

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

331

OF THE

FIFTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE.

1873.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 28, 1840, and March 16, 1842.

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1873.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1873.

CHAP. 227. extend beyond the easterly side line of the Mitchell pier, so called, as now erected.

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

Approved February 1, 1873.

Chapter 227.

An act to empower Joseph Oakes to extend a wharf or wharves into tide waters of the Penobscot river at Brewer.

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

Authorized to
build a wharf.

SECT. 1. Joseph Oakes of Bangor, his heirs and assigns are hereby authorized and empowered to build, erect and maintain one or more wharves from his ship-yard and dock in Brewer, Maine, and extend the same into the tide waters of the Penobscot river not exceeding seventy feet below low water mark. Said wharf or wharves to be of such width and from such part or parts of said ship-yard and dock as he or they may elect.

Limit.

Authorized to
erect a boom.

SECT. 2. Said Oakes, his heirs and assigns, are also authorized and empowered to erect, hang and maintain a boom in front of his said ship-yard and dock at such distance therefrom as he or they may elect, but not to extend into said river more than seventy feet below low water mark, and to secure it by attaching it to wharves, buoys, rocks, anchors or other things.

SECT. 3. This act shall take effect when approved.

Approved February 1, 1873.

Chapter 228.

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 :

City of Ellsworth,
to amend act to
incorporate.

SECT. 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 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 of April,' so that said section as amended shall read as

follows: 'The executive powers of said city generally, and the administration of police with all the powers of the selectmen of the town of Ellsworth shall be vested in the mayor and aldermen as if the same had been herein particularly enumerated. And the mayor and aldermen shall appoint a city marshal, who shall have all the powers and exercise all the duties that now appertain to constables of towns, and who shall be chief of the city police, and as such may enforce such ordinances and regulations under the direction of the mayor as may be adopted by the city council for the government of the city. All other powers now vested in the inhabitants of said town and all powers granted by this act shall be vested in the mayor and aldermen and common council of said city, to be exercised by concurrent vote, each board to have a negative upon the other, but all other elections of officers by the city council shall be by joint ballot of the two boards in convention. The city council shall annually on the first Monday in April, or as soon after as conveniently may be, elect and appoint all the subordinate officers and agents of the city for the ensuing year, including a chief engineer and other engineers for the fire department, which chief engineer, or in his absence any two other engineers, shall have all the power and authority that fire wards now have, shall define their duties and fix their compensation, in cases where such duties and compensation shall not be defined and fixed by the laws of this state, and may by concurrent vote remove officers when in their opinion sufficient cause for removal exists. All officers shall be chosen and vacancies supplied for the current year except as hereinafter otherwise directed. All the said subordinate officers and agents shall hold their offices during the ensuing year and until others shall be elected and qualified in their stead, unless sooner removed by the city council. All moneys received and collected for and on account of the city by any agent or officer thereof shall forthwith be paid into the city treasury. The city council shall take care that moneys shall not be paid from the treasury unless granted or appropriated; shall secure a prompt and just accountability by requiring bonds with sufficient penalty and sureties from all persons trusted with the receipt, custody, or disbursement of money; shall have the care and superintendence of city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold; and to purchase and take in the name of the city such real or personal property not exceeding the sum of fifteen thousand dollars, including the property now owned by the town, as they may think useful to public interest. And the city council shall as often as once a year cause to be published for the information of the inhabitants, a particular account of receipts and expenditures and a schedule of the city property; and no money

CHAP. 228.

Powers vested in mayor and aldermen.

City marshal, appointment, powers and duties of.

Mayor, aldermen and common council, powers of.

Certain officers, how elected.

Subordinate officers, appointment duties and compensation of.

Term of office.

Moneys received, to be deposited in treasury.

—how paid out.

Bonds and penalty.

City council shall have care of city buildings.

—may let or sell the same.

—may purchase real or personal property.

—shall publish account of receipts and expenditures.

CHAP. 228.

City council shall appropriate all moneys.

shall be paid from the treasury unless the same be appropriated by the city council, and a warrant signed by the mayor, which warrant shall state the appropriation under which the same was drawn.'

Sec. 17, amendment of.

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

Wards.

'For the purpose of holding elections, said city shall be divided into not less than three nor more than five wards, to contain as near as conveniently may be an equal number of legal voters; and it shall be the duty of the city council once in ten years, and not oftener than five years to review, and, if it be needful, to alter said wards in such manner as to preserve as nearly as may be an equal number of legal voters in each. In each of said wards there

—may be altered.

Ward officers, how chosen.

shall annually on the last Monday of March be chosen by ballot, a warden and clerk and ward constable, who shall hold their offices for one year, and until others shall have been chosen and qualified in their places. Said warden and clerk and ward constable shall

—shall be sworn.

be sworn to the faithful performance of their duties by any trial justice of said city, or by the person presiding in said ward meeting, or by the clerk of said wards; and a certificate of such oaths having been administered shall be entered by the clerk on the records of the wards. The warden shall preside at all ward meetings with the power of moderators of town meetings; and if at any meeting the warden should not be present the clerk of said ward shall call the meeting to order and preside until a warden *pro tem.* shall be chosen. If neither of them should be present, any legal voter in the ward may preside until a clerk *pro tem.* shall

Wardens, powers and duties of.

Clerks, duties of.

be chosen and qualified. The clerk shall record all the proceedings and certify the votes given, and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. The inhabitants

Assistant wardens may be chosen.

Legal voters, lists of, how prepared.

of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes. The list of the names of the legal voters in each ward shall be prepared by the assessors and board of aldermen, assisted by the wardens, in the same manner and under the same restrictions as are imposed by the laws of this state on the assessors and select men of towns; and

Ward meetings, how called.

all regular ward meetings shall be notified and called by the mayor and aldermen, in the manner prescribed by the laws of this state for notifying and calling town meetings by the selectmen of the several towns, excepting that ward meetings for the election of mayor after the second trial may be called within the time provided in such cases in this act.'

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

'On the last Monday of March annually, the qualified electors of each ward shall ballot for a mayor, one alderman, and three common councilmen, and a warden, ward clerk and a ward constable, all which said officers may be voted for on one ballot ; all the votes given for said officers respectively shall be sorted, counted, declared and registered in open ward meeting, by causing the names of the persons voted for, and the number of votes given to each to be written on the ward record at length. The ward clerk, within twenty-four hours after such election, shall deliver to the persons elected aldermen and common councilmen certificates of their election, and shall forthwith deliver to the city clerk a certified copy of record of such election ; *provided however*, that if the choice of aldermen and councilmen cannot be conveniently effected on that day the meeting may be adjourned from day to day to complete such election. If on the second balloting for aldermen, councilmen, warden or clerk, a choice shall not be effected by a majority vote, then the persons receiving the highest number of votes for any of those offices at the subsequent trial shall be declared elected ; if no one shall then have the highest number, the balloting shall be continued from day to day until a choice is thus effected. The board of aldermen shall as soon as conveniently may be, examine the copies of the records of the several wards certified as aforesaid, and shall cause the person who shall have been elected mayor, by a majority of the votes given in all the wards, to be notified in writing of his election ; but if it shall appear that no person shall have been elected, or if the person elected shall refuse to accept the office, the said board shall issue their warrant for another election, and in case the citizens shall fail on a second ballot to elect a mayor, the said board shall issue their warrant for a third election, to be held not less than three nor more than four days thereafter, at which election the candidate having the greatest number of votes shall be declared elected, and notified as aforesaid ; if no one shall then have such number, further election shall be in the same manner ordered, till a choice shall be made by some one having the highest number of votes ; and in case of a vacancy in the office of mayor, by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election, in the manner hereinbefore provided for the choice of said officer ; and in the meantime the president *pro tempore* of

CHAP. 228.

Sec. 19, amendments.

Annual election of officers.

Certificates shall be given to persons elected.

Proviso.

Meeting may be adjourned from day to day.

Plurality may elect in certain cases.

Mayor, election of, and how notified.

—proceedings in case of no election.

—vacancy in office of, how filled.

CHAP. 228.Oaths of office,
how administered

the board of aldermen shall perform the duties of mayor. The oath prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace in said city. The aldermen and common councilmen elect shall, on the first Monday in April, at ten of the clock in the forenoon, meet in convention, when the oath required by the second section of this act shall be administered to the members of the two boards present by the mayor or any justice of the peace, and thereupon the two boards shall separate, and the board of common council shall be organized by the election of a president and clerk.'

Sec. 20, amend-
ment.

Section twenty of said act, by adding at the end thereof, the words 'the city council shall have power to ordain and pass ordinances enforcing attendance of its members at its sessions and may impose penalties not exceeding twenty dollars for each offence, to be recovered to the use of the city in the manner provided in section one,' so that said section as amended shall read as follows :

City clerk,
duties of.

'The city clerk shall be the clerk of the board of aldermen ; he shall perform such duties as shall be prescribed by the board of aldermen or common council ; and shall perform all the duties and exercise all the powers by law incumbent upon or vested in the town clerk of the town of Ellsworth ; he shall give notice in one or two of the papers printed in said city, of the time and place of regular ward meetings, but the place of regular ward meetings, and also the day and hour when not fixed by law, shall be determined by the board of aldermen. The board of aldermen may in the absence of the mayor, choose a president *pro tempore*, who shall preside at joint meetings of the two boards. Each board shall keep a record of its proceedings, and judge of the election of its own members, and in case of failure of election or vacancy by death, resignation or otherwise, may order new elections. A quorum for the transaction of business, shall in each board consist of a majority of the members thereof ; all meetings of the aldermen and common council and all meetings of the two boards in convention, shall be open and public, and the presiding officer of each of them shall have the power of moderators of town meetings. At either of said meetings, when any two members shall request it, the vote shall be taken by yeas and nays, which shall be recorded by the clerk. The city council shall have power to ordain and pass ordinances enforcing attendance of its members at its sessions, and may impose penalties not exceeding twenty dollars for each offence, to be recovered to the use of the city in the manner provided in section one.'

President *pro*
tem. may be
chosen.Records to be
kept by each
board.

Quorum.

Votes may be
taken by yeas
and nays.Attendance may
be enforced.
Penalty for
neglect.

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

Approved February 1, 1873.