§ 41. It shall be the duty of the superintendent for the western highway district to give the directions and furnish the specifications mentioned in the last two preceding sections.

§ 42. No owner, tenant, or occupant of any house or lot shall construct, cause to be constructed, continue, or suffer to remain, any gate, so as that the said gate shall extend or swing outwards from his said house or lot over or upon any side-walk in such a manner as to obstruct the free use or passage thereof. Every person offending against this section shall forfeit and pay a penalty of five dollars.

CHAP. 3.


Gates how
constructed.

§ 43. Every owner or occupant of any house or other building, and every owner or person having the care or charge of any vacant lot, shall keep the sidewalks in front of such house or building, or vacant lot, in repair. Any person neglecting or refusing to comply with the provision of this ordinance, shall forfeit and pay a penalty of ten dollars for every week the said owners or occupants, or persons taking the care or charge of said lot, shall neglect to put the same in repair after being required thereto by the city superintendent.

Sidewalks to
be kept in
repair.
Charter
p. 88 § 47.

§ 44. Every execution for any penalty or forfeiture recovered for the violation of any of the provisions of this ordinance, shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of thirty days.

Execution
for penalty.
Charter
p. 112. § 38.

CHAPTER III.

AN ORDINANCE IN RELATION TO NUISANCES.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

§ 1. Any person who shall make, aid, countenance or assist in any noise, disturbance, or improper diversion in the streets, public squares, lanes, or alleys of

Public disturbances.
Charter
p. 34 § 10
sub. 1.

CHAP. 3. this city, or who shall collect in any great bodies or crowds in any such streets and alleys, or on any public squares or bridges, to the annoyance or disturbance of the citizens or travelers, shall severally forfeit for each such offence a penalty of ten dollars. It is hereby enjoined upon the marshal and constables to enforce the provisions of this section.

Penalty.

Immoderate driving.
Charter
p. 34 § 10
sub. 1.

§ 2. Any person who shall drive, or ride, or cause, or permit, or suffer to be rode or driven, any horse, mare, or gelding in or through any public street, lane, or alley, within the lamp and watch district of this city, at an immoderate trot or any greater speed, shall forfeit and pay a penalty of ten dollars.

Driving on bridges.
Charter
p. 34 § 10.
sub. 1.

§ 3. No person or persons shall ride, drive, or lead any animal or animals, or any carriage or carriages, or article of any kind, upon or over the bridge in Court-street, over the Genesee river, faster than a walk. Any person or persons violating this section shall forfeit and pay the sum of two dollars for each violation of this section.

Leaving horses &c. unloosed in the streets.

§ 4. Any person who shall leave any such horse, mare, or gelding, standing in any public street or alley within said city, without being well secured, tied, or fastened, to prevent its running away, shall forfeit and pay a penalty of five dollars for each offense.

Throwing rubbish in the streets.

§ 5. Any person who shall throw the contents of any straw bed, or any lime, ashes, or refuse of coal, or any scraps, dirt, or rubbish into any street, lane, or alley in the said city, shall forfeit and pay a penalty of two dollars for each offense.

Throwing nuisances in the streets, canals &c.
Charter
p. 34 § 10.
sub. 1.

§ 6. Any person who shall deposit, or cause to be deposited, any dead animal, fish, or putrid meat, entrails, shells of oysters or clams, decayed vegetables, or any other offensive substance, in or upon any public street, lane, or alley, or above the surface of the ground on any lot, or in any canal or any basin at-

tached thereto, or on any bank thereof, or shall deposit any dead animal or putrid carcase, or any other substance which is now or may hereafter be prohibited from being deposited in any of the streets, lanes, or alleys, or upon any of the banks of any canal or river in the said city, in the Genesee river, or any mill-race, or who shall suffer or permit any stagnant or filthy water, or putrid or unwholesome meats, decayed vegetables, or other offensive substance, to remain on his or her lot, or in his or her house, or other building or cellar, or in or upon any boat in the Genesee Valley canal, the Erie canal, or Genesee river, within the limits of this city, he or she shall forfeit and pay a penalty of ten dollars for each offence, and shall also pay to the city of Rochester the expense and charge which the said corporation shall be put to in removing or abating any such nuisance. And the mayor, or any alderman or police justice, with any person in aid of him, may at any time in the daytime enter into or upon any house, cellar, boat, or other place, and remove or abate such nuisance in such manner as he should judge best. And any person obstructing or hindering such mayor, alderman, or police justice, or any person in aid of him, in the execution of his duty, shall forfeit and pay a penalty of twenty-five dollars.

CHAP. 3.



Penalty.

§ 7. If any person shall fly any kite within the lamp and watch district of the said city, such person shall forfeit and pay a penalty of two dollars.

Flying kites.

§ 8. No person shall fire or set off any gunpowder, cracker, squib, or rocket, or fire-work, or fire any pistol gun or cannon, or throw any fire-ball, or make any bonfire, or aid or abet therein, in that part of the city embraced within the lamp and watch district, except on the fourth of July, nor on that day, without the written consent of the mayor, recorder, or

Firing powder &c.

CHAP. 3. § 18. No runner, or stage driver, or other person shall solicit passengers, travelers, or other persons, in any of the public streets, rail-road depot, or public place, or any rail-road, or on any wharf, or on board of any boat or stage or rail-road car, within said city, to travel in any stage, or on any rail-road, or boat, or directly or indirectly to go to any public inn or tavern. Any person violating the provisions of this section, or either of them, shall forfeit and pay a penalty of five dollars for each offence.

Soliciting by runners prohibited. Charter p. 35 § 10. sub. 4.

Swine &c. not to run at large. § 19. No owner nor possessor of any swine, goats, horses, sheep, or cattle, except as hereinafter provided, shall suffer any such animals to run or be at large in any of the public streets, lanes or alleys within said city, under the penalty of two dollars for each offence.

Duty of Pound Master. § 20. It shall be the duty of the pound master whenever he shall know or be informed that any such animals are running at large as aforesaid, to cause such swine, goats, horses, sheep or cattle, except as hereinafter provided, to be removed to some safe and secure place; and notice to be given in one or more of the public newspapers of the city, for the space of five days, requiring the owners of such swine or other animals to pay the penalty aforesaid, and the costs and expenses of securing said swine or other animals, within the period aforesaid; or that, in default thereof, such swine or other animals, will be sold at public auction at a time and place therein to be appointed, for the purpose of paying such penalty and expenses.

Impounded animals to be sold. § 21. It shall be the duty of the pound master on the day and at the place appointed in such notice, to sell the said swine or other animals, at public auction, and to pay the avails of such sale, after deducting the expenses of securing such swine or other animals,

and of the said sale, and the penalties incurred, to the owner of said swine or other animals, when ascertained, if claimed within thirty days; and in case the claim is not made in such time, then said pound-master to pay the same into the city treasury. CHAP. 3.

§ 22. No person shall open or cause to be opened the gates of any of the squares, parks, places, or other public enclosures; neither shall any person be permitted to enter the same for exercise without the written consent of the city superintendent. This section shall not apply to any public street which may be enclosed. Every person offending against any of the provisions of this section, shall forfeit and pay a penalty of ten dollars. Park &c. not to be opened.

§ 23. No owner or possessor of any goose or geese, or ducks or other fowls, shall suffer any such goose or geese, or ducks or other fowls, to run at large or be in any of the public streets, lanes, alleys, or squares, within said city, under a penalty of twenty-five cents for each fowl so running or being at large. Geese &c. not to run at large.

§ 24. No tub or other receptacle shall be removed from any privy within the city, except between the hours of eleven at night and three in the morning, from the first day of May to the first day of October, under the penalty of twenty-five dollars for each offence; nor shall any person, under the like penalty, empty, cart, or lay the contents of any such tub or other receptacle out of any privy into the Genesee river, within the limits of this city, or into any street, or alley, or canal, or public square. Contents of privies when removed.

§ 25. No owner or possessor of any horse, mare, gelding, colt, ox, steer, stag, bull, calf, heifer, sheep, lamb, goat, or other cattle, shall suffer the same to run or be at large in any of the public streets, lanes, or alleys within said city, under the penalty of five Horses and certain other animals not to run at large.

CHAP. 3. dollars for each offence. But this section shall not apply to any cow running or being at large, between sunrise and seven o'clock in the evening of the same day.

Exception.
Selling powder, squibs &c.

§ 26. No person shall sell any India or China fire-crackers, powder, squibs, gunpowder, crackers, or rockets; nor shall any person let off or fire any squibs, rockets, or fire-crackers, nor throw or cast about any fire-balls or other ignited or combustible thing, within said city. Every person offending against the provisions of this section, shall forfeit twenty-five dollars for each offence.

Charter
p. 35 § 10.
sub. 3.

Ib.
Charter
p. 37 § 15.

§ 27. No person shall keep for sale any India or China fire-crackers, rockets, squibs, gunpowder crackers, or expose the same for sale in said city; and in case any are found within the limits of said city, the mayor of said city, or any alderman or city superintendent, are hereby authorized to enter upon the premises or place where the same are found, and to seize and destroy the same.

Theaters,
puppet
shows &c.
Charter
p. 37 § 15.

§ 28. No person shall exhibit or perform, for gain or profit, any theatrical or circus representations or exhibitions, or any painting, animal, or animals, or other natural or artificial curiosity, or any puppet-show, wire or rope-dance, or any other idle show, acts or feats which common showmen, mountebanks, or jugglers usually practice or perform, without having obtained a license for the same from the common council of said city; and no owner or occupant of any house, outhouse, yard, or other place, shall furnish or allow the same to be used for the accommodation of such exhibition or performance, unless such license be obtained as aforesaid. Every person offending against either of these provisions, shall forfeit and pay fifty dollars for each offence.

§ 29. If any person who shall possess or have in

his custody or control any alley commonly called a nine-pin alley, or ten-pin alley, any billiard table, shuffle-board, E. O. table, pharo bank, or any other instrument or device for gaming, shall knowingly or willingly suffer or permit any game to be played therein, thereon, or therewith, for which any money or property shall be paid or agreed to be paid to such person, or on the event of which any money or property shall be lost or won, or agreed to be lost or won, he shall forfeit and pay to the city of Rochester a penalty of fifty dollars for each offence, one-half thereof to be given to the complainant or informer, providing that before the issuing of process he shall have given security for the costs of suit to the satisfaction of the magistrate to whom application for process shall be made ; and in case of any conviction under this section, or the imposition of any penalty herein provided, if such penalty shall not be forthwith paid, an execution shall issue directing that in case such execution is not satisfied, such person or persons be committed to the county jail for the period of thirty days.

CHAP. 3.

Gaming materials &c.
Charter
p. 34 § 10.
sub. 1.

Charter,
p. 112, § 38.

Executions
for penalty.
Charter
p. 112, § 38.

§ 30. Every execution for any penalty or forfeiture recovered for the violation of any of the provisions of this ordinance shall command the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of thirty days.

CHAPTER IV.

AN ORDINANCE IN RELATION TO MAR-
KETS.

Passed June 11, 1844.

ARTICLE I.—*Of the Sale of Fresh Meat.*

ARTICLE II.—*Of the Sale of Wood.*

ARTICLE III.—*Of the Sale of Hay.*

ARTICLE IV.—*Of Weights and Measures.*

ARTICLE V.—*Of the Sale of Sand and Gravel.*

ARTICLE I.

Of the Sale of Fresh Meat.

The common council of the city of Rochester do
ordain as follows :

Fresh meat,
where and
by whom
sold.

§ 1. No person other than lessees of stalls in the
Center Market shall sell any fresh meat within the
city, (venison, wild game, poultry excepted; and also
excepting offals of hogs, consisting of fat, ears,
snouts, and spare-ribs, sold by persons being packers
of pork.) Any person offending against the provis-
ions of this section shall forfeit and pay a penalty of
ten dollars for each offence. This section, however,
shall not operate to prohibit the sale of fresh meat by
any person by the quarter or greater quantity, at the
place or places hereafter designated, which shall have
been raised or fattened on his own farm, provided
such person shall not be engaged in carrying on the
butchering business, or in vending fresh meats as a
branch of business.


§ 2. No butcher, or other person, except as herein-
after provided, shall by himself, his agent, or servant,
sell or expose for sale in the city any lamb, mutton,
veal, beef, pork in quarters, or other meats, (ven-

ison, pork in the hog, wild game, poultry, dried, (CHAP. 4.
smoked, and other cured meats, excepted,) at any
other place than at the market-house, or at such
other place as the clerk of the market, under the
direction of the common council, shall designate ;
and any person who shall violate the prohibitions
in this section, shall forfeit and pay a penalty of
ten dollars for each offence. But it shall be law-
ful for any person who shall not be engaged in carry-
ing on the butchering business and vending fresh meat
as a branch of business, to sell fresh meat by the
quarter, or any greater quantity, at any place in the
city, provided that such person shall not, in offering
such fresh meat for sale, stand with his team or car-
riage in which such meat shall be contained, at any
one place in any of the streets of said city for a long-
er period than thirty minutes.

*[An Ordinance in relation to Sale of Fresh Meats,
passed July 9, 1844.]*

The common council of the city of Rochester do or-
dain and determine as follows :

- § 1. Four licenses may be granted by the mayor for the sale of fresh meats at the following places in the city, viz.: at some convenient place on Main-street, east of North-street ; on Buffalo-street, near the Erie canal bridge ; on Sophia-street, south of Adams-street ; on State-street, north of Brown-street. Four Mar-
ket licences
to be grant-
ed.
- § 2. The market committee shall offer the said licenses at public auction, and the same shall be given to the person or persons who will pay the highest sum therefor ; but no license shall be granted as aforesaid for a less sum than seventy-five dollars. To be sold
at auction.
- § 3. The market committee shall give to the person or persons who, under the preceding section, shall How taken
out.

CHAP. 4.  be entitled to such license, a certificate stating the fact and the sum to be paid for said license, and on filing such certificate, and on paying into the treasury the sum specified therein, the person or persons receiving such certificate shall be entitled to a license to sell fresh meat as herein prescribed. The license shall specify the particular place at which fresh meat may be sold under the authority of said license.

Duration of license. § 4. Every license granted under this ordinance shall expire on the first day of July next after the license shall be granted.

Persons licensed, to be subject to ordinances. § 5. The persons who shall receive licenses under this ordinance shall be subject to all the ordinances of the city, in relation to the sale of fresh meats, so far as the same can be made applicable to them.

No other licenses to be granted. § 6. No other license to sell fresh meats within the city shall be granted by the common council, except such as are herein granted, and to the lessees of Center Market, and the licenses which shall be granted under this ordinance, and to the lessees of Center Market, shall be deemed to have been taken, and accepted on this condition.

Money to be paid into market fund. § 7. The sums received for licenses herein authorized to be granted, shall be credited to and become a part of the market fund.]

Center market. § 3. The market-house erected in the city of Rochester, on Front-stret, shall be called "Center Market," and the butchers and victuallers thereof shall be subject to the following regulations :

Regulations. § 4. No meat shall be exposed or offered for sale in or at any market-house after one o'clock in the afternoon of any day, except Saturday, under the penalty of ten dollars for each offence.

b. § 5. Every tenant of a stall in any market, and every person licensed to sell fresh meat as aforesaid,

shall furnish his stall every day (except Sunday) with a plentiful supply of good and wholesome meat; and in case any person shall neglect so to do, he shall forfeit and pay a penalty of ten dollars for the first offence, and for every subsequent offence twenty-five dollars. CHAP. 4.

§ 6. No butcher shall cut or expose in market any meat but at his own stall or standing, under the penalty of three dollars for the first offence, and for every subsequent offence five dollars. lb.

§ 7. If any person shall expose for sale in the market house or elsewhere in said city, any unwholesome, stale, emaciated, blown, stuffed, tainted, putrid or measly meat, poultry, or other provisions, such person shall forfeit the penalty of twenty-five dollars for each offence, and the meat, poultry and other provisions so exposed for sale shall, without delay, upon view of the mayor or clerk of the market, be seized and destroyed. Stale meats,
&c.

§ 8. All meats sold at the market, except lambs, pigs, shanks, heads and plucks, shall be previously weighed in a scale by weights previously sealed by the city sealer, and, in case any fraud shall be committed in the weight of any meat, or in case any meat, except as aforesaid, shall be sold, not being weighed as aforesaid, the person selling the same shall forfeit the sum of three dollars for each offence. Meats sold to
be weighed.

§ 9. Every butcher shall keep the inside of his locker, and the table of his stall or standing and the place where his meats may lie, clean and free from filth and dirt, and shall also keep clean the floor of his stall and the hall opposite thereto, upon pain of forfeiting three dollars for each offence. And cellars
and market
hall.

§ 10. Every butcher, victualler, or grocer, shall keep his cellar, and that portion of the hall opposite thereto, and the bins which are or may hereafter be Stalls to be
kept clean,

CHAP. 4. provided for the reception and keeping of small live stock in the market in a neat and sweet state, under a penalty of five dollars; and the clerk of the market shall have access at all times to said cellar, or to any of them, under the penalty of three dollars to be paid by any butcher, victualler, grocer, or other person who shall refuse such access.

Other provisions.

§ 11. No butcher or other person shall wantonly or wilfully cast or throw any meat, bones, pluck, garbage, or other thing in either of the markets in said city, or make or assist in making any noise, disturbance or improper diversion in either of the markets in said city. Any person violating this section shall forfeit and pay a penalty of five dollars.

Animals exposed for sale.

§ 12. No butcher or other person shall expose upon any sidewalk or in any street, road or alley, or in front of any market in the city of Rochester, any lamb, sheep, calf, or other animal, without its limbs being tied or fastened together so as to prevent its standing erect, for a longer space of time than ten minutes, under a penalty of five dollars for each offence.

Vegetable stalls not to be underlet.

§ 13. No person who shall lease any vegetable stall or stand in or adjoining the market house, at the time of the leasing thereof by the clerk of the market, shall sell the same to any person without the permission of the clerk of the market, nor without such permission suffer or permit any other person to use, occupy or enjoy such vegetable stall or stand, for any purpose whatever, and any person who shall violate the prohibitions, or either of them contained in this section, shall for each offence forfeit and pay a penalty of three dollars; and this section shall be deemed to be a part of the contract in the leasing any such vegetable stall or stand as aforesaid.

§ 14. No wagon, cart, or basket shall be permitted to remain in any part of Front or Market streets, or

River alley, or in any place contiguous or adjoining the market, for any longer period than twenty minutes, under the penalty of three dollars for each offence; but, nothing herein contained shall prohibit any person not having a stall resorting to the market house with garden vegetables for sale, from placing or keeping his wagon or cart on the westerly side of the center of Front street, and on the northerly side of the centre of Market street; each one standing with the horse's head in such direction as shall be required by the clerk of the market.

CHAP. 4.

Wagons not
to stand in
certain
streets.

§ 15. It shall not be lawful for any person to build, make or use, or cause or permit to be built, made or used, any private slaughter-house, or private stall, within said city, unless by the consent of the common council, first had and obtained; and any such person offending herein shall forfeit and pay twenty-five dollars, and the like sum for every month in which the same shall be used; but this section shall not extend to any person using his own stable or out-house for the purpose of slaughtering for the use of his own family.

Private stalls

§ 16. If any person shall break, cut down, or take away, or wantonly injure any stall, standing, or other part of any market, he shall forfeit for each offence a penalty of twenty-five dollars; besides being liable to an action to recover the damage done.

Injuring
stalls, &c.

§ 17. There shall be appointed annually by the common council a suitable person as clerk of the market, who shall, before entering upon the duties of his office, execute a bond, with one good and sufficient surety, in the penal sum of one thousand dollars, to be approved by the mayor, and to be signified by his endorsement thereon, and payable to the city of Rochester; conditioned for the faithful performance of his duties.

Clerk of the
market

CHAP. 4.

To ring bell
on closing
Market.

§ 18. He shall be provided with a market bell, and cause the same to be rung five minutes previously to the closing of said market, and every butcher or other person attending such market with articles for sale, who shall remain within the limits of the same for fifteen minutes after the bell shall have been rung as aforesaid, for the purpose of selling or exposing for sale, any article or thing, shall forfeit and pay five dollars for each offence.

His general
duty.

§ 19. The clerk of the market shall have the general charge and superintendence of the market house and appurtenances, and it shall be his duty to collect, receive, and pay over to the treasurer all moneys payable by law for the use or rent of the vegetable or fish stalls in or adjoining the market, and to keep an account of the same, which shall be kept open to the inspection of any member of the common council, and to report the first Tuesday in each month to the common council, the amount of money received and paid by him to the treasurer during such time; and also regularly to attend at the market to the performance of his duties every morning from at least one hour before sunrise till the time of closing the market in the afternoon, except on Saturdays, when he shall attend from one hour before sunrise till twelve o'clock at noon, and from two o'clock till the time of closing the same in the afternoon. He shall also have power to keep the market house and the grounds adjoining clean and in good repair, and to keep the streets adjacent to it clean and free from all obstructions, and to give the necessary directions to the butchers for that purpose. It shall also be the duty of the clerk of the market to report to the common council from time to time any violation of the regulations and ordinances relating to the market, and the selling of meat and vegetables.

§ 20. Any person who shall, by himself, servant, or agent, be guilty of forestalling any meat, poultry, fruit, or eggs, butter, cheese, lard or vegetables in the city before the hours of ten in the forenoon, shall for each offence forfeit and pay a penalty of five dollars.

CHAP. 4.
Forestalling provisions.

§ 21. It shall be the duty of the clerk to give directions respecting the arrangement or removal of any article, vehicle, cart, wagon, box, basket, or other thing in the center market, square or street adjoining the same; and the person who shall neglect or refuse to obey such direction shall forfeit and pay for each offence the sum of three dollars.

Clerk to direct certain removals.

§ 22. Six copies of this ordinance shall as often as requisite be fastened up in conspicuous places in and about the center market, and any person who shall deface, destroy, or take down any of the said copies, shall forfeit and pay a penalty of three dollars.

Ordinances to be posted

§ 23. The market committee are hereby authorized and empowered to lease from time to time, on such terms as they shall think proper, for the sale of fish and vegetables, such portions of the market as are not already leased, and the vacant ground adjacent, and to give directions to the clerk from time to time as to the collection of said rents.

Fish stalls, &c.


ARTICLE II.

Of the Sale of Wood.

§ 1. There shall be annually appointed as many measurers of wood as the common council shall deem necessary, to hold their offices for one year, unless sooner removed by the common council, to measure such wood as shall be brought to the city; and the persons so appointed, shall, before they enter upon the duties of their office, take an oath or affirmation

Measurers of Wood.

CHAP. 4. before some person authorized to take affidavits, well
and faithfully to execute the duties of their office.

 Fire wood to be measured § 2. No fire wood shall be sold in this city by the load or in quantities less than five cords, without having been measured. Any person violating the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence.

and sold by the cord. § 3. No person shall sell or offer for sale any fire wood in this city otherwise than at a specified price by the cord or by the cubic foot, and at and after the rate of such price, for a greater or less quantity than a cord, under a penalty of five dollars for each offence. If any person shall sell a load of fire wood in this city as and for a quantity greater than the contents of such load, such person shall forfeit and pay treble the price which the purchaser thereof shall have paid or agreed to pay for such load.

Penalty, § 4. Whenever any measurer of wood shall measure any wood, he shall give to the owner thereof a note in writing, subscribed by him, stating the quantity of wood contained in the parcel measured, estimating one hundred and twenty-eight solid feet to the cord, and the name of the owner of such wood, and shall also mark the quantity of wood as certified, in large and plain letters and figures upon the parcel measured, with black or red paint, so that the same shall be conspicuous and easily read, under a penalty of two dollars for each offence; and whenever the owner of such wood shall sell the same, he shall leave the certificate in writing with the purchasers, under a penalty of two dollars for each offence. Any person who shall sell wood in this city by the load, or in quantities less than five cords, without having the same marked according to the provisions of this section, shall forfeit and pay the same penalty as is provided by the preceding section for selling wood without having been measured.

Duty of measurer of wood.

§ 5. The several measurers of wood shall be entitled to charge, as fees for measuring each wagon, sled, or cart load of wood, six cents; for measuring a parcel of wood consisting of more than one cord, three cents per cord, which shall be paid by the seller, or person applying to have such wood measured, before the measurer shall be required to measure the same; and the seller shall be entitled to demand and receive from the buyer of such wood one half of the sum which he shall so pay for such fees.

CHAP. 4.

His fees.

§ 6. The mayor and the committee on streets shall from time to time designate and alter the stands for the sale of wood, and regulate the same and the teams standing thereon, as the public convenience may require, by a notice to be published by them in at least one of the daily newspapers printed in this city for at least three successive days.

Stands for
the sale of
wood.

§ 7. No person shall expose wood for sale in sleds or wagons at any place other than the stands so designated.

Regulation
of them.

§ 8. Every person driving on any of the stands so designated shall take his place directly in the rear of any team or teams already on such stand. Whenever any team shall depart from and leave such stand, those in the rear thereof shall move up to those in front; and in no case shall any team stand abreast of or along side of any other team or teams; nor shall the drivers congregate together on the side walks, to the annoyance of passengers or the occupants of houses and shops contiguous thereto.

§ 9. Every person violating the provisions of the last two sections shall forfeit two dollars for each offence.

Penalty.



Of Hay.

Hay to be
sold by
weight.

§ 1. No person shall sell or deliver except upon the farm where raised, any hay in the city by the cart, wagon or sled load, or in any other manner than by weight, under the penalty of five dollars for each offence.

Oath of
weigh
master.

§ 2. Every person who shall be appointed weigh-master for the weighing of hay within the city, shall, before he enters upon the duties of that office, take an oath well and faithfully to execute the duties of that office, according to the best of his skill and ability.

His duties.

§ 3. It shall be the duty of every person who shall be appointed weigh-master to attend to such machines or scales as the common council shall provide for him, and weigh any hay that shall be brought to him for that purpose from time to time, whenever and immediately after he shall be required by any person who shall apply to him to have the same weighed; providing such attendance be not required in the morning before sunrise, or in the evening after sunset.

Th.

§ 4. Such weigh-master, whenever he shall weigh any hay, as aforesaid, shall at the same time weigh the wagon, cart, or sled on which the same shall be brought, and make out and give to the owner a weigh-note, subscribed by such weigh-master, specifying the gross weight of such hay and the wagon, cart, or sled on which the same shall be brought, and also the day and year the same is issued, and the name of the owner of such hay.

When to re-
weigh wag-
on, cart, &c.

§ 5. Every weigh-master who shall weigh any load of hay, and the wagon, cart, or sled on which the same is brought as aforesaid, shall, after such hay has been unloaded, and without demanding or receiving

any additional compensation, upon the request of either the seller or purchaser of such load of hay, if made during the same day that such load was weighed, re-weigh the same wagon, cart, or sled, and ascertain the true nett weight of the hay, and then insert it in the weigh-note given by him, and under the statement of the gross weight of such wagon, cart, or sled, and deduct the same from the first weight; and he shall also designate, in each note, which of the figures refer to the weight of the hay, and which to the weight of the wagon, cart, or sled. CHAP. 4.

§ 6. If any owner or seller of hay, after the same has been unloaded, shall refuse to have the wagon, cart, or sled, on which the same shall be brought, weighed as aforesaid, when so required by the purchaser of such hay, provided such requirement shall be made the same day, he shall forfeit and pay a penalty of five dollars. Penalty if owner refuse,

§ 7. If any person shall sell, or offer for sale, or shall request to be weighed, any hay in which any improper substances may be placed, or any improper device shall be used to increase the weight thereof, the person so offending shall forfeit and pay a penalty of five dollars. or attempt a fraud.

§ 8. No seller of hay shall have his hay weighed by the weigh-master, until after he shall have made sale of such hay, under the penalty of five dollars. Hay not to be weighed until sold.

§ 9. It shall be the duty of the weigh-masters, in every case when hay which is wet, or improperly cured, or not sufficiently dry, or which, from any other cause, may be heavier than good merchantable hay, shall be brought to them to be weighed, to endorse the same on the weigh-note accompanying such hay, together with the number of pounds which in their opinion should be deducted by reason aforesaid. Wet hay how weighed.

§ 10. The weigh-masters shall make due entries in

CHAP. 4. a book or books to be kept by them for that purpose, of all hay that shall be weighed by them, specifying the weight of such hay, the day of weighing, and the names of the owner or purchaser; which book shall be open for the inspection of any person, at all reasonable times, when required; and they shall every month pay into the city treasury the amount received by them as weigh-masters, and make returns, under oath, to the common council, of the whole of such amount received, of the number of loads of hay weighed by them, and the weight of each load; accompanying said returns with the treasurer's receipt for the said amount received and paid over.

Account of
hay weigh'd
how kept.

Salary of
weigh mas-
ter.

§ 11. The weigh-masters shall severally receive for their services an annual salary, to be fixed by the common council.

Fees of
weighing.

§ 12. The weigh-masters shall demand and receive for every load of hay weighed by them respectively, twenty-five cents, which they may require to be paid before weighing, and the seller shall be entitled to receive of the buyer one-half of such fee. No additional charge shall be made for re-weighing the wagon, cart, or sled.

Penalty of
neglect.

§ 13. If the weigh-masters shall refuse or neglect to do or perform any of the duties herein prescribed, they shall forfeit and pay a penalty of ten dollars for each offence.

Hay Markets
located.

§ 14. All hay brought into the city for sale shall be conveyed to Mumford-street, and on the open space near the hay-scales on the east side of the river, which are hereby declared to be public stands for the sale of hay; and the wagons, sleds, or carts containing the same shall be arranged in a line, as close together as conveniently may be, so as to leave suitable openings for passage. Any person who shall violate any part of this section, shall forfeit and pay a penalty of five dollars for each offence.

ARTICLE IV.

CHAP. 4.

Of Weights and Measures.

§ 1. Every merchant, retailer, trader, or dealer in merchandise or other property which is sold by measure or weight, residing, or dealing, or trading in the city of Rochester, shall cause the weights or measures used by him or her to be sealed and marked by the city sealer, appointed by the common council; and if any such merchant, retailer, trader, or dealer shall use any weight or measure for weighing or measuring any article for purchase or sale in said city, which shall not be sealed as herein provided, he or she shall forfeit and pay a penalty of five dollars for each offence.

Weights of traders &c. to be sealed.

§ 2. All weights and measures sealed by the said city sealer shall be made to conform to the standard of this state, and shall be marked by him.

To conform to State standard.

§ 3. It shall be the duty of the city sealer, and he is hereby authorized to inspect and examine, at least once in every six months hereafter, and as much oftener as he thinks proper, all weights and measures used by any merchant, retailer, trader, or dealer aforesaid, for weighing or measuring. Such weights and measures shall be inspected at the place or places where the same are kept for use; but if such weights and measures shall be found not conformable to the standard aforesaid, they shall be sent by the owner or owners thereof to such place in said city as the sealer shall direct, for the purpose of being sealed, within three days after such owner or owners shall be required to do so by the said sealer. If any such merchant, retailer, trader, or dealer shall refuse to exhibit any such weights or measures to the said sealer, when required so to do by him, or in any manner obstruct such sealer in the performance of the duties

Duty of city sealer.

CHAP. 4. hereby enjoined upon him ; or if any such merchant, retailer, trader, or dealer, shall refuse or neglect to send any such weights or measures for the purpose of being sealed as aforesaid, within the time and to the place aforesaid, he or she shall forfeit and pay a penalty of ten dollars for each offence.

Lime &c. to be measured.

§ 4. No person shall sell or purchase any ashes or lime within the city of Rochester, unless the same shall be measured at the place of delivery, by a measure properly sealed by the city sealer. Any person violating this section, shall forfeit and pay a penalty of five dollars.

Weights sealed to be registered.

§ 5. It shall be the duty of the city sealer to make a register of all the weights and measures inspected and examined by him, in which he shall state the name of the owner or owners of the same, and whether they are conformable to the standard of this state; and to deliver a copy of such register to the clerk of said city ; and it shall be the duty also of said sealer to report to the common council the names of all owners whose weights or measures are incorrect, or who shall neglect or refuse to have their weights or measures sealed and marked.

ARTICLE V.

Of the Sale of Sand and Gravel.

Gravel &c. how carried.

§ 1. No person shall drive any cart, wagon, sled, or other vehicle containing sand or gravel, in the city of Rochester, unless such vehicle shall be provided with a tight box, in which such sand or gravel shall be carried ; such box shall be of the width of three feet, and of such length and depth as to contain a cubic yard, and shall be measured and sealed by the city sealer previous to being used for the transportation of gravel or sand for sale and delivery in this

city. Every person offending against the provisions of this section shall forfeit and pay a penalty of five dollars for each offence. CHAP. 5.

§ 2. Upon any judgment rendered for a violation of this ordinance, an execution shall be issued, directing the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of fifteen days. Execution
for penalty.
Charter
p. 112 § 39

CHAPTER V.

AN ORDINANCE TO REGULATE CARTMEN AND PORTERS, AND PRESCRIBE THEIR FEES.

Passed June 11, 1844.

The common council do ordain as follows :

§ 1. The mayor may from time to time license such and so many cartmen and public porters within the said city as he shall deem proper. Such license shall not extend beyond the first day of July next after the same shall be granted. Cartmen to
be licensed.

§ 2. No person shall be licensed by the mayor as a cartman unless he be either a natural-born citizen or a naturalized citizen, or shall have taken the preliminary measures prescribed by law to become a naturalized citizen ; nor unless he has resided in the city of Rochester six months ; nor unless he be twenty-one years of age, and shall have, keep, and use a good horse, cart, and harness. To be citi-
zens.

§ 3. Before granting a license to any person as a cartman, such applicant shall be required to give a bond in the penal sum of two hundred and fifty dollars to the city of Rochester, with one or more sureties, to be approved by the mayor, conditional for the faithful discharge of his duty as such cartman, and for To give
bond.

CHAP. 5. the payment of all damages to which he shall become liable to any person as such cartman.

Duty of Mayor.

§ 4. The mayor, before granting a license to any cartman, shall be satisfied that he has the requisite qualifications, and for that purpose may examine any applicant orally, on oath, respecting his qualifications.

Penalty for acting without license.

§ 5. It shall not be lawful for any person to use or cause to be used any cart, or other vehicle for the carriage of goods and merchandise, or other property, as a public or common cart or vehicle in said city, without having obtained a license therefor, as hereinbefore provided. Whoever shall offend against the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence.

Carts to be numbered &c.

§ 6. No cart or other vehicle shall be used as a common or public cart or vehicle, as aforesaid, without having painted thereon in a conspicuous place, in plain and durable letters, the name of the owner of such cart or vehicle, and the number designated in the license which shall be given for using the same. Whoever shall offend against the provision of this section, shall forfeit and pay the penalty of five dollars for each offence.

Stands for carts.

§ 7. Such common or public carts or vehicles shall be permitted to stand waiting for employment in Buffalo, Exchange, State, and Main streets, and no such cart or vehicle shall be allowed by the owner or driver thereof to stand waiting for employment in any other public street or alley in said city, or within forty feet of any other cart, or within ten feet of any cross-walk, or so as in any manner to obstruct the entrance to any street or alley, or so as in any manner to obstruct the access to any tavern by horses, stages, or other carriages. Such cart or vehicle shall stand with the rear end thereof to the sidewalk, as near as the same can be placed to such

side-walk. Any person violating the provisions of this section, or either of them, shall forfeit and pay a penalty of five dollars for each offence. CHAP. 5.

§ 8. No driver of any such cart or vehicle, while waiting for employment in any place in said city, shall snap or flourish his whip. Any person offending against the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence. Flourishing whips.

§ 9. No person shall exercise the employment of a common public porter without having obtained a license thereof, as hereinbefore provided. Any person who shall violate the provisions of this section, shall forfeit and pay a penalty of five dollars for each offence. Porters to be licensed.

§ 10. Whenever any merchant or other person shall desire to load or unload any goods or other property in front of any store or other building, and any cartman shall be standing with his cart or other vehicle at the time in front of any such store or building, such cartman shall, at the request of such merchant or other person, immediately remove his cart or vehicle from such place, and so as to give free access to such store or other building for the purpose aforesaid. Any cartman violating the provisions of this section shall forfeit and pay a penalty of five dollars for each offence. When cartmen to remove their carts.

§ 11. Cartmen shall be allowed fees for their services at and after the following rates, viz: Fees of cartmen.

For carrying any article to any place within the lamp and watch district, shall be denominated first rate; without the lamp and watch district and not over one mile and a half, and within the limits of the city, second rate; over one mile and a half, and within the limits of the city, third rate.

CHAP. 5. For carrying every load of household furniture, loading and housing the same,

		first rate,	\$ 0 25
Cartmen's fees.	"	second rate,	31½
	"	third rate,	37½
	"	first rate,	25
	For every load of boards or lumber,	second rate,	31½
	"	third rate,	37½
	For every hogshead of molasses or cask of oil over 90 gallons,	first rate,	50
	"	second rate,	56½
	"	third rate,	62½
	For every pipe or hogshead of liquor under 90 gallons,	first rate,	25
	"	second rate,	31½
	"	third rate,	37½
	If the same contains 90 gallons or more,	first rate,	37½
	"	second rate,	44
	"	third rate,	50
	For every cask of sugar of 10 cwt. or more,	first rate,	25
	"	second rate,	31½
	"	third rate,	37½
	For every load of loose stones, earthen ware, or hollow ware,	first rate,	25
	"	second rate,	31½
	"	third rate,	37½
	For every load of gunpowder,	first rate,	37½
	"	second rate,	44
	"	third rate,	50

All other goods and things shall be deemed and taken as promiscuous loading, and shall be carried at the following rates, viz:

First rate,	12½
Second rate,	25
Third rate,	37½

If any cartman or driver or owner of any cart or other vehicle shall demand or receive any other or greater compensation for the service herein specified, than is herein provided, the owner of such cart or vehicle shall forfeit and pay a penalty of five dollars for each offence.

Duties of cartmen.

§ 12. It shall be the duty of every cartman, when applied to by any person whatever, while standing waiting for employment, and upon being paid or ten-

dered the compensation allowed him in this ordinance for the service required, to go to any part of the city, and to carry and transport any load of not more than half a ton weight, which such person shall require to be carried and transported by such cartman. CHAP. 5.

§ 13. Whenever complaint shall be made to the mayor of the refusal of any cartman to comply with the provisions of the preceding section, it shall be his duty to inquire into the facts and circumstances, and if he shall find that there has been a violation of said section by such cartman, it shall be his duty, and he is hereby authorized and empowered to revoke and annul the license of such cartman, by writing under his hand. Whenever any such revocation, or a copy thereof shall be served on any cartman, the license of such cartman shall be from thenceforth annulled. Consequences of neglect.

§ 14. It shall be the duty of any cartman and the driver of every cart or other vehicle, in case of an alarm of fire, and when thereto required by the mayor, or any alderman, or any firewarden, or by the chief engineer, or any assistant engineer of the fire department, or by any foreman, or assistant foreman, or secretary of any fire, or hook and ladder or hose company, or by any two firemen, or hook and ladder men or hose men, to draw any engine or tender or hook and ladder or hose carriage from any place in said city to such fire; or from such fire to any other place in said city to the place where such engine, tender, hook and ladder or hose carriage is usually kept. And such cartman, or the owners of any cart or other vehicle, employed in such service, shall be allowed for drawing such engine or tender, hook and ladder or hose carriage to any fire or to any place where the same is usually kept, within the limits of the lamp and watch district, twenty-five cents; and Duties of cartmen in case of fire.

CHAP. 5. without those limits, fifty cents; which shall be audited by the common council and paid out of the city treasury. If any cartman or the driver of any cart or other vehicle shall violate the provisions of this section, or either of them, such cartman or owner of such cart or vehicle, shall forfeit and pay a penalty of five dollars for each offence.

Fees of Porters.

§ 15. The following fees shall be allowed to public porters for services in this section specified: for carrying any trunk, or box, or any single article of baggage or goods, from any place in said city to any other place in said city, twelve and a half cents. For any additional trunk or box or other article of baggage or goods, six cents. If any porter shall demand or receive any greater compensation for the services herein specified than is herein provided, he shall forfeit and pay a penalty of five dollars for each offence.

Fees for license.

§ 16. The mayor, before granting any license to any cartman, or public porter, by virtue of this ordinance, shall require that such cartman or public porter, pay into the city treasury, the sum of two dollars.

When license to be revoked.

§ 17. If any porter, cartman, or owner or driver of any cart or other vehicle, shall be convicted of the violation of any of the provisions of this ordinance, the mayor and any alderman are hereby authorized in their discretion to revoke the license granted to such porter or cartman, or one on which such cartman, or owner or driver of such cart or other vehicle may act, and to deprive him of the same.— And every license granted under this ordinance, is hereby declared to be subject to the authority herein given to the said mayor and aldermen.

Execution for penalty. Charter p. 112, § 38.

§ 18. Upon every recovery of any forfeiture or penalty for a violation of this ordinance, an execution shall be issued commanding the amount to be

made of the property of the defendant if any such
can be found, and if not, then to commit the defend-
ant to the county jail for the period of ten days.

CHAP. 6.

CHAPTER VI.

AN ORDINANCE RELATING TO THE CITY
WATCH, AND PRESCRIBING THEIR POW-
ERS AND DUTIES.

Passed June 11, 1844.

The common council of the city of Rochester do
ordain as follows :

§ 1. The city watch shall consist of one captain
and so many watchmen as the common council shall
from time to time appoint.

City Watch.

§ 2. Every watchman shall immediately after his
appointment, take and subscribe an oath or affirmation
before any officer competent to administer an oath in
a court of justice, to the effect following : "I do sol-
emnly swear (or affirm) that I will well and faithfully
discharge the duties of the watchman or captain of
the watch (as the case may be) of the city of Roch-
ester according to the best of my ability,"—which
oath or affirmation shall be in writing, subscribed by
the party making the same, and filed with the city
clerk.

Oath of
Watchmen.

Where filed.

§ 3. The city watch shall keep up a watch during
such hours of the night as the common council shall
from time to time designate.

Hours of
night watch.

§ 4. It shall be the duty of the captain of the
watch to station the watchmen and direct their pa-
trols, to report to the common council any miscon-
duct, refusal to serve, or neglect of duty of the
watch, or either of them, to make and return each
and every month to the clerk of the city a list of the

Duty of Cap-
tain of the
Watch.

CHAP. 6. names of watchmen and the number of nights they have severally watched since the last report, to report to the common council the names of all persons within the city who shall keep disorderly or gaming houses, and every infraction of the by laws or ordinances of the city, or the laws of the state, which he shall discover or have information of; and the watchmen are hereby required to strictly inquire into the existence of any such house or the violation of any by-laws or ordinance of the city or of the laws of the state, within the city, and report the same without delay to the captain of the watch.

Duty and powers of city Watch.

§ 5. The city watch or either of them, shall have the power, and they are hereby required, within watching hours, to arrest all felons, and all persons who shall be guilty of or engaged in any riot, rout, disturbance, unlawful assemblage, or any unusual noise or alarm, or who shall aid, abet, or assist therein; and it shall also be their duty and they shall have power, if they discover, or have good reason to suspect any person is unlawfully breaking or attempting to break into any dwelling, house or other building, or to commit any crime or misdemeanor, to arrest and detain such person until the next morning, and then to take such person or persons before any alderman or the police justice, to be dealt with according to law; and it shall be also their duty, and they are hereby authorized, to arrest all vagrants, common prostitutes, drunkards, and other disorderly persons found within the city, and take them before a magistrate immediately upon their arrest; and they shall have power to detain such persons in the watch-house, or some other secure place, until the next day.

Further powers in relation to felony.

§ 6. The city watch or either of them are hereby authorized to enter any disorderly or gaming house, and any dwelling house, store, grocery, or other

building, where they may have good reason to believe any felon is harbored or secreted, and where any person is who has during the night, and in their presence or hearing, or in the presence or hearing of either of them, committed any breach of the peace, or where any felony or breach of the peace is about to be committed, or where any noise or alarm, outcry or disturbance shall be made, in like manner as constables and other peace officers are authorized by law, and not otherwise. CHAP. 6.

§ 7. In case of any riot or disorderly assemblage of persons, the city watch or either of them, shall have power, to require the aid or assistance of any citizen of the city in suppressing or preventing such riot, disorderly assemblage, or breach of the peace, or in arresting the offenders or any of them; and any person who shall refuse or neglect to assist the said watch, or either of them, when so required, shall forfeit and pay to the city of Rochester the penalty of five dollars for each offence. In case of riots &c.

§ 8. No watchman shall absent himself from duty during the hours prescribed for the watch, or serve by substitute, without permission from the common council. Any watchman violating the provisions of this section, or either of them, shall forfeit and pay to the city of Rochester a penalty of ten dollars. Penalty for absence from duty.

§ 9. All persons apprehended by the watch during the cold and winter seasons, shall be kept in some safe and comfortable place, without danger from the severity of the cold, and, as far as practicable, the sexes shall be kept apart. Watch House.

§ 10. The watch shall wear the hats provided for them by the common council, while on duty. The captain of the watch shall have power and he is hereby required, to designate some one of the watchmen, from time to time, who shall perform all the duties of captain in his absence. Costume of watch while on duty.

CHAP. 6.

To obey orders of Mayor &c.

§ 11. The captain of the watch, and the watchmen, shall, for the purpose of preserving the peace and good government of the city, obey all orders given for that purpose by the mayor, recorder, or either of the aldermen, or any police justice of the said city, for the time being, or either of them, on pain of removal from office.

Superintendent of lamps.

§ 12. The captain of the watch shall also be superintendent of lamps, and shall have charge of the public lamps, and of the oil purchased for lighting said lamps, and shall deliver the same to the lamp-lighters.

Watchmen to be lamp lighters.

§ 13. The watchmen shall be lamp-lighters in the wards or districts for which they shall be severally appointed, or to which they shall respectively be assigned. It shall be their duty to light, clean and trim the public lamps within their respective districts or wards.

Capt. of Watch to procure new lamps.

§ 14. It shall be the duty of the captain of the watch to procure new lamps, lamp posts and lamp irons as the same shall from time to time be required, and to cause to be repaired such as may be out of order, under the direction of the committee on the lamp and watch district.

Watch to be subject to Committee on lamps &c.

§ 15. The captain of the watch and the watchmen, in the discharge of the duties imposed upon them by this ordinance, shall be subject to the direction of the committee on the lamp and watch district, and to such other rules and regulations as the common council may from time to time prescribe.

Execution for penalty. Charter p. 112 § 38.

§ 16. Upon every recovery of any penalty or forfeiture for the violation of this ordinance, an execution shall be issued directing the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of ten days.

CHAPTER VII.

CHAP. 7.

AN ORDINANCE RELATING TO THE DUTIES OF THE POLICE JUSTICE AND POLICE OFFICE.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

§ 1. The police justice of the city shall keep his office in some central and convenient place within the first ward of the city, and shall keep open his office during the usual hours of business, on every day of the week except Sunday. Office of Police Justice.

§ 2. It shall be the special duty of said police justice to enforce all the criminal laws of this state, within the city, as far as his jurisdiction shall extend. His duties.

§ 3. It shall be the duty of the said police justice to aid by his advice and counsel the constables and watchmen, and other officers of the peace of the city, in arresting and securing all persons that may have committed any crime or breach of the peace within the city. Ib.

§ 4. It shall be the duty of the said police justice to cause to be arrested and committed to prison, or otherwise secured or punished, all vagrants and disorderly persons, and all common prostitutes, and keepers of disorderly houses and houses of ill fame. Ib.

§ 5. The watchmen shall take all persons arrested or detained by them before the said police justice, who shall cause such persons to be dealt with according to law. Duty of Watchmen.

AN ORDINANCE TO ORGANIZE A BOARD
OF HEALTH.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

Board of
Health how
and when
appointed.

§ 1. A board of health shall be annually appointed by the common council, to consist of the mayor and the health commissioners, which health commissioners shall consist of the city superintendent or superintendents for the time being, and five fit and suitable persons, to be appointed in whole or in part from members of the common council, or in whole or in part from other citizens ; which board shall have authority to enforce all the laws of this state, providing against pestilential and infectious diseases, and all ordinances and by-laws of the common council of this city relating to the health thereof, and shall superintend and direct the execution of the same. The said board shall also have and possess, for the purpose aforesaid, all the power and authority of the common council of the said city, with regard to the public health of the city. Any three members shall constitute a quorum for the transaction of business.

Duty in re-
spect to
nuisances.

§ 2. The board of health shall make diligent inquiry with respect to all nuisances which may exist in this city, which they may deem obnoxious to the health and lives of its inhabitants, and shall have power to order and cause the removal thereof, at their discretion ; and any person who shall refuse or neglect to obey or to comply with the order or direction of the board of health, shall forfeit and pay a penalty of twenty-five dollars.

§ 3. The said board, during the existence of an ep-

idemic disease, or upon its probable approach, shall have power, at public expense, to provide such place or places as they shall deem proper for the accommodation of the sick, and to make such rules and regulations for their admission, reception, and treatment, as they may think proper ; hereby authorizing such board to employ such and so many physicians and nurses, and to procure such nourishment, food, and medicines, for the use of the sick so admitted, as well as for the use of the sick of this city, as they may deem just.

CHAP. 8.

In respect to epidemics,

§ 4. The said board shall have power, in their discretion, to remove, or order the removal, of all persons and things within the said city, infected by or tainted with pestilential matter, to such place or places as may in their opinion best conduce to the preservation of the health of the city ; and any person who shall refuse or neglect to comply with or obey any order or requirement of the said board in this behalf, shall forfeit and pay a penalty of twenty-five dollars for each offence.

and infected persons &c.

§ 5. It shall be lawful for the board of health, from time to time, and for such period and at such time and place as they shall think fit, to require the keepers of all public houses, hotels, taverns, and boarding houses to make report of all persons sick or diseased within their houses respectively, and the names and places of residence of such persons respectively ; and also to require all physicians to report the names of all persons sick and attended by them respectively and the names of persons deceased who may have been attended by them, together with the nature of the disease ; and to make such other regulations as the board may deem proper for the preservation of the public health ; and every person who shall refuse or neglect to comply with any requirement of the said

To compel inn keepers to report sick persons.

CHAP. 8. board, herein authorized to be made, or any regulations which may be established by the said board under the authority contained in this section, shall forfeit and pay a penalty of twenty-five dollars for each offence.

To examine
sinks &c.

§ 6. It shall be lawful for said board, and it shall be their duty to direct and authorize some suitable person to enter, in the day-time, and examine into any building of any kind, cellar, lot of ground, alley, basin and slip, sink, vault, or privy, which they may have reason to believe are foul, incumbered with rubbish, damp, sunken, and ill constructed, and may direct the cleansing, altering, amending, filling, or draining the same, and the removal of all nuisances in and about the same, by the owner or occupant of any building, lot, cellar, sink, vault or privy. Any person who shall refuse to comply with the direction of the said board, in this behalf, shall forfeit and pay a penalty of twenty-five dollars for each offence; and the said board shall have authority, at their election, to enforce and execute the directions so given, at the expense of the owner or occupant, as a penalty, provided such recovery does not exceed twenty-five dollars.

To prohibit
the use of
vats &c.

§ 7. It shall be lawful for the said board to prohibit the use of such vats, pits, or pools of standing water, as they may deem dangerous to the public health, whether the same be used by tanners, skinners, dyers, or other persons; and any person who shall violate any directions or regulations of the said board, in this behalf, shall forfeit and pay a penalty of twenty-five dollars for each offence.

Depth of
graves &c.

§ 8. No person shall inter any corpse in any cemetery or other place in the said city, unless in vaults or graves at least five feet deep, and without removing, disturbing or exposing any other dead body or

coffin, under the penalty of twenty-five dollars for each offence. CHAP. 9.

§ 9. It shall be the duty of the city superintendent and city constables, respectively, to aid and assist the said board of health, or any member thereof, to carry into effect the duties imposed and enjoined upon the said board of health, whenever required so to do by the said board of health, or any member thereof, and pursuant to the directions of the said board of health, or any member thereof.

Constables
&c. to aid
Board of
Health.

§ 10. The city physician, for the time being, shall be health physician of the city of Rochester, and it shall be his duty as such to obey the directions of the board of health, and to discharge such other duties as may be imposed upon him by the ordinances of the common council.

Health Phy-
sician.

§ 11. Upon every recovery of any penalty or forfeiture for a violation of this ordinance, an execution shall be issued, directing the amount to be made of the property of the defendant if any such can be found, and if not, then to commit the defendant to the county jail for the period of thirty days.

Execution
for penalty.
Charter
p. 112, § 38.

CHAPTER IX.

AN ORDINANCE RELATING TO HACKNEY COACHES AND CARRIAGES.

Passed June 11th 1844.

The common council of the city of Rochester do ordain as follows:

§ 1. That the mayor of the city of Rochester for the time being may from time to time issue licenses to any person or persons to keep hackney coaches and carriages for hire in the said city.

Mayor to li-
cense hack-
ney coaches.

§ 2. No person shall be licensed as aforesaid who

CHAP. 9. has not been a resident of this city for three months last preceding the date of such license, and is not of the age of twenty-one years and upwards.

Who to be licensed.

Expiration of license.

§ 3. All licenses to the owners of hackney coaches and carriages shall expire on the first day of July next after the date thereof.

Fees of license.

§ 4. Every person who may be licensed as aforesaid, shall pay to the city treasurer, for the use of the city, for each hackney coach or carriage which such person shall keep for hire, the sum of twelve dollars.

Penalty of driving without a license.

§ 5. Every person who shall keep or drive any hackney coach or carriage for hire in the city of Rochester, without first being licensed as aforesaid, shall forfeit and pay the sum of five dollars for each day during which he or she shall so keep or may drive such hackney coach or carriage.

Stands for Hackney Coaches.

§ 6. Hackney coaches or carriages may stand waiting for employment at all times, Sundays excepted; on Buffalo street, from Fitzhugh street to Montgomery alley, and from Fitzhugh street to Pindle alley, on the south side of said Buffalo street, with the horses' heads towards the east, or at such other place or places as the mayor and city superintendent, under the direction of the common council, may hereafter designate. No hackney coaches or carriages whilst upon, at, or near said stand, shall stand abreast or alongside of any other coach or carriage. The proprietor or driver of any hackney coach or carriage, which shall stand waiting for employment at any other time and place than are herein designated, and which whilst upon, at, or near said stand, shall stand abreast or along side of any other hackney coach or carriage, shall forfeit and pay for every such offence the sum of five dollars, to be sued for and recovered from the owner and driver thereof severally and respectively.

§ 7. The driver of every hackney coach or carriage, whilst the same is on the said stand, shall be seated on the box of his coach, or carriage, or shall stand at his horses' heads. Such driver shall keep his coach or carriage as near as may be to the carriage or coach immediately before him, so however as to admit of his coach or carriage turning out from the stand freely and safely; and on such coach or carriage immediately before him leaving the stand or moving forward, shall drive his carriage into its place, under a penalty for the violation of either of the provisions of this section of three dollars, to be sued for and recovered from such driver or the owner of the hackney coach or carriage which he may drive, severally and respectively. It shall be the duty of the city superintendent of the western highway district, to ascertain all violations of any of the provisions of this section, and report the same to the city attorney for prosecution.

CHAP. 9.

Station of
drivers on
the stand.

§ 8. The prices or rates of fare to be taken by or paid to the owners or drivers of hackney coaches or carriages shall be as follows, to wit:—

Rates of
fare of
Hackney
Coaches.

1. For conveying a passenger from the stand to any point within the following district, one shilling, and the same for returning with a passenger, and one shilling for each additional passenger going and returning, which charge shall include for a detention of not more than ten minutes; said district is bounded as follows, to wit: commencing at a point where Jay street continued eastwardly would strike the Genesee river; thence along Jay street to Magne or Whitney street; thence along said street to Brown street, thence along the west side of the canal to Canal street; thence along Canal street to Buffalo street; thence down Buffalo street to Trowbridge street; thence south along Trowbridge street, and on a continued line

CHAP. 9. coach before the expiration of such license, such licensed owner shall, within ten days after such sale, report the same to the mayor, who shall be authorized to transfer such license to the purchaser of such hackney coach, on the payment of the mayor's fee; and every owner of a hackney coach who shall neglect or fail to report such sale to the mayor within the time aforesaid, shall forfeit and pay the sum of five dollars.

License not to be transferred without consent of Mayor.

Coachmen to receive passengers.

§ 12. No owner or driver of any hackney coach or carriage, whilst on the stand heretofore designated, or whilst waiting for employment at any place other than at the house or stable of the owner thereof, between the hours of sunrise and nine o'clock in the evening, shall refuse or neglect to convey any person or persons to any place or places within this city, upon being applied to for that purpose, and on being tendered the fare for the same, under a penalty of five dollars for every such refusal or neglect, to be sued for and recovered from the owner or driver of any such hackney coach or carriage severally and respectively.

Penalty for refusing.

When Mayor may revoke license.

§ 13. If any owner or driver shall be convicted of any violation of this ordinance, the mayor for the time being shall have full power and authority, in his discretion, to revoke the license granted to such owner or driver.

Duty of city Superintendent.

§ 14. It shall be the duty of the city superintendents, as often as once every month, to visit the public stands and all places where hackney coaches and carriages are permitted to stand, and to see that all the provisions of this ordinance are in every respect complied with. And it is particularly enjoined upon such superintendents, that they report all offenders to the city attorney.

§ 15. Upon every recovery of any penalty or forfeit-

ure for a violation of any of the provisions of this or-
dinance, an execution shall be issued directing the
amount to be made of the property of the defendant,
if any such can be found, and if not, then to commit
the defendant to the county jail for the period of fif-
teen days.

CHAP. 10.

Execution
for penalty.
Charter
p. 112 § 38.

CHAPTER. X.

AN ORDINANCE REGULATING THE SUP- PORT OF THE POOR.

Passed June 11, 1844.

The common council of the city of Rochester do
ordain as follows :

§ 1. There shall be one overseer of the poor for the
city, who shall be appointed by this board, and who
shall hold his office during their pleasure, whose duty
it shall be to take the charge and superintendence of
the poor of the city, and generally to discharge the
duties which overseers of the poor are required by
law to discharge.

Overseer of
the Poor
and how
appointed.

§ 2. The said overseer before entering upon the
duties of his office, shall give security by a bond, ex-
ecuted to the city of Rochester, in such penalty as
shall be prescribed by the common council, with two
sufficient sureties to be approved by the mayor, con-
ditioned for the faithful discharge of his duties, and to
account for all moneys which may be received by
him, and to pay over to the treasurer of this board at
the expiration of his office, all such sums so received
by him as shall remain in his hands.

To give
Bond.

§ 3. The said overseer shall be furnished from time
to time from the poor fund, with such sums as may
be necessary for the relief of the poor, and for the
purchase of provisions and other articles in quantities
at an economical rate, and he shall not be allowed to

To receive
funds.

CHAP. 11. charge or receive any advance or profit for any articles purchased by him.

To render monthly account.

§ 4. He shall render an account to this board once in each month, and as much oftener as shall be required, of all the moneys expended by him, and of all articles furnished for the relief of the poor.

His compensation.

§ 5. The said overseer shall be paid an annual salary to be paid from year to year, in full compensation for all services rendered by him as such overseer for the city.

To keep account of certain county charges.

§ 6. He shall keep a separate account of all provisions which shall be furnished, and of all money or time expended for the paupers, which are chargeable to the county of Monroe.

AN ORDINANCE TO REGULATE THE BURIAL OF THE DEAD, AND FOR THE PROTECTION OF THE PUBLIC CEMETERIES.

CHAPTER XI.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

Where the dead to be buried.

§ 1. No person shall bury or inter, or aid or assist in burying any dead human body within the city of Rochester, except in one of the public cemeteries belonging to said city. Every person violating the provisions of this section, shall incur a penalty of five dollars for each offence.

Care of public cemeteries.

§ 2. The public cemeteries belonging to the city shall be under the charge and care of such sexton or sextons, as the common council shall from time to time appoint, and he or they shall be, and are hereby constituted, collectors of all moneys due from each

and every person who may be, or shall hereafter be- CHAP. 11.
come, indebted to the corporation for burial lots sold
in any of the public cemeteries, and shall be entitled
to receive, as a compensation for collecting the same,
two cents for every dollar so collected and paid into
the city treasury by such sexton. Sextons.

§ 3. It shall be the duty of each of said sextons to Their duty.
see that all the ordinances of this board in relation to
the protection of the public cemeteries and the mode
of interment therein, be strictly enforced in relation
to the cemetery under his charge.

§ 4. Each sexton shall keep a book, in which the Register of
burial lots.
number of all burial lots, with the names of the own-
ers thereof, in the cemetery under his charge, and
the time of the sale thereof, shall be entered.

§ 5. On the sale of any lot, the sexton having the Sale of lots.
charge of the cemetery in which said lot shall be,
shall issue a certificate to the purchaser of such lot,
specifying the lot and the price thereof, which shall
be paid to the treasurer within twenty days from the
date of such certificate, who shall give his receipt for
the same, specifying the number of the lot paid for.

§ 6. The city clerk, on the presentation of the Clerk to
make deeds.
treasurer's receipt, shall make out a deed for said lot,
and shall enter, in a book kept for that purpose, the
date of the deed, the description and price of the lot,
and to whom sold; and shall endorse on the back of
said deed a minute of the registry thereof, signed by
him.

§ 7. The mayor is hereby authorized to execute Mayor to ex-
ecute deeds.
every such deed endorsed as provided in the last sec-
tion, and to affix thereto the corporate seal of the city
of Rochester.

§ 8. All deeds heretofore executed by the mayor, Former
deeds con-
firmed.
of burial lots at Mount Hope, are hereby confirmed
and declared to be as valid and effectual as if execu-

CHAP. 11. ted by the clerk, in pursuance of the ordinance on that subject.

When sale forfeited.

§ 9. If the certificate is not presented within the time above specified, then the said lot shall be forfeited, and the body, if any shall have been buried therein, shall be removed into the public ground, at the expense of the person obtaining the said certificate.

Unauthorized digging of graves.

§ 10. No person shall dig any grave, put up any fence, gravestones, or boards at graves, or make any erections, or dig up any sod in either of the public cemeteries, except under the direction of the owner thereof, under the penalty of twenty dollars for each offence.

Injuring lots.

§ 11. No person shall remove the stakes from a burial lot, nor remove any stake, board, gravestone, or other monument which may have been erected at any grave, or deface or injure any such board, gravestones, or other monument, under the penalty of twenty dollars for each offence.

Sexton's fees

§ 12. The following fees, and no other or greater, shall be allowed to sextons for their services, viz. :

For attendance to examine any lot, with any person proposing to purchase the same, and for granting a certificate thereof if required, to be paid by the applicant	\$0 50
For digging a plain grave and filling up the same	1 00
For digging a plain grave for children not over ten years of age ..	0 75
For digging a box-grave and filling up the same	2 00
For digging a box-grave for children not over ten years of age	1 50
For hearse and driver attending funeral, and attending at the grave, if within the city	1 50

Sexton to keep register of interments, &c.

§ 13. It shall be the duty of each sexton to keep a book in which shall be entered the name, age and disease, and place of residence of every person interred in the cemetery under his charge, and report the same to the common council at the first regular meeting thereof in each month, and he shall at the same time report all burial lots sold or leased, and the amount paid or agreed to be paid therefor.

§ 14. No person or persons shall drive or cause to be driven into or on Mount Hope cemetery, any vehicle with more than two horses attached thereto.

CHAP. 11.

Only two horse carriages to be driven in to M't Hope. Carriages not to obstruct cemetery.

§ 15. No person or persons shall leave any horse or vehicle standing in any road or path in the said cemetery, so as to hinder or obstruct the free passage of any person or persons on said road or path.

§ 16. No person or persons shall fasten or cause to be fastened, any horse in said cemetery, at any other place than at the posts provided for that purpose, and no person or persons shall leave any horse unfastened therein.

Fastening horses, &c.

§ 17. No person or persons shall cut, break, or in any manner injure or destroy any tree, shrub or plant, or pick, crush, gather, or in any manner injure or destroy any flower, either wild or cultivated, or any herbage, or the fruit or product of any such tree, shrub or plant, within the cemetery aforesaid.

Defacing trees, &c.

§ 18. No person or persons shall write upon, soil, deface, remove, displace, or in any manner injure or destroy any monument, fence, stake, post, or other structure in or belonging to the said cemetery.

And other fixtures.

§ 19. Every person or persons violating either of the foregoing provisions, shall respectively forfeit and pay, for each offence, a penalty of ten dollars.

Penalty.

§ 20. No person or persons shall discharge any fire arms in the said cemetery, or in any other place within the city of Rochester, with the intent that the contents thereof shall enter the said cemetery, under the penalty of ten dollars for each offence.

Discharging fire arms.

§ 21. No person or persons shall ride, drive or lead any horse or any vehicle in said cemetery faster than a walk.

Immoderate driving.

§ 22. No person or persons shall deposit, or cause to be deposited, any filth or unclean or offensive substance in the said cemetery.

Nuisances.

CHAP. 12. § 23. Any person who shall violate either of the
Penalties. foregoing provisions, shall forfeit and pay a penalty
of ten dollars for each offence.

Excavating earth. § 24. No person or persons shall dig or excavate
any earth in the said cemetery or remove the same
therefrom, excepting by the consent or under the di-
rection of the common council of the city of Rochester,
or of the city sexton, or of some other officer legally
authorized by the said common council, under the pen-
alty of ten dollars for each offence.

Penalty. Execution for penalty. Charter p. 112 § 33. § 25. Upon every recovery of any penalty or for-
feiture for the violation of any of the provisions of
this ordinance, an execution shall be issued directing
the amount to be made of the property of the defend-
ant, if any such can be found, and if not, then to com-
mit the defendant to the county jail for the period of
thirty days.

CHAPTER XII.

AN ORDINANCE REGULATING PAWNBROKERS.

Passed June 11, 1844.

The common council of the city of Rochester do
ordain as follows :

Licenses to pawn-brokers. § 1. The mayor of said city may, from time to time,
grant licenses under his hand and seal, to such persons
as shall produce to him satisfactory evidence of their
good character, to exercise or carry on the business
of a pawnbroker.

Location of place of business. § 2. Every such license shall designate the house
or place in which the person receiving such license
shall be authorized to carry on such business.

Duration of license. § 3. Every such license shall continue in force un-
til the first day of June next following the granting
thereof, unless sooner revoked by the mayor, and no
longer.

§ 4. Every person receiving such license shall pay therefor such sum as the mayor shall determine, not less than five nor more than fifty dollars, for the use of the city.

CHAP. 12.

Expense,

§ 5. On the renewal of any such license, the person receiving the same shall pay such sum therefor as the mayor shall determine, not less than five nor more than fifty dollars, for the use of the city of Rochester.

And renewal thereof.

§ 6. Every person licensed, shall, at the time of receiving such license, enter with two sufficient sureties, to be approved by the mayor, into a joint and several recognizance to the city of Rochester, in the penalty of five hundred dollars, conditioned for the observance of all such ordinances of the common council as may be passed or in force respecting pawnbrokers at any time during the continuance of such license.

Bond to be given.

§ 7. No person shall use, exercise or carry on the trade or business of a pawnbroker without being specially licensed for such purpose as aforesaid, or shall carry on any such business at any other house or place than the one designated in such license, or shall continue to carry on such business after such license may have been revoked, under the penalty of fifty dollars for every such offence.

Penalty for acting without license.

§ 8. Every pawnbroker shall keep a book in which shall be fairly written at the time of each loan, an accurate account and description of the goods, article or thing pawned, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, article or thing.

Pawnbrokers to keep account of goods.

§ 9. Every pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, article or thing, a memorandum or note signed

To give memorandum of goods pawned.

CHAP. 12. by him or her, containing the substance of the entry required to be made in his or her book, by the last preceding section; and no charge shall be made or received by any pawnbroker, for any such entry, memorandum or note.

Book to be open to inspection.

§ 10. The said book shall at all reasonable times be open to the inspection of the mayor, recorder, aldermen and justices of the peace of the city of Rochester, or any or either of them or of any person who shall be duly authorized in writing for that purpose, by any, or either of them, and who shall exhibit such written authority to such pawnbroker.

Penalty for violation.

§ 11. Every pawnbroker who shall violate, or neglect or refuse to comply with any or either of the provisions of the eighth, ninth and tenth sections of this ordinance, shall for every such offence forfeit and pay the sum of twenty-five dollars.

Rate of interest.

§ 12. No pawnbroker shall ask, demand or receive any greater rate of interest than twenty per cent per annum upon any loan not exceeding the sum of one hundred dollars; or than seven per cent. per annum upon any loan exceeding the sum of one hundred dollars.

Pawns, how and when sold.

§ 13. No pawnbroker shall sell any pawn or pledge until the same shall have remained six months in his or her possession, and all such sales shall be at public auction and not otherwise, and shall be made or conducted by such auctioneer as shall be approved for the purpose by the mayor of the city of Rochester.

Notice of sale.

§ 14. Notice of every such sale shall be published for at least twelve days previous thereto in one or more of the daily newspapers printed in the city of Rochester; and such notice shall specify the time and place at which such sale is to take place, the name of the auctioneer by whom the same is to be conducted, and a description of the goods or articles to be sold.

§ 15. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, and the expenses of the advertisement and sale, shall be paid over by the pawnbroker to the person who would be entitled to redeem the pledge in case no such sale had taken place.

CHAP. 12.

Surplus mo-
neys.

§ 16. No pawnbroker shall make any loan on the separate or divided part or parts of any one article or thing, and which article or thing shall have been offered entire or collectively to him or her by way of pawn or pledge.

Loan to be
by entirety.

§ 17. No pawnbroker shall under any pretence whatever, purchase or buy any second hand furniture, metals, or cloths, or any other article or thing whatever offered to him or her as a pawn or pledge.

Articles of
fered as
pawns not
to be
bought.

§ 18. Every pawnbroker who shall violate, or neglect to comply with, any or either of the provisions of the twelfth, thirteenth, fourteenth, fifteenth, sixteenth, or seventeenth sections of this ordinance, shall for every such offence, forfeit and pay the sum of fifty dollars.

Penalties.

§ 19. No pawnbroker shall receive by way of pledge or pawn, or shall purchase, any goods, article or thing whatever, from any minor, apprentice or servant, knowing or having reason to believe him or her to be such, under the penalty of twenty-five dollars for every such offence.

Not to buy
&c. of mi
nors &c.

§ 20. No pawnbroker shall receive, by way of pledge, or pawn, or purchase, in any way of his or her business, any goods, articles, or thing whatsoever, from any person or persons whomsoever, between the setting of the sun and the hour of seven in the morning, under the penalty of twenty-five dollars for every such offence.

Nor make
loans at
night.

§ 21. No pawnbroker shall deface, mutilate, take

CHAP. 12. apart, or in any way alter, or permit to be defaced, mutilated, taken apart, or in any way altered, any article or thing which shall come into his or her possession in the way of his or her business. But the same shall be sold or offered for sale in the same form, state, and condition in which it was when first received by him or her, under the penalty of fifty dollars for every such offence.

Nor deface
pawns.

Duty as to
stolen prop-
erty.

§ 22. If any goods, article, or thing shall be advertised in any daily newspaper in the city of Rochester, as having been lost or stolen, and if the said goods, article or thing, or any such answering to the description of the goods, article, or thing so advertised, or any part or portion thereof, shall then be or thereafter come into the possession of any pawnbroker, he or she shall forthwith give information thereof, in writing, to the police justice, and shall also state from whom received, under the penalty of fifty dollars for every neglect or offence.

Ib.

§ 23. Every pawnbroker who shall receive or be in the possession of any goods, articles, or things which may have been lost or stolen, or alleged or supposed to have been lost or stolen, shall forthwith, on a demand to view the same, present the same to the mayor or recorder, or any alderman or justice of the peace who may make such demand, under the penalty of fifty dollars for every neglect or refusal so to do.

Licenses
may be re-
voked.

§ 24. Every license granted, or to be granted to any pawnbroker, may be revoked by the mayor on satisfactory cause appearing to him for so doing.

Executions
for penal-
ties.
Charter
p. 112. § 38.

§ 25. Upon any recovery of any penalty or forfeiture for a violation of any of the provisions of this ordinance, an execution shall be issued directing the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit

the defendant to the county jail for the period of three-
ty days.

CHAP. 13.

CHAPTER XIII.

AN ORDINANCE RELATING TO THE DISBURSEMENT OF PUBLIC MONEY, AND THE DUTIES OF CERTAIN OFFICERS THEREIN MENTIONED.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

§ 1. That the city treasurer shall be the disbursing officer of the city, and shall pay all the expenses for the support and relief of the poor, and for upholding and repairing of streets, alleys, and bridges, under the regulations hereinafter prescribed.

Treasurer to disburse moneys.

§ 2. The treasurer shall pay no money on account of the poor fund or highway fund, except upon orders drawn as hereinafter provided by the overseer of the poor or the superintendent of highways, unless ordered so to do at a regular meeting of the common council.

pay orders on poor fund &c.

§ 3. The treasurer shall pay, out of any moneys in the treasury not otherwise appropriated, all orders or checks properly endorsed by the person or persons in whose favor they shall be made, drawn upon him by the overseer of the poor, or either of the superintendents of highways, as hereinafter provided.

lb.

§ 4. The treasurer shall designate a day in each week, and notify the overseer of the poor on what day he will pay orders or checks drawn by him. He shall also designate a day in each week, and notify the superintendents of highways on what day he will pay orders or checks drawn by them or either of them.

To designate paying days each week.

CHAP. 13.

Overseers
&c. to keep
check book.

§ 5. The overseer of the poor and the superintendents of highways shall severally procure a printed order or check book, similar to the order or check book of the city clerk, in which each one shall enter and keep in the margin thereof copies of all orders or checks drawn by him upon the treasurer, and shall specify in said margin on what account or for what purpose each and every order or check may be drawn, the name of the person or persons in whose favor such order or check may be made, the amount to be paid on such order or check, the date on which it was issued, and shall take a receipt from such person or persons for the same.

And require
vouchers for
payments.

§ 6. The overseer of the poor and the superintendents of highways shall also respectively require of every person or persons of whom either of them shall purchase property of any kind for the support of the poor, or for the upholding or repairing of streets, alleys, or bridges, a regular bill or invoice of the property or article so purchased by either of them, which bill or invoice shall be certified to be correct, and shall be attached to the order or check drawn on the treasurer for the payment of the same; and such bill or invoice shall be presented by the treasurer as a part of his voucher for paying such order or check.

When to
draw
checks.

§ 7. The overseer of the poor is hereby authorized to make orders or checks as herein provided, upon the treasurer, for the payment of all sums expended by him for the support or relief of the poor, whenever the same shall have been approved by the committee on the support and relief of the poor.

1b.

§ 8. The superintendents of highways are hereby respectively authorized to make orders or checks upon the treasurer for the payment of all sums expended by them, or either of them, in the upholding or repairing of streets, alleys or bridges.

§ 9. That hereafter no account or claim shall be allowed or paid to any overseer of the poor, or either of the superintendents of highways, unless accompanied by a proper voucher or vouchers.

CHAP. 14.

Payments not to be made without vouchers.

§ 10. The finance committee shall once in each month, or oftener, examine and audit the account of the treasurer for moneys disbursed by him for the support and relief of the poor and the upholding and repairing of streets, alleys and bridges, as herein provided, and shall determine the amount of such disbursement and the appropriate accounts to which such disbursement shall be charged, and their certificate to the treasurer shall be sufficient authority for him to charge the respective funds with the amount so disbursed, audited and allowed.

Finance committee to audit accounts.

§ 11. That the provisions of any and every ordinance inconsistent with this ordinance are hereby repealed.

Repealing clause.

CHAPTER XIV.

AN ORDINANCE PRESCRIBING CERTAIN DUTIES TO THE CITY SUPERINTENDENTS AND OVERSEERS OF THE POOR AND CLERK OF THE CITY OF ROCHESTER.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows:

§ 1. Every overseer of the poor of the city of Rochester, shall at the first regular meeting of the common council of said city, held on or next after the first day of each and every month, make a just and full report of the amount of all moneys, which he shall have received in his official capacity, from any source whatever other than from the city treasurer, and the manner in which the same or any part there-

Overseers of the poor to make monthly report.

CHAP. 14. of shall have been expended; together with all unpaid judgments or claims existing in his favor, which shall have been obtained or procured by him in his official capacity; also the number of suits which he shall have commenced as such overseer of the poor, including proceedings in cases of bastardy; the names of the parties therto, and the manner in which the same have been disposed of; and if any such suit or proceeding shall have been compromised or security taken therein, then that he report the terms of such compromise and the extent and value of such security, so far as the same is practicable, under the penalty of fifty dollars for each violation of this section.

City Superintendents to make monthly report.

§ 2. It shall be the duty of each and every city superintendent, at the first regular meeting of the said common council, held on or next after the first day of each and every month, to make a just and full report of all moneys received by him in his official capacity, from any source whatever other than from the city treasurer, and the manner in which the same or any part thereof shall have been expended, together with all unpaid judgments or claims existing in favor of the city, against any individual, which said superintendent shall have been instrumental in obtaining or procuring, and the names of the individuals against whom such judgment or claims exist; and also all suits which such superintendent shall have commenced or been instrumental in commencing—the names of the parties thereto, and the manner in which the same have been disposed of, and if any such suit or claim shall have been compromised, or any security taken in relation thereto, that he shall in like manner report the terms of such compromise, and the extent and value of such security, so far as the same is practicable, under a penalty of fifty dollars for each and every violation of this section.

§ 3. It shall be the duty of the city clerk, whenever any unpaid judgments shall have been reported, by virtue of the two preceding sections, to enter an account of the same in a proper book to be kept by him for that purpose, and when such judgment shall have been paid in whole or in part, or the same shall have been released, discharged, satisfied or otherwise altered in its condition, the said account of said judgment shall be accordingly altered or explained by entry made opposite thereto or appended thereto.

CHAP. 15.

Duty of City clerk, in relation to unpaid judgments.

§ 4. It shall be the duty of the city clerk to extend the taxes in the annual assessment rolls of the city, in the manner directed by law, and to prepare the duplicates of said assessment rolls required by law to be deposited with the city treasurer. He shall also make copies of all local assessments, when the same shall have been confirmed by the said common council. He shall also draft all ordinances for local improvements and other purposes, except penal ordinances.

To extend taxes &c.

CHAPTER XV.

AN ORDINANCE TO PREVENT SLIDING ON FITZHUGH, SOPHIA, EXCHANGE, WASHINGTON AND MAIN STREETS.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows:

§ 1. No person or persons shall slide, either with hand sleighs or otherwise, on any part of the paved or macadam tract in those parts of Fitzhugh, Sophia, Exchange and Washington streets lying between Spring and Buffalo streets, or on Main street between St. Paul and Water streets, or on the sidewalks thereof, within the limits aforesaid, nor upon any of the bridges crossing the canal in said streets.

Sliding on streets prohibited.

CHAP. 16. § 2. Every person who shall violate the provisions of the foregoing section, or any or either of them, shall forfeit and pay a penalty of two dollars.

Penalty.

Minors &c.

§ 3. In case any minor or apprentice shall incur the penalty prescribed in the foregoing section, the parent, guardian or master, as the case may be, of such minor or apprentice, shall be liable for such penalty, and forfeit and pay the same to the city of Rochester.

Executions for penalties. Charter p. 112 § 38.

§ 4. Every execution issued against persons committed under the first two sections of this ordinance, shall command the amount to be made of the property of the defendant, if any such can be found; and if not, then to commit the defendant to the county jail for the period of five days.

CHAPTER XVI.

AN ORDINANCE RELATING TO CLARISSA STREET BRIDGE.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows:

Riding on Clarissa St. bridge.

§ 1. No person shall ride on horseback, or drive any horse, or single or double team, or any carriage, over or across Clarissa street bridge, or any part thereof, at a rate or motion faster than a walk, under a penalty of five dollars for each offence.

One half penalty to informer.

§ 2. One half of all penalties recovered and collected for the violation of this ordinance, shall be paid to the informant in each case.

Executions for penalty. Charter p. 112. § 38.

§ 3. Upon every recovery of any penalty or forfeiture for a violation of this ordinance, an execution shall be issued directing the amount to be paid of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of five days.

CHAPTER XVII.

AN ORDINANCE TO PREVENT DOGS RUNNING AT LARGE.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows.

§ 1. No dog shall hereafter be permitted to go abroad in any of the streets, squares, lanes, alleys, or public places in this city, without being led and securely confined by a chain or string, under the penalty of ten dollars for each offence, to be recovered against the owner or possessor of such dog, or the person who harbored such dog within two days previous to the time of such dog being found so going abroad. And it shall be lawful for any person to seize or shoot, or otherwise kill any dog so running at large, without being led or securely confined as aforesaid.

Dogs not to run at large.

May be killed.

§ 2. No person shall hinder or molest any person or persons who may be engaged in seizing, shooting, or killing any dog going abroad as aforesaid, or in removing the carcass thereof, under the penalty of fifty dollars.

Persons killing dogs not to be molested.

§ 3. Upon every judgment for any violation of any of the provisions of this ordinance, an execution shall be issued directing the amount to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the county jail for the period of thirty days.

Executions for penalties. Charter p. 112 § 38.

AN ORDINANCE IN RELATION TO MINORS
AND APPRENTICES.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows:

Parents &c.
liable for
penalties
incurred by
minors &c.
Charter
p. 37 § 16.

§ 1. Whenever, under any of the provisions of the penal ordinances of the common council of the city of Rochester, now or hereafter to be passed, any person shall be liable to a penalty who shall be a minor servant or apprentice, the parent or guardian of such minor, or the master or mistress of such servant or apprentice, shall be liable for such penalty.

CHAPTER XIX.

AN ORDINANCE IN RELATION TO THE
ASSIGNMENT OF CERTIFICATES OF
SALE OF LANDS FOR TAXES HELD
BY THE CITY.

Passed June 11, 1844.

The common council of the city of Rochester do ordain as follows :

Certificates
of tax sale
may be as-
signed.

§ 1. Whenever any application shall be made to the mayor for the assignment of any certificate given by the city treasurer on the sale of any lands within the city of Rochester, for taxes or assessments, and held by the city, the mayor shall cause to be published once in each week, for three successive weeks, in a daily paper in said city, a notice that an application has been made to him for such assignment, and that at a time and place in such notice specified, he will, unless good cause be shown to the contrary, make such assignment in compliance with such application.

§ 2. At the expiration of the publication of such notice, at the time and place in such notice specified for that purpose, he may in his discretion assign such certificate to any person who may then make application to him for that purpose, and who shall pay the amount of the tax or assessment for which the land specified in such certificate was sold, together with ten per cent. interest on the same from the day of sale, and the expense of giving such notice, and all other reasonable fees of the officers transacting the business; the mayor giving preference, so far as practicable, in his discretion, to applications made by mortgagees and *bona fide* incumbrancers of land.

CHAP. 20.

Notice to be given.

§ 3. This ordinance shall not be deemed to embrace or in any way affect any such certificates under which the right to redeem shall have expired according to law.

Exception.

CHAPTER XX.

AN ORDINANCE IN RELATION TO THE RENEWAL OR REVISION OF THE CITY ORDINANCES.

Passed June 11, 1844.

The common council of the city of Rochester do ordain and follows :

§ 1. The ordinances of the city of Rochester passed on the eleventh day of June, 1844, and contained in nineteen chapters, numbered from chapter one to chapter nineteen inclusive, shall be taken and deemed as the renewal of former ordinances of the city of Rochester of the same tenor and effect, and to have passed and become new ordinances of said city from this date. The former ordinances shall be deemed in force so far as any proceeding had, offence committed, or provision violated under them, or any of

Confirming and repealing clause.

CHAP. 20. them, previous to this date ; but the revised ordinances contemplated by this section shall be considered in force so far as any offences committed, provisions violated, or penalties incurred after the passage of this ordinance.

AN ORDINANCE PROHIBITING THE ERECTION OF WOODEN BUILDINGS WITHIN CERTAIN LIMITS.

Passed Aug. 20, 1844.—First published Aug. 23, 1844.

The common council of the city of Rochester do ordain as follows :

Wooden buildings with-
in certain
limits, pro-
hibited.

§ 1. No building shall hereafter be erected, nor shall any addition be made to any building already erected ; within the following limits, beginning at the intersection of Clinton and Court streets, and thence in the center of Court-street, to the west bank of the Genesee river ; thence up the river to a point opposite the center of Troup-street to Washington-street ; thence through the center of Washington-street to Ann-street ; thence in the center of Ann-street to Sophia-street ; thence in the center of Sophia to Fish-street ; thence in the center of Fish-street to Frank-street ; thence in the center of Frank-street to Platt-street ; thence in the center of Platt-street to the Genesee river ; thence up the bank of the river to the west end of Andrews-street bridge ; thence in the center of Andrews-street to Clinton-street ; and thence in the center of Clinton-street to the place of beginning—unless the outside walls thereof shall be constructed of brick or stone, or some metallic or incombustible material, except such portions as are usually constructed of wood in brick and stone buildings.

§ 2. Any person or corporation who shall violate

the provisions of the preceding section, shall be liable to the penalties provided by section first, title eight of an act to consolidate and amend the act to incorporate the city of Rochester, passed April 28, 1834, and the several acts amendatory thereof, passed April 11, 1844.

CHAP. 20.

Penalty for violation.

§ 3. Every execution issued against any person for any penalty or forfeiture recovered for the violation of any of the provisions of this ordinance, shall command the amount to be made of the property of the defendant if any such can be found; and if not, then to commit the defendant to the county jail for the period of twenty days.

Execution for penalty. Charter, p. 112, § 38

PROOF OF CITY ORDINANCES.

(City Charter, title 3, section 17.)

No ordinance of the common council imposing a penalty, shall take effect until the expiration of at least three days after the first publication thereof in a newspaper in the said city. A record or entry made by the clerk of the said city, or a copy of such record or entry duly certified by him, shall be *prima facie* evidence of the time of such first publication; and all laws, regulations, and ordinances of the common council may be read in evidence in all courts of justice, and in all proceedings before any officer, body, or board, in which it shall be necessary to refer thereto: either

Ordinances how proved. Charter, p. 38

1. From a copy thereof, certified by the clerk of the city, with the seal of the corporation affixed; or

2 R. S. 326 § 85, 2d ed.

2. From the volume of ordinances, printed by authority of the common council.

CERTIFICATE OF PUBLICATION.

THE preceding ordinances passed June 11, 1844, and at times subsequent thereto, were first published in a newspaper in the city of Rochester, to wit, the Rochester Daily Advertiser, at the times following, to wit: the ordinances, from the commencement to the end of section 22, article II., chapter I., on June 15, 1844: from said section 22, to the word "highway" in section 32, chapter III, on June 18, 1844: from said word "highway" inclusive to the end of section 7. Article I, chapter IV., on June 19, 1844: from said section 7, to the end of section 10, chapter V., on June 20, 1844: from said section 7, to the word "provisions" in section 7, chapter IX., on June 21, 1844: from said word "provisions" inclusive, to the end of chapter XII., on June 22, 1844: from the commencement of chapter XIII., to the end of chapter XX., on June 24, 1844: the "ordinance respecting pavements" on July 26, 1844: the ordinance "in relation to sale of fresh meats," on July 12, 1844: and the ordinance prohibiting the erection of wooden buildings within certain limits, on August 23, 1844.

ASAHEL S. BEERS,

City Clerk.

State of New-York, }
City of Rochester, ss. }

I,

Clerk of

Charter,

p. 38, § 17.

2 R. S. 324.

§ 72, 2d ed.

said City, do hereby certify that I have compared the preceding copies of Ordinances with original Ordinances passed by the Common Council of said city, at the dates therein respectively specified, and that the same are a correct transcript therefrom, and of the whole of said original; and that I have compared the preceding copy of the original record or entry of the first publication of said ordinances made by the Clerk of said City, with the original entry thereof, and that the same is a correct transcript therefrom, and of the whole of said original. In Witness whereof I have hereunto set my hand and affixed the Corporate Seal of said City, this

day of

A. D. 184

City Clerk.

INDEX.

N. B. References to pages below 122 are to the provisions of the charter; references to pages above that number are to the ordinances.

Accounts, of city to be annually audited and published,.....	59
Actions, see penalties, officer,	
Affidavits, see oaths,	
Alarms of fire, see false alarms,	
Aldermen, two for each ward,	18
one to be elected annually in each ward,.....	18
to hold office for two years,.....	18
to be residents of their wards,.....	17
non-residence to vacate their offices,.....	18
vacancies in office of, how filled.....	23
to be ex-officio justices of the peace in criminal matters,.....	43
may be members of special and general sessions,.....	43
to be ex-officio overseers of the poor,.....	97
may administer certain oaths,.....	120
powers of, relative to gun-powder,.....	139
Alleys. see nine pin, streets, public improvements, &c.,.....	
Aims-house, keepers of, how appointed,.....	18
may be erected by common council,.....	98
commissioners and officers of,.....	98
general regulation of,.....	98
tenants of, may be made to labor,.....	99
manufactures may be established in,.....	99
to be controlled by common council,.....	106
certain disorderly persons may be committed to,.....	106
Animals, exposed for sale, how to be tied,.....	168
certain, not to run at large,	160. 161
impounding of,.....	160
Annual election, see elections,.....	

Appointed officers, enumerated,.....	18
how removed, and by whom,.....	31
how appointed, when mode not specifically provided,.....	31
see officers of the city,.....	
Appeals from justices' courts to mayor's court,	101. 110
when brought by city to be without bond,.....	111
see board of education, public improvements, &c.,	
Apprentices, see master, nine pin alley, penalty,.....	
Appraisal, see public improvements, fires, &c.,.....	
Arches may be constructed	72
Assessments, see taxes, public improvements, &c.....	
rolls, see assessors,.....	
Assessors, three to be elected for each ward,.....	19
to hold office three years,.....	19
one to be chosen in each ward each year,.....	19
vacancy in office how supplied,.....	23
their general powers and duties,.....	44
how to complete assessment rolls,.....	44
to assess for public improvements,.....	84
proceedings in assessing for public improvement,	84
their fees for assessing public improvements,.....	84
Ashes, keeping of, regulated,.....	91. 133
to be sold by a sealed measure,	178
Assistant engineers, see fire department,.....	
Attachment against vessels, when obtained,	118
Attorney and counsel to common council, how appointed,.....	18
his duties and compensation,.....	46
Awnings, regulated,.....	142
Auctions, not to be held in the streets,.....	148
Basins, see ships,	
Bathing, in public may be prohibited,.....	34
in public prohibited, and penalty for,.....	158
Begging may be restrained,.....	34
unlicensed, prohibited,.....	159
Bells, how to be rung for fires,.....	94. 135
Bills, posting of, on buildings, prohibited,.....	159
Bills of mortality, keeping of, may be prescribed,.....	25
to be kept by sexton,.....	202
Blowing horns on Sunday prohibited.....	159
Boarding houses, see board of health,.....	
Board of common council, see common council,.....	
Board of education, how constituted,.....	65
to meet at least once a month,.....	65
to appoint a president,.....	65
to perform duties of town superintendents,.....	66
to be liable to certain penalties,.....	66
to appoint city superintendent of common schools,.....	66

Board of education, to fix superintendent's salary	66
to certify annually to common council, the amount to be raised for common schools.....	66
to apportion school moneys when raised.	67
to fix site of school houses.....	68
to fix amounts to be raised for building school houses.....	68
to audit claims against school districts.....	68
may separate city districts from town districts.....	68
may establish schools for colored children.....	69
to act as trustees of colored schools.....	69
to divide city into districts for colored schools.....	69
may lease houses for colored schools.....	70
to decide appeals from decisions of trustees.....	70
Rochester Collegiate Institute, to report to.....	70
to publish annual statement.....	70
Board of excise, see excise.....	
Board of supervisors, see supervisors, board of.....	
Board of health, how constituted.....	112. 190
their duty in respect to nuisances.....	190
to provide for infected sick persons.....	191
may remove infected sick persons.....	191
may compel inn keepers, &c., to report sick persons.....	191
to examine privies, sinks, &c.....	192
may prohibit the use of vats, &c.....	192
to be assisted by constables, &c.....	193
Boats to obey orders of board of health.....	114
when to be attached.....	118
Bonds of office may be prescribed by common council.....	35
see cartmen, clerk of the market, collectors, constables, excise, marshal, pawnbrokers, treasurer, &c.....	
Bonfires prohibited within lamp and watch district.....	157
Boundaries of the city.....	9
of the several wards.....	12
Bridewell, may be established.....	41
common council may regulate by ordinance.....	41
keepers and assistants may be appointed.....	41
who may be confined therein.....	41. 106
Bridges, to be regulated by common council.....	71. 72
sliding on, prohibited.....	213
see Court-street and Clarissa-street bridges.....	
Buildings worth \$1000 not to be removed for purposes of public improvement, 73	
wooden, prohibited within certain limits.....	218
when not to be built without permission.....	135. 90
liable to be burnt, may be pulled down.....	95
damages for buildings pulled down, how estimated, &c.....	96
how constructed within certain limits.....	135. 218. 136. 137

Buildings, i. secure, may be removed.....	117
entrenchment of, on streets, to be removed,.....	151
to be numbered in part of Buffalo-st.....	154
to be furnished with scuttles,.....	90.134
Building materials not to be left in streets,.....	140
Burial grounds, keepers of.....	18
to be kept by city sexton,.....	201
see public cemetery, Mt. Hope, &c.,	
Burial of the dead to be made in public cemetery,.....	200
fees of sextons,	202
see public cemetery,.....	
Butchers may be licensed,.....	40
see markets,.....	
Canals, see nuisances, public health, bathing,.....	
Cannon, not to be fired within the lamp and watch district,.....	157
Canyass of votes given at elections,.....	22
Captain of watch, see watch, captain of,.....	
vessels, see board of health,	
Carriages not to be passed over side walks,.....	144
not to obstruct cross-walks,	144
see hackney carriages,.....	
Carts not to be left in streets,.....	141
see cartmen,.....	
Cartmen, regulations of,.....	35
mayor may be authorized to license,.....	40
to be licensed by the mayor,.....	179
to be citizens and of full age,.....	179
to be residents of the city for six months,.....	179
to give bonds on being licensed,.....	179
their carts to be numbered,.....	180
stands for their carts prescribed,.....	180
not to flourish whips while on stands,.....	181
when to remove their carts if requested,.....	181
their fees for services,.....	182
fees to be paid for their licenses,.....	184
their general duties,.....	182
their duties in case of fires,.....	183
when their license may be revoked,.....	184
Cattle not to run at large,.....	35.160.161
running at large, may be impounded,.....	160
Cellars, construction of, regulated,.....	152
power of common council respecting,.....	116
Cemetery, public, dead to be buried in,.....	200
to be in care of city sextons,.....	200
duty of sextons in relation to,	201
register of burial lots to be kept by sexton,.....	201

Cemetery, certificates of lots to be issued to purchasers,	201
clerk to make out deeds of lots sold in,	201
clerk to keep register of lots sold in,	201
mayor to execute deed of lots in,	201
former deeds of lots in, confirmed,	201
when sale of lots in, forfeited,	202
gravea not to be dug in, without permission,	202
lots or fixtures not to be injured,	202
penalties prescribed for certain violations,	202
sexton's fees for digging graves,	202
register of interments to be kept,	202
see Mount Hope Cemetery, sexton, &c.,	
Centre market, see market, ..	
Certificate of election, how made and filed,	22
Certificate of tax sale of lands, see taxes, lands, &c.,	
how and when assigned by the mayor	216
Certiorari on justices' judgments to mayor's court,	110
when brought by city to be without bond,	111
Chancery, certain moneys to be paid into,	81
investment of such moneys,	82
Chief engineer and assistants, see fire department	
Chimneys, power of common council to regulate,	91
when to be burnt out, ..	135
not to be built on wooden foundation,	136
sweeps may be licensed,	40
Circus, not to be exhibited without license,	162
Cisterns may be built, ..	92
care of, ..	93
Citizens, their duties at fires, ..	95. 121
City corporation, general powers of,	9
corporate name of, ..	9
general powers of corporation,	9
may hold certain real estate,	89
certain lands to be struck off to, at tax sales,	55
to succeed to former corporate rights,	121
boundaries of, ..	9
City attorney, see attorney and counsel,	
City boundaries, see boundaries of the city,	
City Clerk, see clerk of city, ..	
City physician, see physician, city,	
City sealer, see sealer, weights and measures,	
City superintendent, see superintendent, city,	
City surveyors, see surveyors, city,	
City treasurer, see treasurer, ..	
City watch, see watch, city, ..	
Civil divisions of the city, ..	9

Clarissa-street bridge, fast driving over prohibited,.....	214
half of penalties to go to informer,.....	214
executions for penalties,	214
Cleanliness of the city, see health, board of health, &c.,	
Clerk of board of education, who to act as,	66
Clerk of city, how appointed, ..	18
to keep minutes of common council,.....	33
may certify ordinances to be read in evidence,.....	38
to keep city papers and documents,.....	45
to publish ordinances and certain votes,	45
to issue collectors' warrants,	51
to countersign and register licenses,	45
to certify assessors and collectors to supervisors,.....	45
to countersign treasurer's checks,	64
to make out deeds of cemetery lots,	201
to keep register of cemetery lots sold,	201
his duty in respect to certain judgments,	213
to extend taxes and make duplicate rolls,	213
Clerk of mayor's court, how appointed,	101
to provide seal of court, and books,	101
may appoint a deputy,	101
powers and duties of his deputy,	101
Clerk of the market, see market, ..	
Coal, measurers of, may be appointed,	18
Collectors of taxes and assessments, one to be elected for each ward,.....	18
to be annually elected,.....	18
to hold office for one year,	18
to give bonds to the city, ..	26
to give bonds to supervisors,	26
bonds of, where to be filed,.....	26
entry of bonds by county clerk, and its effect, ..	27
liability of, and of their sureties,	27
not giving bonds deemed refusing to serve, ..	27
their compensation, how determined,....	42
their warrants to collect general taxes, ..	52
their powers and duties in collecting } taxes and assessments,	52
warrants may be renewed,.....	58
warrants against, when issued to marshal, ..	59
proceedings against by county officers,....	59
warrants to collect expenses of public im- } provements,	86
when such warrants embrace two or more wards, ..	86
proceedings on such warrants,	86
Collegiate Institute to report to board of education,	70
Colored persons, when to be taxed for common schools,.....	69

Colored schools, see common schools,	
Combustibles, keeping and carrying of,	35.91.133.134
Commissioners of appraisal, see public improvements,	
Commissioners of deeds, their number, how, fixed,	42
..... how appointed,	41
..... their powers, and terms of office,	42
Commissioners of common schools, see common schools,	
Commissioners of excise, see excise,	
Commissioners of health, see health, public,	
Commissioners of highways, see highways, common council, &c.,	
Committees, oaths on matters before, how taken,	120
..... false swearing in matters before,	120
Common council to appoint certain officers,	17
..... to appoint a police justice,	20
..... how constituted,	32
..... when and where to meet,	32
..... special meetings, how called,	32
..... mayor to preside at meetings,	32
..... recorder to preside in mayor's absence,	32
..... who to preside in mayor's and recorder's absence,	32
..... may re-pass, by two-third vote, ordinances suspended by mayor,	32
..... each member of, to have a vote,	32
..... sittings of, to be public,	33
..... minutes of, to be kept by the clerk,	33
..... certain votes to be entered at large,	33
..... a majority of, to constitute a quorum,	33
..... a quorum of, may prescribe rules,	33
..... not to appoint its own members to office,	33
..... general powers of, enumerated,	34
..... may designate route of rail-roads,	36
..... their power in regard to mill races,	36
..... may regulate certain shows,	37
..... may impose penalties for violating ordinances,	37
..... may subject parents, &c., to penalties for minors, &c.,	37
..... to be commissioners of excise,	38
..... may authorize mayor to license cartmen; &c.,	40
..... further powers as to markets and butchers,	40
..... may establish a bridewell,	40
..... may require weights and measures to be sealed,	41
..... may purchase wood and hay market lot,	42
..... may issue wood and hay market stock,	42
..... to raise interest of funded debt annually,	43
..... may appoint mayor <i>pro tem.</i> in certain cases,	46
..... to audit and settle city accounts,	48
..... may raise a lamp and watch fund,	48
..... may raise a contingent fund yearly,	48

Common council, to equalize assessors' valuation of lands,	49
to publish annual statement of city accounts,	59
moneys borrowed by, not to exceed yearly revenue,	60
not to issue notes, &c., for more than six months,	60
to raise school moneys reported by board of education,	66
may reduce amount of school tax one-fifth,	67
to raise moneys for building school-houses,	68
to raise money to build houses for colored schools,	69
to be commissioners of highways,	70
to regulate and record streets,	71
to make road districts,	71
may appoint inspectors of highways,	71
to raise highway fund,	72
to build sewers, vaults, &c.,	72
to improve, repair, and open streets,	72
restrictions on, in opening new streets,	73
public improvements by, see public improvements,	73
may prevent erection of wooden buildings,	90
may compel the keeping of fire-buckets,	90
may compel the clearing of chimneys, &c.,	91
may regulate the use of lights in stables, &c.,	91
may authorize persons to enter buildings,	91
may maintain fire department,	92
may appoint firemen,	92
may prescribe duties of firemen,	93
may direct mode of ringing fire-bells,	94
may prescribe duties of fire-wardens,	94
may prescribe duties of mayor, &c., at fires,	95
may remove idlers, &c., from fires,	95
may compel certain officers to attend fires,	95
may raise an annual poor fund,	97
may erect an alms-house,	98
may appoint officers of alms-house,	98
to fix compensation of such officers,	98
may appoint overseers of the poor,	98
may establish manufactures in alms-house,	99
may appoint a high constable,	107
may appoint police constables,	107
may apply penalties on costs of suits for the same,	112
to appoint health commissioners,	112
to regulate nuisances by ordinance,	116
may remove insecure buildings,	117
may protect river and canals from nuisances,	117
to appoint chief and assistant engineers,	123
to fix number of notaries and commissioners of deeds,	42
Common criers may be appointed,	18

Common schools, commissioners of, two for each ward,	64
commissioners to be annually elected,	64
election of commissioners, how conducted,	65
vacancies, how supplied,	65
Board of education, how constituted,	66
city superintendent of, how appointed,	66
salary of city superintendent of, how fixed,	66
annual amount to be raised for,	66
common council to raise moneys for,	67
moneys raised for, to be paid into treasury,	67
moneys belonging to, how apportioned,	67
sites of school-houses, how located,	68
expense of school-houses, how raised,	68
expenses of, how audited and paid,	68
trustees of, to be reported to board of education,	68
city districts may be set off from town districts,	68
schools for colored children,	69
districts for colored children,	69
appeals from decisions of trustees of,	70
annual report of board of education,	70
Constables, five to be elected,	17
districts for election of,	20
to hold office for one year,	21
vacancy in office of, how filled,	23
to give security with sureties,	27
execution of security, how certified,	28
security, how endorsed and filed,	28
not filing security deemed refusing to serve,	30
proceedings against, upon their security,	23
may be compelled to attend fires,	95. 129
when to attend mayor's court,	101
to assist board of health,	193
police, see police constables,	
Contingent fund, how raised,	43
Convicts in mayor's court, see marshal,	
Corporate name and powers,	10
property to be controlled by common council,	34
seal to be in custody of the mayor,	43
Correction, house of, see bridewell,	
Council, see common council,	
Counsel to the city, see attorney and counsel,	
Courts, see chancery, justices', mayor's, and supreme courts, ..	
Court-street bridge, driving fast on,	156
Crackers, not to be sold nor fired,	157. 162
Craft, see boats,	
Crier, see common crier,	

Criminals, to be confined in county jail,	105
expenses of detecting, how paid,	109
jurisdiction of mayor's court over,	102.103
expenses of trying to be county charges,	105
when marshal to transport to State prison,	105
see police, board of supervisors, &c.,	
Cross-walks, obstruction of,	144.146
Dead, see burial of the dead, cemetery,	
Deeds, of cemetery lots, see cemetery,	
commissioners of, see commissioners of deeds,	
Deficiency, certain, may be reassessed,	88
Detection of offenders, expenses of,	109
Disorderly persons, certain, enumerated,	106
conviction and punishment of,	106
who deserting their families, to be deemed,	107
District attorney to prosecute indictments in mayor's court,	104
Disturbances, public, penalty for,	155
Divisions of the city,	12
Dogs, may be restrained from running at large;	35
not to run at large, ..	215
running at large may be killed,	215
executions for penalties, ..	215
Drains may be built by common council,	72
private, not to be constructed to sewers,	147
Driving, immoderate, may be restrained,	34
rapid, in the streets, prohibited,	156
immoderate, on Court-street bridge,	156
on Clarissa-street bridge,	156.214
in Mount Hope cemetery,	203
Ducks may be restrained from running at large,	35
prohibited from running at large,	161
Education, see common schools, board of education, &c.,	
Eighth ward, boundaries of,	15
Elections, inspectors of, how elected,	20
annual, when to be held,	21
polls at, when opened and closed,	21
general regulations concerning,	21
canvass of votes given at,	22
certificate of result, how made and filed,	22
special, when and how ordered,	22.23
when to be held,	23
how conducted,	24
result, how certified, &c.,	24
expenses of, how paid,	31
of school commissioners,	64
Eligibility to elective office,	17

Embankments on streets, &c., to be walled,	150
Encroachments on streets to be removed,	151
Engineers, see fire department, ..	.....
Engine-houses may be built, ..	92
penalty for mischievously entering,	132
Engines, see fire department, ..	.....
Estimates, see public improvements. ....	.....
Evidence of passage of ordinances, &c.,	38.219.220
of title to lands under tax sale,	57
of service of notice to redeem lands,	57
Excise, common council to be commissioners of,	38
to be regulated by general laws of the state,	38
licenses, how granted, ..	38
fees for licenses, ..	39
bonds to be given and filed,	39
when bonds to be prosecuted,	39
license, when and how annulled,	39
proceedings on annulling license,	39.40
moneys for licenses to go to poor fund,	99
Executions, see mayor's court, marshal, penalties, .....	.....
for penalties, form of,	37.112
Exhibitions, of various kinds, to be licensed,	162
False alarms of fire, penalty for, ..	135
False swearing, in certain matters, perjury,	120
Fees, see various officers, ..	.....
Felons in mayor's court, see convicts, marshal, .....	.....
Fifth ward, boundaries of, ..	12
Finance, see funds, overseer of the poor, superintendent, treasurer, .....	.....
Finance committee to audit accounts monthly,	211
Fines, see firemen, penalties, misdemeanors, .....	.....
Fire companies, see fire department, .....	.....
Fire department may be maintained,	92
fund for support of, may be raised,	92
firemen, how appointed,	92
duties of firemen to be prescribed,	93
duties of engineers and fire-wardens,	93
privileges of firemen,	93
exemptions of firemen,	94
ringing of fire-bells regulated,	94.135
duties of officers at fires may be prescribed,	94
compensation to injured firemen,	94
certain persons may be arrested at fires,	95
when buildings may be pulled down at fires,	95
committee of, to report cause of fires,	123
to keep testimony in book,	124
chief engineer of, to report semi-annually,	124

Fire department, chief engineer his duty at fires,	125
to examine engines monthly,	125
to estimate expenditures,	125
solely to contract debts for,	125
assistant engineers of, their duties,	125
fire-wardens of, their duties,	125
foremen of companies, their duties,	126
how elected,	131
numbers of persons for companies, how reported,	127
companies to be subject to chief engineer,	127
to be under foreman's control,	127
to keep engine-hose,	127
elections of,	131
firemen, their duties,	128
fines against, how collected,	128
officers of, how distinguished at fires,	129
marshal and constables to attend fires,	129
bells to be rung on alarms of fire,	129
warden to be allotted to each engine,	130
engines not to be drawn on pavements,	130
duty of citizens at fires,	131. 132
penalty for injuring engines, &c.,	132
Fire limits, excluding wooden buildings,	90. 135. 218
Firemen, how appointed, ..	92
their duties to be prescribed,	93
their privileges and exemptions,	93. 94
compensation to, when injured,	94
their duties at fires, ..	94. 128
fines against, how collected,	128
see fire department, ..	
Fires, regulations to prevent, ..	90
buckets for, may be required to be kept,	90
persons refusing aid at, may be arrested,	95
buildings may be pulled down at,	95
compensation for buildings pulled down at,	95
see firemen, fire department,	
Fire-wardens, how to be appointed,	18
see fire department, ..	
Fire-works not to be let off within lamp and watch district,	157
not to be sold nor fired in the city,	35. 162
First ward, boundaries of, ..	12
Fish-stalls, see markets, ..	
Fixtures in front of buildings, regulated,	142
Float, see boat, ..	
Flour and meal, foreign, to be inspected,	119
Foremen of fire companies, how elected,	131

Foremen of fire companies, their duties,	126
see fire department,	
Forestalling provisions, &c., penalty for,	171
Fourth ward, boundaries of, ..	13
Fowls, not to run at large, ..	161
Freeholders, commissioners of appraisal to be,	75
Fruits, not to be sold in the streets,	147. 148
Funded debt, interest of, to be levied and paid,	43
Funds, see contingent, Fire department, lamp and watch, poor and sinking funds, see moneys, city; treasurer,	
Games of sport, within lamp and watch district,	153
Gaming houses, may be suppressed,	34
materials not to be kept,	158
penalty for permitting, ..	163
Gates, how constructed, ..	155
Geese, not to run at large, ..	161
Genesee river, clearing of, provided for,	35
prevention of nuisances in,	117
public bathing in, prohibited,	158
penalty for casting nuisances in,	156
see nuisances, ..	
Goats, not to run at large, ..	160. 161
running at large may be impounded,	161
Goods not to encumber streets, ..	141. 144
Grain, measurers of, how appointed,	18
Gravel, transportation of, regulated,	153. 178
Guagers, how appointed, ..	18
Guardians, subjected to penalties of their wards,	37. 216
Gunpowder, see powder, ..	
Guns, not to be fired within lamp and watch district,	157
Hackney carriages may be licensed,	40. 193
who may be licensed, and by whom,	194
fees to be paid for licenses,	194
penalty for driving without license,	194
stands for, prescribed and regulated,	194. 195
rates of fare of,	195. 196. 197
penalty for extortion in drivers of,	197
to be numbered, and ordinances posted in,	197
when licenses may be transferred,	198
drivers of, to receive passengers when on the stand,	198
penalty for refusing to receive passengers,	198
when mayor may revoke license,	198
city superintendent's duty in relation to,	198
execution for penalties for breach of ordinances,	199
Hay, weighers of, how appointed,	18
oath and duties of weigh-master,	174

Hay, salary of weigh-master,	176
keeping of, regulated,	91.133
to be sold by weight,	35.174
to be weighed by weigh-master,	174
weigh-master to certify weight of,	174
when wagon, sleigh, &c., to be re-weighed,	174
penalty for refusal to have wagon, &c., re-weighed,	175
penalty for fraud in weight of,	175
not to be sold until weighed,	175
weight of, when wet or damaged, how estimated,	175
when weighed, account of to be kept,	176
fees for weighing, and by whom paid,	176
weigher of, how and by whom paid,	176
market, stands for, located,	176
lot may be bought,	42
stock to be issued,	42
interest on, how paid,	42
sinking fund,	43
Health, public, care of,	112
board of, how constituted,	112
prevention of diseases,	112.190
pest-house may be erected,	113
sick persons may be sent to pest-house,	113
infected persons not to be brought into the city,	114
penalty for bringing infected persons into city,	114
owners of stages, &c., to report infected persons,	114
penalty for bringing infected property into city,	114
powers of board of health over boats,	114
innkeepers to report certain sick persons,	115
physicians to report infected persons,	115
fines for penalties, how collected and applied,	115
nuisances, how removed,	116
removal of insecure buildings,	117
nuisances in Genesee river and canals,	117
suits for certain nuisances, how conducted,	117
foreign flour and meal to be inspected,	119
physician to be appointed, and who to be,	112.193
see board of health,	
Hides not to be hung out of buildings,	158
High constable may be appointed,	107
his powers, duties, and fees,	107
to act as marshal in marshal's absence,	107
his tenure of office,	108
Highways, inspectors of, how appointed,	18
powers of common council respecting,	36.70
repair and regulation of,	71

Highways, inspectors of, how appointed,	71
fund may be annually raised,	72
common council to be commissioners of,	71
superintendents of, see superintendents; city,	
see streets, public improvements,	
Horses not to be driven immoderately,	156
not to be left loose in the streets,	156
not to run at large, ..	160. 161
may be impounded ..	160
not to stand on cross-walks,	146
Hospital, see pest-house, ..	
House of correction, see bridewell,	
Houses, see buildings, ..	
Impounding of animals, see pound,	
Improvements, see public improvements,	
Incumbrances in streets may be prohibited,	35
by building materials, restrained,	140
by wagons, &c., without horses,	141
by fixtures, awnings, &c., regulated,	142
by windows, steps, &c., restrained,	143
by goods, fire-wood, &c., prohibited,	141. 144
of snow and ice to be removed,	145
by obstructing cross-walks,	146
by selling fruits and nuts,	147
by holding auctions in the streets,	148
by throwing nuisances into the streets,	150. 156
by encroachments, to be removed,	151
see streets, ..	
Indictment, may be sent to mayor's court,	102
may be remanded, ..	103
for misdemeanors, contrary to public health,	114-115
fines collected under certain, how applied,	115
Innkeepers to report names of sick persons,	115
see health, public, ..	
Inspection of foreign flour and meal,	119
Inspectors of elections, how elected,	20
see elections,	
Inspectors of streets, how appointed,	18
see streets,	
Inspectors of weights and measures, how appointed,	18
see city sealer, weights and measures, ..	
Interest of funded debt to be raised and paid,	43
to be collected of collectors,	59
to be levied in re-assessments,	58
to be added to unpaid tax on sale of lands,	54
at ten per cent. to be paid on redeeming lands,	5

Judgment creditors may redeem lands sold for taxes,.....	56
remedy for money paid to redeem lands,.....	56
Justice of the peace, one for each ward,	18
to hold office for four years,	19
not to hold courts out of their own wards,	19
to have same jurisdiction as town justices,.....	19
not to act as commissioners of deeds,	19
when and how to be chosen,	19
to be subject to general laws of the state,.....	110
appeals, &c., from, to lie to mayor's court, &c.,.....	110
to file oath of office in county clerk's office,	31
when to exercise criminal jurisdiction,.....	47
may issue criminal warrants,	47
Justice, police, see police justice,	
Jurors in suits on ordinances, who may be,	110
when justices may draw from mayor's court,	111
lists of, to be furnished to justices,	111
see mayor's court,	
Jury lists, how made for mayor's court,	44.104
to be certified to justices by clerk of mayor's court,.....	111
Keepers of alms-house, how appointed,	18
see alms-house,	
Keepers of penitentiary, how appointed,	18
see penitentiary,	
Kites, not to be flown in the city,	157
Lamp and watch fund, how raised,	48
sums raised for, kept separate on the roll,	51
Lamp and watch district to be defined,	16
games of sport within, prohibited,.....	153
Lamps, use of, regulated,	91.133
city, to be in charge of captain of watch,	188
new ones, by whom procured,	188
to be lighted by watchmen,	188
Landlords to pay assessments for improvements, .	87
Lands, sale of, for taxes, regulated,	52
when exposed to sale for taxes,	52
notice of sale to be published,	52
treasurer to conduct sales,	53
when and how to be sold for taxes,	54
certificates to be given to purchasers,	54
copy of certificate to be filed with city clerk,	54
costs and expenses of sale,	54
sale of, prevented by payment of tax and expenses,.....	54
when to be struck off to the city,	55
owner may redeem, in two years after sale,.....	55
when thirty days additional time to redeem,.....	55
notice to redeem, when and how served,	55.56

Lands, mortgagees and judgment creditors may redeem,	56
lien for moneys paid to redeem, and how enforced,	57
service of notice to redeem, how proved,	57
leases of, when sold, when to be given,	57
effect of leases of, when sold, generally,	57
effect of leases of, when struck off to the city,	55
when misdescribed, may be re-assessed,	58
Lanes, see public improvements, streets,	
Leases, see lands, sale of, for taxes; markets,	
Licenses, see butchers, cartmen, chimney-sweeps, circus, excise, hackney carriages, markets, pawnbrokers, porters, shows, theatre, truckmen,	
Licenses to be registered and countersigned by city clerk,	45
Lien, of taxes and assessments,	88
of mortgagees, &c., for moneys paid to redeem lands,	56
for moneys paid to redeem lands, how enforced,	56
Limo, sale of, may be regulated,	35
keeping of, regulated,	133
to be sold by a sealed measure,	178
Liquors, vending of, may be suppressed,	34
see excise,	
Loans of common council, not to exceed current annual revenue,	60
Locomotives, use of, may be regulated by common council,	36
Lumber, drying by fire, prohibited,	136
Magazine, see powder,	
Manure not to be thrown into streets,	150
see nuisances,	
Markets may be established and regulated,	35.40
fresh meat to be sold at, by license,	164
four extra licenses to be granted,	165
extra licenses to be sold at auction,	165
duration and condition of extra licenses,	166
center, defined and regulated,	166
sale of stale provisions prohibited,	167
meats to be sold by weight,	167
tables, cellars, stalls, and hall to be kept clean,	167
garbage not to be thrown into,	168
animals exposed for sale, how tied,	168
vegetable stalls not to be misused or underlet,	168
wagons not to remain in front of,	169
private stalls for sale of meat prohibited,	169
private slaughter-houses prohibited,	169
penalty for injuring stalls in,	169
clerk of, how appointed, and his bond,	169
his general duties,	170
see hay and wood markets,	
clerk to ring bell on closing,	170

Markets, meat not to be sold after closing of,	170
penalty for forestalling provisions, &c.,	171
clerk to arrange wagons, &c., about,	171
ordinances concerning, to be posted in,	171
fish and vegetable stalls to be leased,	171
Marshal, to be annually elected,	18
to be resident of the city,	17
non-residence to vacate his office,	18
may be removed from office for cause,	20
vacancy in office to be filled by common council,	20
his bond of office, how executed and approved,	28
penalty of his bond of office,	28
his sureties to justify, ..	28. 119
his bond to be filed with city clerk,	29
not giving bond deemed refusal to serve,	30
his bond, when and how prosecuted,	29
his general powers and duties,	46
when warrants against collectors issued to him,	59
attached for not returning warrant against collector,	59
may be compelled to attend fires,	95. 129
to attend mayor's court,	101
to execute final process throughout the county,	102
to take convicts in mayor's court to state prison,	105
to execute process from mayor's court,	102. 109
how punished for delinquencies,	109
powers and duties relative to gunpowder,	139
when high constable to act as deputy,	107
Masters liable for servants' and apprentices' penalties,	37. 216
of vessels, their duties and penalties in regard to infected persons,	114. 115
to obey orders of board of health,	114
Mayor, to be annually elected,	18
to be resident of the city, ..	17
non-residence to vacate his office,	18
his tenure of office, ..	18
vacancy in office of, how filled,	25
to preside at meetings of common council,	32
may suspend effect of certain ordinances,	32
to have a casting-vote in common council,	32
his general duties, ..	43
to have custody of the corporate seal,	43
to be <i>ex officio</i> justice of the peace,	43
may be member of general and special sessions,	44
recorder to act as, in his absence or inability,	46
to issue collectors' warrants for general tax,	51
to issue collectors' warrants for public improvements,	86
to be <i>ex officio</i> overseer of the poor,	97
may appoint extra police constables,	107

Mayor to examine sureties of officers on oath,	119
may administer certain oaths,	120
may remit certain penalties,	130
powers and duties relative to gunpowder,	139
may license cartmen,	179
duties of, in licensing cartmen,	180
may license hackney carriages,	193
to execute deeds of cemetery lots,	201
may license pawnbrokers,	204
when to assign tax certificates held by city,	216
Mayor's court, title and terms of,	100
how and by whom held,	100
its powers and jurisdiction,	101
clerk of, and his deputy,	101
marshal and constables to attend,	101
effect of judgments of, when docketed,	101-102
marshal to execute final process on, in county,	102
process of, to be executed by marshal,	102-109
its criminal jurisdiction,	102
indictments sent to and remanded,	102
its jurisdiction as special sessions,	103
jury lists, how made and returned,	103
jurors, how drawn and summoned,	103
jurors in, may be fined, &c.,	104
jurors in, how paid in criminal causes,	104
district attorney to prosecute indictments in,	104
recorder's fees for suits brought in,	104
criminal expenses of, to be county charges,	105
convicts in, to be taken to state prison by marshal,	105
clerk of, to certify jury lists to justices,	111
suits for certain penalties may be brought in,	110
appeals and certioraries to lie to,	110-111
to appoint appraisers for public improvements,	75
to review report of commissioners,	77
Meal, foreign, to be inspected,	119
Measurers of wood, how appointed,	18
their appointment and oath,	171
their duties and fees,	172
see wood	
Measurers of fuel, coal, grain, and lime, }	18
Measures, inspectors of, how appointed,	18
see city sealer, weights and measures,	
Meat, fresh, to be sold only at market,	35-40-164
four extra licenses for sale of, to be sold,	165
regulations for sale of, in market,	166
not to be sold if stale or tainted,	167

Meat, to be sold by weight, ..	167
not to be sold after closing of market, ..	170
see markets, ..	
Mill races may be required to be covered, ..	36
may be covered at owner's expense, ..	37
Minors, see guardian, master, nine-pin alleys, parent, pawnbrokers, ..	
Misdemeanors, against public health, ..	114.115
punishment for, and fines, how applied, ..	115
by misappropriating funds of city, ..	120
Mistress, liable for penalties of servants, &c., ..	37.216
Moneys, city, not to be misapplied, ..	120
misapplication of, to be misdemeanor, ..	120
how raised and collected, ..	49 to 59
to be kept by treasurer, ..	46
account of disbursement of, to be kept, ..	46
how drawn from treasury, ..	61.64
to be deposited in city banks, ..	61
checks for, to specify fund drawn upon, ..	61
general funds not to be overdrawn, ..	62
account of, to be monthly reported, ..	62
school, how raised and kept, ..	66.67
how apportioned, ..	67
to be disbursed by treasurer, ..	67
see funds, overseer, treasurer, superintendent, ..	
Mortality, bills of, may be compelled to be kept, ..	35
sexton to keep register of interments, ..	202
Mortgagees, may redeem land sold for taxes, ..	56
their lien for moneys paid to redeem lands, ..	56
enforcement of their lien on lands redeemed, ..	56
see lands, sale of, for taxes, ..	
Mount Hope, exempt from taxation, ..	89
lots in, not to be taken for payment of debts, ..	89
teams of more than two horses excluded from, ..	203
not to be obstructed by carriages, ..	203
horses in, to be fastened only to posts, ..	203
penalty for injuring trees, flowers, &c., in, ..	203
injuring monuments and fixtures in; ..	203
fire arms not to be discharged in, ..	203
immoderate driving in, prohibited, ..	203
nuisances in, prohibited, ..	203
unauthorized digging in, restrained, ..	204
see burial of the dead, cemetery, sexton, ..	
Necessaries, see privies, ..	
Nine-pin alleys, regulated, ..	158
minors, &c., not to be suffered to play at, ..	158
Ninth ward, boundaries of, ..	15

Non-residence to disqualify for office,	17
to vacate office, ..	18
Notaries, public, how appointed,	42
number of, how determined,	42
Nuisances, may be abated by common council,	34
may be removed by board of health,	113
by public disturbances,	155
by immoderate driving,	156.203
by leaving horses loose in the streets,	156
throwing rubbish in the streets,	150.156
flying kites, ..	157
firing gunpowder, ..	157
throwing out hides, ..	158
public bathing in the day-time,	158
keeping nine-pin alleys,	158
keeping gaming materials,	158
defacing public property,	159
ringing boat-bells, &c., on Sunday,	159
posting bills on buildings, ..	159
privies to be built on inhabited lots,	159
unlicensed begging, ..	159
runners not to solicit passengers,	160
certain animals not to run at large,	160
geese, &c., not to run at large,	161
contents of privies, how removed,	161
selling powder, squibs, and fire-works,	162
theatres, shows, &c., regulated,	162
keeping and using gaming materials,	163
duty of board of health respecting,	190
in Mount Hope cemetery prohibited,	203
see health, public, ..	
Numbering buildings in Buffalo-street,	154
Nuts, &c., not to be sold in the streets,	148
Oaths of office to be taken and filed,	25
of justices, where filed,	31
in matters pending before common council,	120
of assessors in public improvements,	83
of appraisers in public improvements,	76
of service of notice to redeem lands,	57
Obstructing streets, see incumbrances, streets,	
cross-walks, see cross-walks,	
Offenders, expenses of detecting, how paid,	109.112
see penalties, supervisors,	
Officers of the city enumerated,	17
who eligible to elective office,	17
to be residents of the city and ward,	17

Officers, non-residence to vacate office,	18
appointed, enumeration of,	18
elected, when to enter upon office,	22
elected at special elections, when to enter upon office,	24
elected and appointed, city clerk to notify,	25
elect, to take constitutional oath of office,	25
oath of office of, to be filed,	25
appointed, to file notice of acceptance,	26
neglect to file oath, &c., a refusal to serve,	26
penalty for refusal to serve,	30
clerk to make list of officers refusing to serve,	30
refusing to serve, to be reported by mayor,	30
to be prosecuted for refusing to serve,	30
how appointed when specific mode not fixed,	31
resignation of, how made,	31
appointed, how removed,	31
their salaries, how determined,	42
may plead general issue, when sued,	120
Orders, see board of health, evidence, public improvements,	
Ordinances, may be passed by common council,	34
when to take effect,	38
penal, how long binding,	42
amount of penalty of, limited,	36
suits on, how prosecuted,	110
first process in suits on,	110
may impose penalties on parents, &c.,	37
how read in evidence,	38.220
renewal of, declared,	217
see penalties, and various public titles,	
Overseer of the poor, who to be <i>ex-officio</i> ,	97
common council may appoint,	98
how appointed, and his bond,	199
his oath of office,	98
his compensation,	99.200
to apply to police justice for orders for relief,	100
how to be furnished with funds,	199
to render monthly account,	200
to keep account of charges against county,	200
to keep check-book of orders drawn,	210
to require vouchers for payments,	210
payments not to be made to, without vouchers,	211
to draw checks when approved by committee,	210
accounts of, to be monthly audited,	211
see poor,	
Owners, not tenant, liable for public improvement,	87
how compelled to construct side-walk,	88.152.155

Owners to be assessed for public improvement,	87
may redeem lands sold for taxes,	55
notice to be served on, to foreclose redemption.....	55
Oxen, not to obstruct side-walks,	144
Parks, use of, regulated	161
see highways, public improvements, streets,	
Parents, liable for penalties incurred by minors,	37.216
Pavements, engines not to be drawn on,	130
carriages, &c., not to be drawn over,	144.145
how repaired, and by whom,	152.155
to be cleared of snow, ice, dirt, &c.,	145.152
see public improvements, streets,	
Pawnbrokers, may be regulated,	35
may be licensed by mayor,	204
license of, to specify place of business,	204
duration of their license,	204
expense and renewal of license,	205
bond to be given by, when licensed,	205
penalty for acting without license,	205
to keep account and description of pawns,	205
to give memorandum of pawns to pawnor,	205
books of, to be open to certain inspection,	206
rate of interest received by,	206
how and when to sell goods pawned,	206
surplus moneys to be paid to pawnor,	207
to loan on undivided articles,	207
not to receive pawns or buy goods of minors,	207
not to make loans at night,	207
not to alter or deface pawns,	208
duty in respect to stolen property,	208
licenses of, may be revoked,	208
executions against, for penalties,	208
Penal ordinances may be passed,	37
when to take effect,	38
how long to be in force,	42
amount of penalty limited,	37
see ordinances, penalty,	
Penalties, may be imposed by ordinance,	37
when parent, master, &c., liable for,	37.216
suits for, how prosecuted,	110
first process in suits for,	110
attachment of boats in certain suits for,	118
pleadings in suits for,	110
jury, when drawn from mayor's court,	111
appeals and certioraries in suits for,	111
executions in judgments for,	112

Penalties may be applied on expenses of suits for,	112
- incurred by fire-wardens,	126
of firemen, and how collected,	128
see health, misdemeanor,	
Penitentiary, keepers of, how appointed,	18
see alms-house, bridewell,	
Perjury, certain false swearing deemed to be,	120
Pest-house may be erected,	113
infected persons may be sent to,	113.191
see health, board of health,	
Physician, city, to be health physician,	193
to report infected patients,	115
see health, board of health,	
Pistols, not to be fired within lamp and watch district,.....	157
Platforms, in streets, regulated,	143.152
Pleadings, in suits for penalties,	110
of officers and their agents, when sued,	120
Police may be regulated by common council,	34
constables may be appointed,	107
their powers, duties, and fees,	107
to obey orders of mayor, &c.,	108
their tenure of office,	108
additional, mayor may appoint,	107
to assist board of health,	193
justice, how appointed,	20
to hold office four years,	20
to have no civil jurisdiction,	47
to have exclusive criminal jurisdiction,	47
criminal warrants of other justices returnable before,	47
who may act as, in his absence or inability,	47
his absence or inability, how ascertained,	47
to keep his office in the first ward,	47.189
to be paid a salary by supervisors,	48
solely to grant orders for relief of poor,	100
his general duties,	189
to counsel constables and watchmen,	189
to cause vagrants to be arrested,	189
Poor, who <i>ex-officio</i> overseers of,	97
overseer of, may be appointed,	98.199
power, of overseers of,	97
fund may be annually raised,	97
of the city, how relieved,	97
alms-house may be erected for,	98
excise money to go to poor fund,	99
fund, portions of, may be loaned,	100
police justice to grant orders for relief of,	100

Poor, see alma-house, overseer of the poor,	
Porters, may be licensed, ..	40
not to act without license,	181
their fees for services, ..	184
fees to be paid for their licenses,	184
when license to be revoked,	184
executions against, for penalty,	184
Pound-master, may be appointed,	18
his general duties,	160
Pounds, may be established and regulated,	35
Powder, regulation of keeping and carrying,	35
magazine, and regulation of,	137
to be kept in magazine,	137
how kept in magazine,	137
duty and fees of keeper of magazine of,	138
keeper of magazine to have lien for fees,	138
boats containing, to report in three hours,	139
office of magazine keeper,	139
further duties of keeper of magazine,	139
certain officers may remove,	149
not to be fired in lamp and watch district,	157
not to be sold in the city,	162
Powder magazine, see powder, ..	
Privies to be built on inhabited lots,	159
contents of, how removed,	161
powers of common council over,	116
Provisions, stale, not to be sold,	167
forestalling of, prohibited,	171
see markets, ..	
Public buildings, powers relating to,	34
Public cemetery, see cemetery, ..	
Public disturbances, penalty for, ..	155
Public health, see health, ..	
Public improvements, authorized, ..	72
estimates for, to be ordered,	73
notice of, to be published,	73
proceedings to take lands for,	74
map of, to be made and filed,	74
notice specifying, to be published,	74
notice of appointment of appraisers,	75
mayor's court to appoint appraisers,	75
commissioners of appraisal to be sworn,	76
commissioners to make report,	76
mayor's court to hear objections to report,	77
when possession of lands to be taken,	77
fees of commissioners for appraisal, ..	78

Public improvements, appeal from mayor's court to supreme court,.....	78
bond to be given on appeal,.....	78
appeal to suspend proceedings,	79
supreme court to appoint commissioners,	79
commissioners to report to supreme court,.....	79
supreme court to make order on report,	80
when costs of appeal to be paid,	80
mayor's duty when report is confirmed,	80
expenses of, paid by persons benefited,.....	81
damages for lands, when and how paid,	81
when damages paid into chancery,	82
moneys paid into chancery, how invested,.....	82
estimates for, not requiring lands, to be made,.....	82
order for assessment,	83
assessors to meet and take oath,	83
when new assessors appointed,	84
assessment, how made,	84
fees of assessors,	84
notice of assessment to be published,.....	85
appeals from assessment,	85
assessment, when confirmed,.....	85
assessment to be left with treasurer,	85
treasurer to give notice of assessment,.....	85
payments made, to be deducted,	86
warrant, when issued to collector,	86
when territory in two or more wards,	86
proceedings on collector's warrant,	86
landlord to pay assessment,.....	87
persons paying assessment may sue person who ought to pay,	87
surplus moneys raised for, to be refunded,.....	87
deficiency in expenses to be re-assessed,.....	88
lien of assessment for,	88
side-walks may be made by ordinance,.....	88
owners may be sued for cost of side-walk,.....	88
city may hold lands for purposes of,.....	89
Mount Hope exempt from taxes for,	89
Public property, penalty for injuring,	159
common council to have care of,	34
Pumps, may be constructed,	72
Punishments, see misdemeanors, penalties,	
Puppet shows, not to be exhibited without license,	37. 162
Quorum, see common council, board of education,	
Rail-roads, route of, may be controlled,	36
use of locomotives and cars on,	36
Re-assessment of lands for public improvement,	57. 87

Recorder, how appointed, ..	18
his term and tenure of office,	18
to be supreme court commissioner,	18
to be counsellor in supreme court,	18
not to hold office under common council,	18
to be resident of the city,	17
non-residence to vacate his office	18
to act as mayor in mayor's absence,	46
to have casting-vote, when presiding,	32
may be member of oyer and terminer,	47
to hold mayor's court, ..	100
his fees in suits in mayor's court,	104
powers of, relative to gunpowder,	139
Redemption of lands, by owners, in two years,	55
when further time to redeem allowed,	55
by mortgagees and judgment creditors,	56
see lands, sale of, for taxes,	
Refusal to serve, see officers, ..	
Removal of buildings, prohibited,	135
of appointed officers, how made,	31
Renewal of ordinances, declared,	217
Repeal of certain acts, ..	121
Reservoirs, penalty for uncovering,	154
may be made by common council,	72.92
Residence necessary for eligibility to office,	17.18
Resignations of officers, how made,	31
Resolutions, see evidence, ordinances, public improvements,	
Revision of ordinances, ..	217
River, see Genesee river, ..	
Roads, see highways, public improvements, streets,	
Rockets, not to be fired in certain limits, ..	157.162
not to be sold in the city,	162
Roofs within lamp and watch district, how made,	137
Rubbish not to be thrown into streets,	150.156
Runners not to solicit passengers,	35.160
Sabbath, use of boat bells and horns on, prohibited,	159
Salaries of officers, to be fixed by common council,	42
Sale of commodities, may be regulated,	25
of lands, see lands, sale of, for taxes,	
Sand and gravel, how transported,	153.178
School districts, see common schools, board of education,	
houses, " "	
Schools, " "	
Scuttles to be made on buildings,	90.134
Seal, corporate, to be in mayor's custody,	43
Sealer of weights and measures, how appointed,	17

Sealer of weights and measures, his general duties,	177
to register weights & measures sealed by him,	178
see weights and measures,	
Second ward, boundaries of,	13
Servants, see master, nine-pins, penalty,	
Seventh ward, boundaries of,	14
Sewers, powers of common council respecting,	72
lateral, to be kept clean and in repair,	152
penalty for injuring,	145.147
see public improvements,	
Sextons, city, how appointed,	18
to have charge of public cemeteries,	201
their general duties,	201
to keep register of burial lots sold,	201
his fees for services rendered,	202
to keep register of interments,	202
see burial of the dead, cemetery,	
Shade trees, how set out,	144
penalty for injuring,	153
Shavings, to be weekly removed,	134
not to be deposited in streets,	134
Sheep, not to run at large,	35.160.161
may be impounded;	160
Shows, public, may be restrained,	37
not to be exhibited without license,	162
Sick persons, see health, board of health,	
Side-walks, carriages, &c., not to be passed over,	144.145
engines not to be passed over,	130
snow and ice to be removed from,	145
penalty for injuring,	145
obstruction of, by goods, &c.,	141.144
auctions not to be held on,	148
how repaired and cleaned,	152.155
Sinking fund, how constituted,	62
proceeds, how applied,	63
when deposited in savings bank,	63
for wood and hay market stock,	43
Sixth ward, boundaries of,	14
Slaughter-houses, private, restrained,	169
Sleighs, not to be left in streets,	141
not to be drawn on side-walks,	144
not to obstruct cross-walks,	146
Slips may be cleared by common council,	116
preservation of,	117
Snow to be removed from pavements,	144
Soliciting passengers, &c., restrained,	160

Special elections, see elections, ..	.....
meetings, see common council, board of education, .....	.....
Squares, to be in charge of common council,	71
see parks, public improvements, .....	.....
Squibs, not to be fired in the city,	157.162
not to be sold within the city,	162
Stalls, private, for sale of meat, restrained,	169
see markets, ..	.....
Stands, see hackney carriages, hay and wood markets, .....	.....
State prison, convicts in mayor's court, how taken to,	105
Steam-boats, speed, &c., may be regulated,	117
see boat, master of vessel, public health, .....	.....
Steps, projecting into streets, regulated,	143
Stock for purchase of wood and hay market,	43
Stolen property remaining in police-office,	108
duty of police justice respecting,	108
when to be delivered to owner,	109
when to be sold, ..	109
Stove-pipes, regulated, ..	91.132
Straw, keeping of, regulated, ..	91.133
Streets, power of common council respecting,	70 to 73
inspectors of, how appointed,	18
may be lighted by common council,	35
common council may ascertain and settle,	36
incumbrances in, may be restrained,	35
repair, regulation and record of,	71
highway fund for repair of,	72
opening and improvement of,	72
not to be opened in certain cases,	73
general ordinances respecting,	140
placing building materials in,	140
obstructing by wagons, &c.,	141
fixtures in, in front of stores,	142
awnings in, regulated, ..	142
windows, steps, &c., in,	143
obstructing by goods, fire-wood, &c.,	141.144
carriages not to pass over side-walks,	144.145
shade-trees, how set out in,	144
cross-walks in, not to be obstructed,	144.146
to be swept once a week,	146
drains not to be made to common sewer,	147
selling fruit in, regulated,	147
suctions not to be held in,	148
highway districts for,	149
rubbish not to be thrown into,	150.156
erections of superintendents not to be removed,	150

Streets, embankments on to be walled,	150
encroachments on, to be removed,	151
pavements and sewers to be repaired and cleaned,	152. 155
cellars and platforms in, regulated,	152
games of sport in, prohibited,	153
transporting gravel and sand in, regulated,	153
injuring shade-trees in, penalty for,	153
buildings in Buffalo-street to be numbered,	154
sliding in, prohibited, .. .	213
see public improvements, superintendent,	
Suits, see health ordinances, penalties,	
Sunday, use of boat bells and horns on, prohibited,	159
Superintendent of common schools, how appointed,	66
his powers and duties,	66
his compensation, how fixed and paid,	66
to certify resolutions of board of education to } treasurer,	67
see common schools,	
Superintendent, city, how appointed,	18
his general duties,	149
not to be interested in teams or labor on city work,	149
erections of, in streets, not to be disturbed,	150
his duty in enforcing repair of pavements,	152
to cause certain buildings to be numbered,	154
to assist board of health,	193
his duty respecting hackney coaches,	198
to keep check-book of orders drawn,	210
to require vouchers for payments,	210
accounts of, to be monthly audited,	211
to report monthly to common council,	212
Supervisors, five to be elected for city,	17
city divided into districts for,	20
to hold office one year,	21
their powers and duties,	43
collectors to execute bonds to,	26
Supervisors, board of, to fix and pay salary of police justice,	48
to pay criminal expenses of mayor's court,	105
to pay juror's fees in mayor's court,	104
to pay expenses of detecting offenders,	109
Supreme court, see public improvement,	
Sureties in official bonds, to be examined on oath,	119
Surplus, for public improvement, to be refunded,	87
Surveyors, city, how appointed,	18
when to describe lands for assessors;	49
Sweeping streets once a week,	146
Sweeps, chimney, may be licensed,	40

Swine, not to run at large, ..	160
may be impounded and sold, ..	160
Taxes, power of common council respecting, ..	36
for general expenses of the city, ..	49
property subject to, and exempt, ..	49
mode of levying, ..	49
equalization of assessments, ..	49
copies of rolls to be made out, ..	50
copies of rolls to be given to supervisors, ..	50
when assessments for to be made, ..	50
assessment roll for, to be left with treasurer, ..	50
treasurer to give notice when roll is left, ..	50
payments made, to be deducted, ..	50
duplicate rolls to be kept by treasurer, ..	51
when warrants for issued to collector, ..	51
collector's warrant, form of, ..	51
how levied by collector, ..	52
unpaid, when credited to collector, ..	52
unpaid, suit may be brought for, ..	52
unpaid, lands may be sold for, ..	52
when lands to be reassessed for, ..	57
see certificate ; lands, sale of, for taxes, ..	
Tenant, not originally liable for assessment, ..	87
Theatres, not to be opened without license, ..	37. 162
Third ward, boundaries of, ..	13
Treasurer, city, how appointed, ..	18
his compensation, how fixed, ..	42
his bond, its sureties, and where filed, ..	29
not giving bond deemed refusing to serve, ..	30
to keep moneys of the city, ..	46
to keep account of moneys disbursed, ..	46
his duty on general assessment rolls, ..	50
to conduct sales of lands for taxes, ..	53
how to draw money from treasury, ..	61. 64
to deposit city moneys in bank, ..	61
to keep bank-books, ..	61
checks of, to specify fund drawn upon, ..	61
not to overdraw general funds, ..	62
to report monthly to common council, ..	62
certain accounts of, to be monthly audited, ..	211
accounts of, to be yearly audited, ..	59
statement of accounts of, to be yearly published, ..	59
clerk to countersign checks of, generally, ..	64
to receive and keep school moneys, ..	67
to disburse school moneys, ..	67
to pay claims audited against school districts, ..	68

Treasurer, city, to give notice of assessments left with him,.....	50.85
to deduct payments made on assessments,	50.86
Treasury, see treasurer,	
Trees, shade, how set out,	144
injuring, penalty for,	153
Truckmen, may be licensed,	40
Trustees of school districts, to be certified by clerk,	68
of colored schools, who to act as,	69
appeals from, to board of education,	70
see board of education, common schools,.....	
Two-third vote, when required to put ordinances into effect,	32
Vacancy in elective office, how filled,	23
in office of alderman or assessor,	22
in the office of constable,	24
in the office of Mayor,	25
in the office of marshal,	20
in other offices generally,	25
Vagrants may be restrained by ordinance,	34
certain persons declared to be,	106
punishment of certain, defined,	106
Vaults may be constructed by common council,	72
contents of, how removed,	161
Vegetable stalls, not to be underlet,	168
Wagons, not to be left in streets,	141
not to remain in front of market,	169
not to pass over side-walks,	144.145
not to obstruct cross-walks,	146
Walks, see pavements, side-walks, public improvements,.....	
Walls to be made on embankments,	150
Warden, see fire department, fire-warden,	
Wards, city to be divided into nine,	12
when division to take effect,	12
boundaries of,	13
officers to be elected for at first election,	16
see elections, guardians, officers of the city,.....	
Warrant, in suits for penalties,	110
see collector, marshal,	
Watch, city, how constituted,	185
hours of night service,	185
duty and powers of,	186
may enter houses to search for felons,	186
powers of, in case of riots,	187
penalty, for absence from duty,	187
costume of, while on duty,	187
to obey committee on lamp and watch district,	188
to take persons arrested before police justice,	189

Watch, captain of, his general duty,	185
to have charge of lamps and oil,	188
to procure new lamps and fixtures,	188
-house, prescribed and regulated,	187
what persons to be taken to,	187
Watchmen, may be appointed and regulated,	34
shall attend fires in the city,	129
oath of, and where filed,	185
to be city lamplighters,	188
to obey lamp and watch committee,	188
to take certain persons to watch-house,	187
to take persons arrested before police justice,	189
see watch, ..	..
Weigher and weigh-master, see hay,	..
Weights and measures, inspectors of, how appointed,	18
sealer of, how appointed, his powers and duties,	41
of traders, to be sealed by city sealer,	41. 177
to conform to state standards,	177
state standards to be furnished to city sealer,	41
to be sealed at least twice a year,	177
duty of city sealer in respect to,	177
to be registered by city sealer,	178
incorrect, to be reported to common council,	178
penalty for refusing to have sealed,	178
executions for penalty,	179
see market,	..
Wells, establishment and preservation of,	35. 92
Wharves, power of common council respecting,	35. 117
Windows, projecting into streets, regulated,	143
Wood, measurers of, their appointment and oath,	18. 171
duty of measurers of, ..	172
to be measured, if less than five cords sold,	172
to be sold by the cord, and not by load,	172
penalty for selling by the load,	172
stands for the sale of, located,	173
regulation of stands for sale of,	173
penalty for violation of regulations of wood stands,	173
Work-house, see alms-house, bridewell,	..

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