

MAINE STATE LEGISLATURE

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FIFTY-SECOND LEGISLATURE.

SENATE.

No. 9.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE.

AN ACT to amend an act entitled “an act to incorporate the town of Ellsworth into a city,” approved February the eighth, in the year one thousand eight hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. The twenty-ninth chapter of the special laws of Maine, of the year one thousand eight hundred and sixty-nine, an act to incorporate the the town of Ellsworth into a city, is hereby amended in the manner and particulars following, viz. :

Section four of said act, by striking out the words “last Monday of March,” and inserting in the place thereof the words “first Monday in April,” so that said section as amended shall read as follows: The

10 executive powers of said city generally, and the ad-
11 ministration of police with all the powers of the
12 selectmen of the town of Ellsworth shall be vested in
13 the mayor and aldermen as if the same had been herein
14 particularly enumerated. And the mayor and alder-
15 men shall appoint a city marshal, who shall have all
16 the powers and exercise all the duties that now apper-
17 tain to constables of towns, and who shall be chief of
18 the city police, and as such may enforce such ordinan-
19 ces and regulations under the direction of the mayor
20 as may be adopted by the city council for the govern-
21 ment of the city. All other powers now vested in the
22 inhabitants of said town, and all powers granted by
23 this act, shall be vested in the mayor and aldermen
24 and common council of said city, to be exercised by
25 concurrent vote, each board to have a negative upon the
26 other, but all other elections of officers by the city
27 council shall be by joint ballot of the two boards in
28 convention. The city council shall annually on the
29 first Monday in April, or as soon after as conveniently
30 may be, elect and appoint all the subordinate officers and
31 agents of the city for the ensuing year, including a
32 chief engineer and other engineers for the fire depart-
33 ment, which chief engineer, or in his absence, any two
34 other engineers, shall have all the power and authority
35 that fire wards now have ; shall define their duties and

36 fix their compensation, in cases where such duties and
37 compensation shall not be defined and fixed by the
38 laws of this state, and may by concurrent vote remove
39 officers, when in their opinion sufficient cause for re-
40 moval exists. All officers shall be chosen and vacancies
41 supplied for the current year except as hereinafter
42 otherwise directed. All the said subordinate officers
43 and agents shall hold their offices during the ensuing
44 year, and until others shall be elected and qualified in
45 their stead, unless sooner removed by the city council.
46 All moneys received and collected for, and on account
47 of the city, by any agent or officer thereof, shall
48 forthwith be paid into the city treasury. The city
49 council shall take care that moneys shall not be paid
50 from the treasury unless granted or appropriated ; shall
51 secure a prompt and just accountability by requiring
52 bonds with sufficient penalty and sureties from all
53 persons trusted with the receipt, custody, or disburse-
54 ment of money ; shall have the care and superin-
55 tendence of city buildings and the custody and
56 management of all city property, with power to let or
57 sell what may be legally let or sold ; and to purchase
58 and take in the name of the city such real or personal
59 property not exceeding the sum of fifteen thousand
60 dollars, including the property now owned by the town,
61 as they may think useful to public interest. And the

62 city council shall as often as once a year cause to be
63 published, for the information of the inhabitants, a
64 particular account of receipts and expenditures, and a
65 schedule of the city property ; and no money shall be
66 paid from the treasury unless the same be appropriated
67 by the city council, and a warrant signed by the
68 mayor, which warrant shall state the appropriation
69 under which the same was drawn.

Section seventeen of said act, by inserting after the
2 word “ clerk ” in the second and third sentences, the
3 words “ and ward constables,” so that the said section
4 as amended shall read as follows :

5 For the purpose of holding elections, said city shall
6 be divided into not less than three nor more than five
7 wards, to contain as near as conveniently may be an
8 equal number of legal voters ; and it shall be the duty
9 of the city council once in ten years, and not oftener
10 than five years to review, and if it be needful to alter
11 said wards in such manner as to procure as nearly as
12 may be an equal number of legal voters in each. In
13 each of said wards there shall annually on the last
14 Monday of March be chosen by ballot, a warden and
15 clerk and ward constable who shall hold their offices
16 for one year, and until others shall have been chosen
17 and qualified in their places. Said warden and clerk
18 and ward constable shall be sworn to the faithful

19 performance of their duties by any trial justice of said
20 city, or by the person presiding in said ward meeting,
21 or by the clerk of said wards; and a certificate of such
22 oaths having been administered shall be entered by
23 the clerk on the records of the wards. The warden
24 shall preside at all ward meetings with the power of
25 moderator of town meetings; and if at any meeting
26 the warden should not be present the clerk of such
27 ward shall call the meeting to order and preside until
28 a warden *pro tem.* shall be chosen. If neither of them
29 should be present, any legal voter in the ward may
30 preside until a clerk *pro tem.* shall be chosen and
31 qualified. The clerk shall record all the proceedings
32 and certify the votes given, and deliver over to his
33 successor in office all such records and journals,
34 together with all other documents and papers held by
35 him in said capacity. The inhabitants of each ward
36 may choose two persons to assist the warden in receiv-
37 ing, sorting and counting the votes. The list of the
38 names of the legal voters in each ward shall be pre-
39 pared by the assessors and board of aldermen, assisted
40 by the wardens, in the same manner and under the
41 same restrictions as are imposed by the laws of this
42 state on the assessors and selectmen of towns; and
43 all regular ward meetings shall be notified and called
44 by the mayor and aldermen, in the manner prescribed

45 by the laws of this state for notifying and calling town
46 meetings by the selectmen of the several towns, ex-
47 cepting that ward meetings for the election of mayor
48 after the second trial may be called within the time
49 provided in such cases in this act.

Section nineteen of said act, by striking out the
2 words, "immediately after a warden and ward clerk
3 shall have been elected and sworn" after the word
4 "annually" in the first line, and by inserting after
5 the word "councilmen" in the fourth line, the words
6 "and a warden, ward clerk, and a ward constable, all
7 which said officers may be voted for on one ballot," so
8 that the section as amended shall read as follows :

9 On the last Monday of March annually, the qualified
10 electors of each ward shall ballot for a mayor, one
11 aldermen, and three common councilmen, and a
12 warden, ward clerk and a ward constable, all which
13 said officers may be voted for on one ballot; all
14 the votes given for said officers respectively shall
15 be sorted, counted, declared and registered in open
16 ward meeting, by causing the names of the persons
17 voted for, and the number of votes given to each
18 to be written on the ward record at length. The
19 ward clerk, within twenty-four hours after such elec-
20 tion, shall deliver to the persons elected aldermen
21 and common councilmen certificates of their election,

22 and shall forthwith deliver to the city clerk a cer-
23 tified copy of record of such election ; *provided how-*
24 *ever*, that if the choice of aldermen and councilmen
25 cannot be conveniently effected on that day the meet-
26 ing may be adjourned from day to day to complete
27 such election. If on the second balloting for aldermen,
28 councilmen, warden or clerk, a choice shall not be
29 effected by a majority vote, then the persons receiving
30 the highest number of votes for any of those offices at
31 the subsequent trial shall be declared elected ; if no
32 one shall then have the highest number, the balloting
33 shall be continued from day to day until a choice is
34 thus effected. The board of aldermen shall as soon as
35 conveniently may be, examine the copies of the
36 records of the several wards certified as aforesaid, and
37 shall cause the person who shall have been elected
38 mayor, by a majority of the votes given in all the
39 wards, to be notified in writing of his election ; but if
40 it shall appear that no person shall have been elected,
41 or if the person elected shall refuse to accept the
42 office, the said board shall issue their warrant for
43 another election, and in case the citizens shall fail on
44 a second ballot to elect a mayor, the said board shall
45 issue their warrant for a third election, to be held not
46 less than three nor more than four days thereafter, at
47 which election the candidate having the greatest num-

48 ber of votes shall be declared elected, and notified as
49 aforesaid ; if no one shall then have such number,
50 further election shall be in the same manner ordered,
51 till a choice shall be made by some one having the
52 highest number of votes ; and in case of a vacancy in
53 the office of mayor, by death, resignation or otherwise,
54 it shall be filled for the remainder of the term by a
55 new election, in the manner hereinbefore provided for
56 the choice of said officer ; and in the meantime the
57 president *pro tempore* of the board of aldermen shall
58 perform the duties of mayor. The oath prescribed by
59 this act shall be administered to the mayor by the city
60 clerk, or any justice of the peace in said city. The
61 aldermen and common councilmen elect shall, on the
62 first Monday in April, at ten of the clock in the fore-
63 noon, meet in convention, when the oath required by
64 the second section of this act shall be administered to
65 the members of the two boards present by the mayor
66 or any justice of the peace, and thereupon the two
67 boards shall separate, and the board of common council
68 shall be organized by the election of a president and
69 clerk.

Section twenty of said act by adding at the end
2 thereof, the words, “ the city council shall have power
3 to ordain and pass ordinances enforcing attendance of
4 its members at its sessions, and may impose penalties

5 not exceeding twenty dollars for each offence, to be
6 recovered to the use of the city in the manner provided
7 in section one," so that said section as amended shall
8 read as follows :

9 The city clerk shall be the clerk of the board of
10 aldermen ; he shall perform such duties as shall be
11 prescribed by the board of aldermen or common coun-
12 cil ; and shall perform all the duties and exercise all
13 the powers by law incumbent upon or vested in the
14 town clerk of the town of Ellsworth ; he shall give
15 notice in one or two of the papers printed in said city,
16 of the time and place of regular ward meetings, but
17 the place of regular ward meetings and also the day
18 and the hour when not fixed by law, shall be deter-
19 mined by the board of aldermen. The board of alder-
20 men may in the absence of the mayor, choose
21 president *pro tempore*, who shall preside at joint meet-
22 ings of the two boards. Each board shall keep a
23 record of its proceedings, and judge of the election of
24 its own members, and in case of failure of election or
25 vacancy by death, resignation, or otherwise, may
26 order new elections. A quorum for the transaction of
27 business, shall in each board consist of a majority of
28 the members thereof ; all meetings of the aldermen
29 and common council and all meetings of the two
30 boards in convention, shall be open and public, and

31 the presiding officers of each of them shall have the
32 power of moderators of town meetings. At either of
33 said meetings, when any two members shall request
34 it, the vote shall be taken by yeas and nays, which
35 shall be recorded by the clerk. The city council shall
36 have power to ordain and pass ordinances enforcing
37 attendance of its members at its sessions, and may
38 impose penalties not exceeding twenty dollars for each
39 offence, to be recovered to the use of the city in the
40 manner provided in section one.

SECT. 2. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, January 22, 1873.

Read once, and on motion of Mr. KIMBALL of Penobscot, laid on the table and ordered to be printed.

SAMUEL W. LANE, *Secretary.*