

Wm. ... 1853
ACTS OF A GENERAL NATURE

PASSED BY THE

FIFTIETH GENERAL ASSEMBLY

OF THE

STATE OF OHIO:

(First Session under the Constitution of 1851:)

AND HELD IN THE CITY OF COLUMBUS,

NOVEMBER 15, 1852:

AND IN THE FIFTY-FIRST YEAR OF SAID STATE.

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VOL. LI.

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COLUMBUS:
OSGOOD & BLAKE, PRINTERS.
1853.

AN ACT

To amend the act entitled "an act to provide for the organization of cities and incorporated villages."

Rules and restrictions as to taxes.

§ 1. *Be it enacted by the General Assembly of the State of Ohio*, That the amount of tax which may be certified, assessed and collected annually for a special road district by the council of any city or the trustees of any incorporated village, to defray the general and incidental expenses thereof, shall not exceed two and a half mills on the dollar of the amount subject to taxation; for an incorporated village to defray its general and incidental expenses, three mills on the dollar; and for the purpose of paying existing indebtedness, seven mills on the dollar; for a city of the second class to defray its general and incidental expenses, three mills on the dollar; for a city of the first class to defray its general and incidental expenses, five mills on the dollar; to the amount authorized for general and incidental purposes specially designated, and to be applied or appropriated to none other, as follows: by cities of the second class for the purposes of pay and support of the city police, an amount not exceeding one mill on the dollar; for the purpose of contributing to the maintenance of a fire department, an amount not exceeding a mill on the dollar; for school purposes, an amount not exceeding four mills on the dollar; by cities of the first class, for the purpose of the pay and support of the city police, an amount not exceeding two mills; for the purpose of contributing to the maintenance of a fire department, an amount not exceeding one mill on the dollar; for the purpose of a house of refuge, house of correction, work house, and city prison, an amount not exceeding one and a half mills; for the purpose of water-works, an amount not exceeding one half of a mill on the dollar; for school purposes, an amount not exceeding two mills; for the purpose of a city infirmary and out-door relief to the poor, an amount not exceeding two mills on the dollar.

Any city may borrow money to erect water works, and issue its bonds in any amount not exceeding \$500,000.

§ 2. That any city, for the purpose of erecting water-works, for supplying such city with water, may issue its bonds for borrowing money in any sum not exceeding five hundred thousand dollars, at such rates of interest, at such dates, and upon such length of time as the city council of any such city may deem proper; and all moneys so borrowed shall be used and applied exclusively to the erection of such water-works, and to no other use or purpose whatever; Provided, that no money shall be borrowed by any city for the purpose afore-

said, unless the proposition setting forth the amount proposed to be borrowed, shall have been distinctly submitted to a vote of the electors of such city, under the provisions of a city ordinance, and shall have been approved by a majority of those voting upon the proposition: Provided, however, that the provisions of this section shall not be construed to apply to any city in which water-works are already constructed.

§ 3. For the purpose of paying the interest on the money so borrowed, during the erection and completion of such water works, and before they shall have been put in operation, a tax of sufficient amount shall be assessed and collected each and every year, in the usual manner of levying and collecting taxes in said city, upon all the taxable property thereof.

Tax to pay interest.

§ 4. For the purpose of paying the interest on the amount borrowed by any city for the purchase, erection, or extension of water works, and after they shall have been put in operation, and for the building of machinery, a tax of sufficient amount may be assessed and collected by the city council, in each and every year, in such manner as the city council may deem most equitable and proper, as may be directed by ordinance, upon all the taxable property adjoining, abutting to, or bounded upon any street, lane, alley, public ground, square, block, or premises, through which water pipe has been laid; and the city council of any city in which water works are now situated, shall on or before the first day of March, eighteen hundred and fifty-four, determine by ordinance whether the aforesaid tax shall be so levied and collected, or whether water rents shall be assessed and collected as heretofore by the trustees of water works, or city council, of all cities where water works are now in use.

Same subject.

§ 5. For the purpose of paying the expenses of conducting and managing water works, the trustees of water works shall have power to assess and collect, from time to time, a water rent of sufficient amount, in such manner as they may deem most equitable, upon each and every tenement adjoining, abutting to, or bounded upon any street, lane, alley, public ground, square, block, or premises through which water pipe has been laid; for the creation of a sinking fund for the redemption of the indebtedness of any city, contracted by loans for water works purposes, the amount as hereinbefore provided for in the third section of this act, and levied and assessed for water works purposes, shall be applied by the city council to the payment of such indebtedness, and none other.

Tax to pay expenses of conducting and managing water works.

Sinking fund.

§ 6. The city council of any city in which water works are, or may be situated, or in progress of construction, shall establish a board of three trustees, to be known as the trustees of water-works, who shall be elected by the qualified electors of the city, and hold their offices for the term of three years; except at the first election under this act, at which one person

Board of trustees, how established and terms of office.

Their powers and duties.

To report monthly to the city council.

To make an annual report.

City council authorized to appoint a committee of investigation—

shall be chosen for one year, one person for two years, and one for three years, and thereafter one of the trustees shall be elected annually; the trustees of water-works shall manage, conduct and control the city water-works, furnish supplies of water, collect water rents, and appoint all necessary officers and agents, and the amount of the salaries of said officers or agents so appointed, and the term of office, shall be determined by the trustees; the trustees of water-works shall be authorized to make such by-laws and regulations as they may deem necessary for the safe, economical and efficient management and protection of the works; and said by-laws shall be of the same validity as the city ordinances, provided they are not made repugnant to the ordinances of the city, constitution or laws of the State of Ohio. The trustees of water-works shall cause a report to be made monthly to the city council, of the receipts and disbursements of money belonging to the works, and annually make a report of the condition of the works, and cause the same to be printed for the benefit of the public, and cause all money received or collected for water-works purposes, to be deposited with the city treasurer, and cause receivers or collectors of water-works funds to make such deposits weekly, and return a receipt for the amount deposited to the trustees or their authorized agent; and all money so deposited with the city treasurer, on account of the water-works, shall be kept a separate and distinct fund, for the payment of such indebtedness of the water-works, as is hereinbefore mentioned, and together with the amount of the interest allowed to the city treasurer upon the water-works funds which shall be deposited by him in such place as the city council shall order, shall be subject to the order of the trustees of water-works, of the city in which such water-works are or may be situated; and all orders made by the trustees of water-works on the city treasurer for money, shall be signed by one of the trustees, and countersigned by the secretary or clerk of the water-works; the trustees of water-works shall also be authorized to make contracts for the building of machinery, waterworks buildings, reservoirs, and for all other necessary purposes, to the full and efficient management and construction of such water-works; and for such purpose the city council of any city where water-works are already constructed, are hereby authorized, upon petition of the trustees of water-works, to borrow any sum of money not exceeding seventy-five thousand dollars, at a rate of interest not to exceed six per cent. per annum, said sum to be made use of for water-works purposes and none other.

§ 7. The city council of any city in which water-works are, or may be situated, or in progress of construction, shall be authorized to appoint a committee for the investigation of books and papers, together with all matters pertaining to the

management of the water-works, at least once a year, and oftener if necessary by reason of any neglect of duty, or malfeasance on the part of any officer of the works, and any officers of the works, found by said committee so offending, shall be liable to impeachment and removal from office by the city council; no charge shall be made by the trustees of water works to any city for supplying the city with water for the extinguishing of fires, or cleaning of fire apparatus, or the cleaning of market houses, or for the use of any of the public buildings belonging to the city; but all attachments of whatever nature, made to the water pipes, or other fixtures belonging to the water works, and intended for public use, shall be subject to the same supervision, rules and regulations as are otherwise made, and intended to protect the water works against abuse, destruction, and inordinate or unnecessary use or waste of water, or the trustees may make general or special rules and regulations for such purpose.

§ 8. The city council of any city shall have power to enter upon and take possession of any lands which may be deemed necessary for the construction, erection or extension of water-works, or the laying down of pipe, and any land so taken possession of for water-works purposes, shall not be liable to be made use of or taken possession of for any other purpose whatever, except by consent of the trustees of water works and the city council; when it becomes necessary to appropriate lands for such purpose as hereinbefore mentioned, the proceedings shall be the same as provided in sections twenty-seven, twenty-eight, and twenty-nine, of the act for the organization of cities and incorporated villages, passed May 3rd, 1852.

§ 9. That the the trustees of water works, before entering into any contract for work to be done, the estimated cost of which shall exceed one hundred dollars, they shall cause at least two weeks notice to be given in one or more daily newspapers of general circulation in said city, that proposals will be received by said trustees, for the performing of such work, which shall be specified in said notice; and the trustees shall contract with the lowest bidder, if in their opinion said lowest can be depended on to do the work with ability, promptness and fidelity, and if such may not be, said trustees may give such contract to the next lowest bidder, or decline to contract and advertise again; said trustees shall require bond to be given with good and sufficient security, for the faithful performance of the work; but no member of said board of trustees shall be such security; nor shall any of said trustees be a contractor, or be in anywise either directly or indirectly, interested in any of such work to be contracted for: Provided, nevertheless, that in case of emergency, the city council of said city may, by a vote of two-thirds of all the

when officers liable to impeachment and removal.

Council may appropriate lands for water works purposes.

Proposals for work over \$100.

No trustee to be a contractor.

members elect, authorize said trustees to enter into such contracts without advertising to meet such emergency.

Council to appoint inspectors.

§ 10. The city council of any city may provide by ordinance for the appointment of a suitable number of inspectors for all such purposes as are not otherwise provided for by law, and the said council shall have power to provide for issuing license to any such inspectors and to regulate the fees to be paid to such officer for his services as such inspector.

The council, for extending time of payment of any debt, may issue bonds of the city.

§ 11. That the city council of any city or trustees of any incorporated village, for the purpose of extending the time of the payment of any indebtedness heretofore incurred, and which from its limit of taxation such city or incorporated village is unable to pay at its maturity, shall have the power to issue the bonds of such city or incorporated village, or borrow money, so as to change but not increase the indebtedness, in such amounts, and for such length of time, and at such rate of interest as such city council or trustees of any incorporated village, may deem proper, not to exceed six per cent. per annum; and when such bonds shall have been issued, a tax shall be assessed and collected sufficient in amount to provide a sinking fund for their final redemption as provided in section ninety-one of the act to which this is supplemental.

Certain appropriations not authorized.

§ 12. That the ninety-eighth section of said act be, and the same is hereby so amended as to read as follows: That the council of any municipal corporation shall not authorize any loan or appropriation not predicated on the revenues of the corporation for the current fiscal year, and shall not authorize any order or appropriation of money when there is not in the city treasury money unappropriated sufficient to pay such appropriation; and any appropriation otherwise made or authorized, shall be held and deemed utterly void and of no effect as against said corporation: Provided, however, that for the purpose of purchasing necessary grounds and erecting suitable school buildings for the use of public schools, the council of any such corporation may, at the request of the board of education of said corporation, make sufficient appropriation therefor, and shall have power to borrow money upon the credit of such corporation sufficient for the aforesaid purposes, at such rates of interest as said council may deem proper; and for the purpose of perfecting such loan, the said council shall have power to pledge the faith of said corporation for the payment of both principal and interest, including the power to levy a tax for the payment of the same whenever the same may become due, and to make and execute such bonds or other evidences of debt, and payable at such times and places as shall be agreed upon by the parties so contracting, which said bonds or other evidences of debt may be made transferable and redeemable in such form and at such times and places as may be therein designated; and the neces-

Council may borrow money for school purposes.

Loan, how perfected.

sary grounds shall be procured, and the said school buildings hereby authorized, shall be constructed under the direction of, and in accordance with, a plan or plans furnished by the board of education of said corporation; and provided, further; that the city council of any city of the first class shall have power to borrow any sum of money not exceeding five hundred thousand dollars, at such rate of interest not exceeding six per cent. per annum, at such dates and upon such length of time as the city council of any such city may deem proper, for the purpose of purchasing lands or other property within the corporation limits of such city, said lands or property to be converted to the use of such city for public wharves, public squares, or parks, or market spaces; and any city council of any such city so borrowing any money for such purpose or purposes, shall be authorized to issue the bonds of said city, payable at such time and such place, for all money so borrowed as said city council may determine; said city council shall have power to pledge the faith of the city for the redemption of said bonds, and shall also have power to provide for the payment of the interest on such loan, provided that nothing in this act shall be so construed as to vest in any such city council any power to issue the bonds aforesaid for said loan of five hundred thousand dollars, or any part thereof, for the purchase of public wharves, squares or parks, or market spaces, unless the following requirements have been complied with, to-wit: that whenever it shall become necessary for any such city to purchase any such public wharves, squares, or market spaces, it shall be the duty of the mayor of said city to nominate three citizens, subject to the confirmation of the city council, as a board of commissioners for the purchase of so much land for such of the purposes aforesaid as said city council may designate; and upon the confirmation by the city council of the nomination of said commissioners, it shall be their duty to negotiate for the purchase of such lands for the purposes aforesaid, as said city council may direct; and they shall report to the city council all propositions they may have received, in writing, for the sale of any such land for the purposes aforesaid; after having received said report or reports from said commissioners, said city council may consummate the purchase conditionally as follows, to wit: that said city council shall advertise in at least two English and one German daily newspapers of said city, for the space of thirty days, their intention to consummate said purchase, the extent, location, and purpose of the purchase, and the price to be paid for the same; and it shall be the privilege of any tax-paying citizen of any such city, who shall have evidence that such city is about to be wronged by any such purchase, either by the payment of more than the cash value of said land, or by fraud, or neglect on the part of any one, to remonstrate against the consumma-

School buildings, how constructed.

Loan for wharves, parks, and market spaces

Bonds issued.

How redeemed.

Mayor and council to appoint three citizens to negotiate for all such purchase of land.

Council to advertise before consummating purchase.

Citizens may remonstrate.

Council to decide for or against purchase.

tion of said purchase any time within the aforesaid thirty days; and it shall be the duty of any city council of any such city, upon receiving such remonstrance, to hear in open meeting of said council, all evidence that may be presented in writing for or against the consummation of such purchase; and said city council, after having considered all the evidence offered, shall finally decide for or against such purchase; and if any such purchase of land for any of the aforesaid purposes shall have been consummated by the city council of any such city, after having complied with all the requirements of this act, then and in that case the city council of any such city shall be fully authorized to borrow five hundred thousand dollars, or any part thereof, in manner and form and for the purposes provided for in this act.

Streets and alleys may be vacated or narrowed—when.

§ 13 That the city council of any city or incorporated village of this State on petition filed by any person or persons owning any lot or lots in any such city or incorporated village, praying that any street or streets, alley or alleys, in the immediate vicinity of such lot or lots, may be vacated or narrowed; and the said council may and they are hereby authorized upon hearing and being satisfied that there is good cause for such vacation or narrowing, and it will not be detrimental to the general interests, and that the same should be made, declare such street or streets, alley or alleys vacated or narrowed; provided, no street or alley shall be vacated by any incorporated village council until after the next election of the members of such council.

Concerning canal and ship channels.

§ 14. Any incorporated city whether of the first or second class, shall have power for commercial purposes, when in the judgment of the city council the interests of the city require, to construct, open, excavate or otherwise improve, enlarge, or extend any canal, ship channel or watercourse, and light or keep the same in repair, which may be located within the limits of such city, and which is not owned in whole or in part by the State or by any company or companies, individual or individuals, authorized by law to construct the same, and all power conferred by this section shall be exercised, and necessary taxation imposed in the manner and under the limitations and restrictions as prescribed with respect to streets, alleys, wharves and other public grounds in the act of May 3rd, 1852, aforesaid.

Delinquent taxes—how collected.

§ 15. The city council of any incorporated city or village may order the clerk or other proper officer of the council to certify under his official seal any delinquent tax heretofore or which may hereafter be assessed by said city or village, for opening, grading or otherwise improving any street or alley in said city or village to the auditor of the proper county, which tax so certified, the auditor is hereby required to place on the grand tax duplicate of the county in a separate column, and

the same shall be collected in like manner as State and county taxes.

§ 16. That the fifty-eighth section of said act be and it is hereby so amended as to read as follows: That until otherwise provided by the city council constituted by this act, the numbers, divisions and boundaries of the several wards of cities of the first class, heretofore incorporated, shall remain as fixed by ordinance on the first day of September, A. D., one thousand eight hundred and fifty-one, provided that the city council created by this act, may at any time create additional wards and the boundaries thereof or reduce the number of wards already created and define those now established, alter in such manner as may be deemed expedient; provided, that the city council of all cities of the second class now having one or more wards may divide such city into such number of wards as said council may determine, before the time of the first election under the act to which this is amendatory, and each of such wards shall, at such first election, be entitled to two trustees, to be elected as provided for in the fifty-ninth section of the act to which this is amendatory.

City wards.

§ 17. That the ninety-second section of said act be and it is hereby so amended, as to read as follows: That for the purpose of paying the interest on the public debt of any municipal corporation, the council thereof shall have power, and it is hereby made their duty, to levy and collect annually on the property appraised and returned as aforesaid, a sum not exceeding six mills on the dollar sufficient to pay and satisfy the whole of such interest as the same accrues, which sum, when so paid into the treasury, shall be and remain a specific fund for that purpose only, and shall not be appropriated or used in any other way.

Interest on the city debt—how paid.

§ 18. That the twenty-sixth section of the said act be and it is hereby so amended, as to read as follows: They shall have power to lay off, open, widen, straighten, extend and establish, to improve and keep in order and repair, and to light streets, alleys, public grounds, wharves, landing places, and market spaces; to open and construct and keep in order and repair sewers and drains; to enter upon or take for such of the above purposes as may require it, land or material, and to assess and collect a charge on the owners of any lots or lands, or on the lots or lands through or by which a street, alley or public highway shall pass for the purpose of defraying the expenses of constructing, improving, repairing or lighting such street, alley or public highway, to be in proportion either to the feet front of the lot or land abutting on such street, alley or highway, or to the value of such lot or land, as assessed for taxation under the general law of the State, as such municipal corporation may in each case determine; and they shall also have power to pro-

City council to open and repair streets, alleys, sewers, drains, &c.

In what manner.

To cause rail-
ways to be
lighted.

Manner of
lighting.

When compa-
nies refuse to
light their
tracks, how
council to pro-
ceed.

vide by ordinance for the lighting of any railway, or portion thereof which may be located within the corporate limits of such town or city, in such mode and manner as the city or town council shall prescribe, and when it shall be deemed necessary or proper by any town or city council, to provide for the lighting of any such railway or portion thereof located as aforesaid, they shall pass an ordinance requiring such railroad company or companies, within a specified time, which shall not be less than thirty days, so to light their track or tracks, or such portion thereof as may be designated by such ordinance, and such ordinance shall prescribe the mode and manner in which the same shall be done, the number, style and size of lamp posts, burners, lamps, and all other fixtures and apparatus necessary for such lighting, and the points of location for said lamp posts; and in case the said lighting shall not be done in conformity with the provisions and specifications of such ordinance, or should any railroad company fail or refuse to light its track, or such portion thereof as may be designated within the time limited by the ordinance, the city or town council may proceed immediately to cause such lighting to be done in conformity with the provisions of such ordinance; and such municipal corporation may either by a general ordinance or resolution prescribe the mode in which the charge on any railroad company or companies shall be assessed and determined, such charge when so assessed and determined shall be payable by the railroad company or companies at the time of the assessment, and shall also be a lien upon the lots or land in the provisions of such railroad company or companies, from the time of the assessment; such charge may be collected, and lien enforced by a proceeding at law, or in equity, either in the name of the municipal corporation, or of any person to whom it shall have directed payment to be made; in any such proceeding at law when pleadings are required, it shall be sufficient to declare generally for work and labor done, and materials furnished on the particular railway part or parts thereof; proceedings at law or in equity may be instituted against all the railroad companies, or each or any of them whose tracks may be located as aforesaid, against whom such assessment or charge shall have been made, or to enforce the lien against all the lots or land or such lots or parcel or any number of them affected by any one or several assessments, but the judgment or decree shall be rendered severally or separately for the amount properly chargeable, and any proceeding may be served in the discretion of the court, for the purpose of trial, review or appeal, and in any such proceeding when the court trying and hearing the same shall be satisfied that the work has been done or materials furnished which according to the true intent of the ordinance aforesaid and the provisions of the act would be properly chargeable on the lot or land or against any rail-

road company whose railway or part thereof shall have been so lighted, a recovery shall be had or a charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable on such lot or land or against such railroad company according to the provisions of such ordinance and of this section, notwithstanding any irregularity, informality or defect, in any assessment on the part of such municipal corporation, or its officers; but in such case the court shall adjudge as to costs as may be deemed proper, and in cases where assessments shall have been regularly made, and payment shall have been neglected or refused at the time when the same was required, any municipal corporation, or any person to whom the said corporation shall have directed payment to be made, shall be entitled to demand, and recover in addition to the amount assessed with interest from the time of assessment, the additional sum of five per cent. penalty to defray the expenses of collection, and which shall be included in the judgment or decree.

Same subject.

§ 19. That the forty-fifth section of said act be and it is hereby so amended as to read as follows: Sec. 45. The said trustees shall have the exclusive supervision and control of all public roads, streets and alleys, sewers and drains constructed or to be constructed within the limits of such special road district; they shall have the power to lay off and establish, to improve, keep in order and repair roads, streets and alleys and to open and construct and keep in order and repair sewers and drains, to enter upon and take for the purpose aforesaid when necessary land or material; to assess and collect a charge for the construction, improvement, or repair of any such road, street or alley; and to carry into effect such powers, and the other powers incident to a corporation for the said special purposes; may make and publish and enforce by-laws and ordinances, and shall have the like rights and remedies in all respects as in this act provided, in relation to other municipal corporations. And for the services performed by any supervisor in his capacity as such, under the direction of the trustees of any such special road district, the same shall be settled and paid for by the trustees of the proper township or townships as in other cases.

Duties of trustees.

Repair of streets, alleys, &c.

Supervisor's compensation.

§ 20. That the forty-second section of said act be, and the same is hereby so amended as to read as follows: Sec. 42. It shall be the duty of the Governor, Auditor, and Secretary of State, or any two of them, at the time of ascertaining the ratio of representation as required by the eleventh section of the said article of the constitution, also to ascertain what cities of the second class, are entitled to become cities of the first class, and what incorporated villages are entitled to become cities, and their proper class, and the Governor shall cause a statement thereof to be prepared by the Secretary of State, which statement he shall cause to be published in some news-

Concerning the grades of cities.

- paper printed in the city of Columbus, and also in some newspaper printed in each of the cities and incorporated villages, the grade of which shall have been so advanced, and a copy of said statement shall also be transmitted by the Secretary of State to the next session of the General Assembly; provided, however, that before said city or incorporated village shall be advanced as herein provided, the trustees thereof, by resolution certified to the Secretary of State, shall accept of such advanced grade, and therefrom any such city or incorporated village shall at the next regular annual period for the election of municipal officers, proceed to organize according to its new grade by the election of officers properly belonging thereto, and on their election and qualification the term of service of every former officer shall expire. And it shall further be the duty of the Governor, Auditor, and Secretary of State to declare cities of the second class, cities of the first class between decennial periods: *Provided*, that the application from any city, be accompanied by a resolution adopted by said city council asking to be declared a city of the first class, shall be accompanied with satisfactory evidence showing the population of said city to be over twenty thousand.
- How advanced.**
- Between decennial periods.**
- Cities of the second class.** § 21. Any town which by the special act of incorporation has been divided into wards, shall be denominated a city of the second class, if the council shall so determine.
- Incorporated villages.** § 22. That the powers granted to the council of any city by section sixty-five of the act to which this is amendatory, are hereby granted to the council of any incorporated village containing not less than fifteen hundred inhabitants.
- Mayor to appoint assistant marshals.** § 23. That the mayor of any incorporated village shall have power to appoint temporarily as many assistant marshals as he may think necessary, who shall take an oath of office, and may be required to give bond and security to the council thereof for the faithful discharge of their duties, and who shall have the same powers as the chief marshal.
- Election of Mayor.** § 24. That section fifty-seven of the act to which this is amendatory, be and the same is hereby so amended as to read as follows: The mayor shall be elected biennially in cities of the first and second class on the first Monday in April by the qualified voters of the city; he shall be a qualified elector and reside within the limits of the city, and shall hold his office during the term for which he shall have been elected and until his successor shall have been elected and qualified; he shall keep an office at some convenient place in the city to be provided by the city council, and shall keep the corporate seal of the city in his charge; he shall sign all commissions, licenses and permits granted by the authority of the city council, and such other acts as by law or ordinance may require his certificate. In case of the death, disability, resignation or other vacation of his office, the city council may by a vote of a majority of all its members, appoint some other person to act, until the expiration of said term or disability.
- His powers and duties.**
- When the office vacant, how filled.**

The mayor of the city shall be its chief executive officer and conservator of its peace, and it shall be his special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed. He shall supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against any of them, and cause all their violations of duty or other neglects to be promptly punished or reported to the proper tribunal for correction. He shall have and exercise within the city limits the powers conferred on sheriffs of the counties to suppress disorder and to keep the peace; he shall also perform such other duties compatible with the nature of his office, as the council may from time to time require; he shall receive such salary, payable quarterly out of the city treasury as may be provided by ordinance, but the amount of said salary shall neither be increased nor diminished during any incumbent's term of office.

To supervise
the conduct of
officers.

Further du-
ties.

Salary.

§ 25. That section eighty-five of the act to which this is amendatory, be amended so as to read as follows: Sec. 85. The police court shall always be open for the despatch of business, but may adjourn from day to day, or from time to time; and the mode in which cases shall be brought before the court shall be regulated by the ordinance of the city council, or a rule of the court; the jurors in said court shall have the qualifications of jurors in the court of common pleas, and shall be summoned and empaneled in accordance with the ordinance of the city council, or a rule of the court; the police judge shall adopt such rules of practice and proceedings as will give all parties a proper statement of any charge against them, full opportunity of being heard, but shall at the same time dispatch the business of the court with all convenient speed, and the qualified voters shall elect on the first Monday of April, one thousand eight hundred and fifty-three a prosecuting attorney, and clerk for said court, the prosecuting attorney to hold his office for two years and the clerk to hold his office for three years; each of said officers shall continue in office until his successor is elected and qualified; the salary of said officers to be paid out of the city treasury, and the amount of their compensation shall be fixed by city council."

Police court.

How regula-
ted.

Jurors.

Practice in
such court.

Prosecuting
attorney and
clerk for said
court.

§ 26. That section eighty-nine be amended so as to read as follows: Sec. 89. That the council of any municipal corporation is hereby authorized and required to cause to be certified to the auditor of the county on or before the second Monday of June annually the per centage by them levied on the real and personal property in said corporation, appraised and returned on the grand levy aforesaid; and the said county auditor is hereby authorized and required to place the same on the duplicate of taxes for said county in the same manner as township taxes are now by law placed on said duplicate, which said taxes of said municipal corporation shall be collected by the county treasurer, and paid into the treasury of such cor-

Taxes, how
collected.

Proviso.

Delinquent taxes, how collected.

Where limits comprise a township, certain offices abolished.

Township treasurer to transfer all money, property, &c., to city council.

As to suits for or against the city.

poration in the same manner, with the same power and restrictions, and under the same regulations, and in all things as to the sale of real or personal property he shall be authorized, and he is hereby required to act according to the provisions and requisitions of the law for the collection of taxes for State and county purposes; provided that nothing in this act shall be so construed as to prevent any city that may elect to do so from levying and collecting such taxes within their respective corporations, and when any city shall elect to levy and collect such taxes it shall be the duty of the city council to provide by ordinance for the appointment and regulation of the necessary officers to carry the same into effect, and such officers so created shall have all the power, and be under all the restrictions of county auditors, county treasurers, and township assessors, so far as the same shall be applicable to them, except in the sale of delinquent lands, and said city council may order the clerk or other proper officer of the council to certify any delinquent tax assessed by such city to the auditor of the proper county, which delinquent taxes so certified, the auditor is hereby required to place on the grand tax duplicate of the county in a separate column, and the same shall be collected in like manner as other delinquent State and county taxes.

§ 27. That in any city the corporate limits whereof comprise the whole territory of any established township, and wherein a city infirmary has been established, the offices of township trustees and township clerk shall be abolished and cease, from and after the twentieth of March, one thousand eight hundred and fifty-three; and it shall be the duty of the directors of the city infirmary of such city, thereafter to perform, under the control of the city council of such city, all the functions which said township trustees were authorized by law to perform up to said date; and the said directors of the city infirmary are hereby vested *will* [with] all the powers of such township trustees: Provided, that said powers, as far as they relate to the levying of taxes and the holding of elections, are hereby exclusively transferred to such city council.

§ 28. That all the property, real and personal, together with all the moneys and credits held in possession or under the control of said township trustees, for any purpose whatsoever, on the twentieth day of March, one thousand eight hundred and fifty-three, shall, on said day, vest in said city, and the said township trustees shall then deliver to the city council of such city, all the property, moneys and credits aforesaid, together with the evidences of the same, and a full and final settlement of their accounts. All suits pending and judgments recovered by, in favor of, or against any such township, together with all rights, interests, claims and demands, in favor of, and against the same, may be continued, prosecuted, collected and enforced by or against any such city, as though this act had never

been passed ; and all suits authorized by law to be brought by or against such township or township trustees, shall be prosecuted by or against such city.

§ 29. That the city council of such city may, by ordinance prescribe the duties, and fix the compensation of said directors of the city infirmary, in the exercise of the powers hereby upon them conferred : Provided that the duties so prescribed, do not conflict with any previous acts, relating to the government and management of the Commercial Hospital and Lunatic Asylum of Ohio.

Directors of the city infirmary.

Proviso.

§ 30. That the city council of any city in which gas companies, or gas light and coke companies have been or may hereafter be established, be and are hereby empowered to regulate, by ordinance of such city council, from time to time, the price which such gas light or gas light and coke company, shall charge for any gas furnished by such companies to the citizens, public buildings, streets, lanes or alleys in such cities, and that said gas light or gas light and coke companies shall in no event charge more for any gas furnished to such city, or to individuals than the price specified by ordinance of such city council ; and that such city council shall also have power by ordinance, to regulate and fix the price which such companies shall charge for the rent of their meters.

Gas companies regulated by city council.

Prices fixed.

§ 31. That if such companies shall at any time hereafter be required by any city council as aforesaid to lay pipes and light any street or streets, and shall refuse or neglect for six months after being notified by authority of such city council to lay said pipes and light said streets ; then and in that case such city council may lay pipes and erect gas works for the supply of said streets, and all other streets which are not already lighted ; and the said gas companies, gas light and coke companies, shall thereafter be forever precluded from using or occupying any of the streets not already furnished with gas pipes of such companies ; and such city council may have the right to open any street for the purpose of conveying gas as aforesaid.

Companies refusing to furnish gas, city council may erect gas works.

§ 32. That a neglect to furnish gas to the citizens or other consumers of gas, or to any city by such companies, in conformity to the preceding section of this act, and in accordance with the prices fixed and established by ordinance of such city council, from time to time, shall forfeit all rights of such company under the charter by which it has been established : and any such city council may hereafter proceed to erect or by ordinance empower any person or persons to erect gas works for the supply of gas to such city and its citizens as fully as any gas light or gas light and coke company can now do, and as fully as if such companies had never been created.

Charter of company, when forfeited.

City to erect gas works.

§ 33. That the city council of any city in which gas works are or may hereafter be constructed, shall provide by ordinance for the appointment of one or more gas measurers,

Gas measurer's appointed.

whose duty it shall be to inspect all gas meters and certify to the correctness of all bills made against the consumers of gas, and perform such other duties as may be prescribed by ordinance.

Repealing
clause.

Proviso.

§ 34. That the original sections, twenty-six, forty-two, forty-five, fifty-seven, fifty-eight, seventy-five, ninety, ninety-two, eighty-five, one hundred and eleven, eighty-nine, and ninety-eight of the act entitled "An act for the organization of cities and incorporated villages," passed May 3d, 1852, be and the same are hereby repealed: Provided, that all rights heretofore acquired under said repealed sections, shall not be affected thereby, but the same shall be as effectually preserved as if said sections had not been repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March, 11, 1853.

AN ACT

Supplementary to the act entitled "An act dispensing with proof in certain cases," passed December 18, 1823.

Book accounts
of deceased
persons or
non-residents
of this State,
admitted as
evidence.

Weight of
such evi-
dence.

§ 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be competent for the court of justice, upon the trial of any action wherein any claim or defence is founded on book account, on proof of the death of the party in interest making the original entries in such book of accounts, and that the entries are in his hand-writing, to admit said book of original entries as evidence; and if the original entries in said book of accounts have been made by a disinterested person, who, at the time of such trial is deceased, or a non-resident of the State, on proof of such decease or non-residence, and that said entries are in the hand-writing of such person, it shall be competent to admit said book of original entries as evidence, the weight to be given to such evidence in either case, however, being left to the jury or justice to determine.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 12, 1853.