

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

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1895.

PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE.

1895.

Chapter 242.

An Act to incorporate the city of South Portland.

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

SECT. 1. The inhabitants of the town of South Portland, in the county of Cumberland, shall, in case of the acceptance of this act by the voters of said town, as hereinafter provided, continue to be a body politic and corporate under the name of South Portland, and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations now appertaining to, or incumbent upon said town as a municipal corporation, or appertaining to or incumbent upon, the inhabitants or selectmen thereof; and may ordain and publish such by-laws, ordinances and regulations, not inconsistent with the constitution and laws of this state, as shall be needful to the good order of said body politic; and impose fines and penalties for the breach thereof, not exceeding twenty dollars for any offense, which may be recovered to the use of the city, by action of debt, or on complaint before the municipal court of said city.

City of South
Portland,
incorporated.

—powers,
rights and
privileges.

SECT. 2. The administration of all fiscal, prudential and municipal affairs of said city with the government thereof shall be vested in an officer to be called the mayor, and one council of seven to be denominated a board of aldermen; all of whom shall be inhabitants of said city and legal voters therein. Said mayor and aldermen shall constitute the city council, and shall be sworn, or affirmed for the faithful discharge of their duties.

Administra-
tion of muni-
cipal affairs
vested in
mayor and
board of
aldermen.

SECT. 3. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause their violations or neglect of duty to be punished. He may call special meetings of the city council, when, in his opinion, the interests of the city require it, by causing a summons or notification to be given in hand, or left at the usual dwelling place of each member thereof. He shall from time to time, communicate to the city council, such information, and recom-

Mayor shall
be chief
executive
magistrate.

—duties.

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—compensation

—shall lay before council statement of receipts and expenditures.

Wards.

—when lines may be altered.

How mayor and aldermen shall be elected.

Annual elections.

—meetings, how called and held.

—wardens and powers.

mend such measures as the business and interests of the city may, in his opinion, require. He shall preside at the meetings of the city council, but shall have only a casting vote. The salary and compensation of the mayor shall be one hundred dollars per year for the first five years, under this charter. It may then be diminished or increased by the council. The mayor shall, in the month of February, annually, prepare and lay before the city council an estimate of the amount of money necessary to be raised for the ensuing financial year, under the various heads of appropriation, and the ways and means of raising the same; and shall also, in the month of February, annually prepare and lay before the city council a statement of all the receipts and expenditures of the preceding financial year, giving in detail the amount of expenditures for each department; and said statement shall be accompanied with a schedule of the property, real and personal, belonging to the city, and the value thereof, and amount of city debt.

SECT. 4. For the purpose of holding elections, the territory of said city shall, as soon as may be after the first election under this act, be divided by ordinance by the city council into seven wards, to contain as nearly as may be, consistently within well defined limits, an equal number of legal voters; and it shall be the duty of the city council once in ten years at most, and not oftener than once in five years, to review, and if in their opinion it be needful, to alter such wards in such manner as to preserve, as nearly as may be, an equal number of legal voters in each ward.

SECT. 5. The mayor shall be elected from the citizens at large, by the legal voters of the city voting in their respective wards. One alderman, a member of the school committee, a warden, a ward clerk and one constable shall be elected by each ward, being residents in the ward where elected. All of said officers shall be elected by ballot as hereinafter provided.

SECT. 6. The municipal elections, after the first, shall take place annually, on the first Monday in March. All meetings of the citizens for municipal purposes shall be notified and called in their respective wards, by the mayor and aldermen, in the manner provided by the laws of this state for notifying and calling town meetings by the selectmen of the several towns. The wardens shall preside at all ward meetings,

with the powers of moderators at town meetings; and if at any ward meeting the warden shall not be present, the clerk shall preside till a warden, pro tempore, shall be chosen. If neither the warden nor clerk is present, any legal voter in the ward shall preside until a clerk, pro tempore, shall be chosen and qualified.

—who may
preside in
absence of
warden.

SECT. 7. The city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons trusted with the receipt, custody or disbursement of money; the city council shall also have the care and superintendence of the city buildings, and the custody and management of all city property and trust funds for the benefit of schools, public library, parks, cemeteries and for any other beneficial purpose, whether acquired by purchase or legacy; with power to let or sell what may be legally let or sold, and to purchase and take, in the name of the city, real and personal property for municipal purposes to an amount not exceeding one hundred thousand dollars in addition to that now held by the town, and shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of the receipts and expenditures and a schedule of the city property and the city debt. The city shall have the power to establish by ordinance such officers as may be necessary for municipal government not provided for by this act, and to elect such subordinate officers as may be elected by towns under general laws of the state for whose election or appointment other provision is not made; to define their duties and fix their compensation; to act upon all matters in which authority is now given to said town of South Portland, and to determine what streets, if any, shall be lighted and upon what terms. The city council shall appropriate annually the amount necessary to meet the expenditures of the city for the current municipal year. The city council shall have exclusive authority to lay out, widen or otherwise alter or discontinue any and all streets or public ways in said city, and as far as extreme low water mark, and to estimate all damages sustained by owners of land taken for such purpose. A committee of the council shall be appointed whose duty shall be to lay out, alter, widen or discontinue any street or way, first giving notice of the time and place of their proceedings

Powers of city
council.

—exclusive
authority to
lay out
streets.

—committee
shall be ap-
pointed to lay
out streets.

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—notice and hearing.

—shall make return and file same with city clerk.

—shall estimate damages.

—aggrieved parties may appeal.

—city shall not construct street until public good requires it.

—council may regulate height and width of all sidewalks.

to all parties interested, by an advertisement in two newspapers printed in South Portland or Portland, for three weeks at least, next previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued, and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council. And the report so filed shall not be altered or amended before it comes up before the city council for action. A street or way shall not be discontinued by the city council, except upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. Any party aggrieved by their decision may appeal therefrom as provided by law in the case of town ways. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owners shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets; and in such cases, if any appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council, the public good requires it to be done; nor shall the city interfere with possession of the land so taken by removing therefrom materials or otherwise, until they decide to open said street. The city council may regulate the height and width of the sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize hydrants, drinking fountains, posts and trees to be placed along the edge of the sidewalks, and may locate and construct culverts and reservoirs within the limits of any

street or way in said city whenever they deem it needful. Every law, act, ordinance, resolve or order of the city council excepting rules and orders of a parliamentary character, shall be presented to the mayor. If not approved by him he shall return it with his objections in writing at the next stated session of the city council, which shall enter the objections at large on its journal and proceed to reconsider the same. If, upon reconsideration, it shall be passed by vote of two-thirds of all the members of the board, it shall have the same force as if approved by the mayor. In case of vacancy in the mayor's office, this section shall not apply to any act of the council. In case the mayor fails to either sign or return the bill at the next session, then it becomes a law as though he had signed it.

—every law shall be presented to mayor.

—may veto.

—proceedings in case of veto.

SECT. 8. The city clerk shall, before entering upon the duties of his office, be sworn to the faithful discharge thereof. He shall have care of all journals, records, papers and documents, of the city; and shall deliver all journals, records, papers and documents, and other things entrusted to him as city clerk, to his successor in office. He shall be clerk of the city council, and do such acts in said capacity as the city council may lawfully and reasonably require of him. He shall perform all the duties, and exercise all the powers by law incumbent upon or vested in the town clerk of the town of South Portland. He shall attend all meetings of the city council, and keep a journal of its acts, votes and proceedings. He shall engross all of the ordinances passed by the city council in a book provided for the purpose, and shall add proper indexes, which book shall be deemed a public record of such ordinances; he shall issue to every person who is appointed to any office by the mayor, or elected to any office by the city council, a certificate of such appointment or election. He shall give notice of time and place of regular ward meetings. In case of the temporary absence of the city clerk, the city council may elect a clerk, pro tempore, with all the powers, duties and obligations of the city clerk, who shall be duly qualified.

Clerk shall be sworn.

—duties of the clerk.

SECT. 9. The assessors, overseers of the poor and health officers shall be elected by the city council on the second Monday in March, or as soon thereafter as may be. At the

Election of assessors, overseers of poor and health officers.

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—assessors and terms.

—overseers of poor.

—assistant assessors.

—how taxes shall be assessed.

Election of city clerk, treasurer and auditor.

—terms.

—may be removed.

—vacancies

—compensation.

—treasurer shall give bond.

first election thereof under this act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years and one for three years, and at each subsequent election one assessor shall be elected for three years, each of whom shall continue in office until some other person shall have been elected and qualified in his place. Three overseers of the poor shall be elected in the same manner as are the assessors, and shall hold office the same time, and all subsequent elections of these officers shall be in the same manner as all subsequent elections for assessors. The city council may elect an assistant assessor in each ward, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward. He shall be sworn or affirmed, to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this state relative to town taxes, except as herein modified, and the city council may establish further or additional provisions for the collection thereof, and of interest thereon. The city council shall also elect a city solicitor and determine his salary.

SECT. 10. The city council shall, annually, as soon after its organization as may be convenient, elect by ballot a city clerk, a city treasurer and an auditor, who shall hold their offices for the current municipal year following their election and until their respective successors shall be elected and qualified; provided, however, that either or the officers named in this section may be removed at any time by the city council for sufficient cause. Vacancies in the above named offices may be filled by ballot of the city council at any time. The compensation of the officers named in this section shall be fixed by vote of the city council, and the official fees by them received shall be paid into the city treasury if so ordered by the council. If it is deemed expedient by the city council, the offices of city clerk and city treasurer may be held by the same person. The treasurer of the city shall also be the collector of taxes for said city, with all the powers of collectors of taxes under the laws of this state. He shall be styled treasurer and collector, and shall give but one bond to be approved by the city council for the faithful performance of his duties; and may appoint assistants and deputies as pro-

vided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments, in whatever year assessed, as may be collected during his term of office; and at the expiration of said term, his power as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office.

—accounts
and vouchers.

—duties and
powers.

SECT. 11. I. There shall be annually elected by the city council a street commissioner, who shall give bonds to the city in the sum of one thousand dollars, with such sureties as the city council shall approve, for the faithful performance of his duty, and shall receive such compensation as the city council shall establish, and he shall be removable at their pleasure; and if said office shall become vacant by death, resignation or otherwise, they shall forthwith elect another person.

Election of
street com-
missioner.

—bond of.

—compensa-
tion.

II. It shall be the duty of the street commissioner to superintend the general state of the streets, roads, bridges, excepting such bridges as it is the duty of the city of Portland and county of Cumberland to keep in repair, sidewalks and to lanes in the city; to attend to the repairs of the same, and to remove sidewalks when they are dangerous to travelers; and it shall be the duty of the commissioner to cause permanent bounds, monuments or land marks, to be erected at the termini and angles of all highways and streets now located, or that may hereafter be located by the council, or altering or widening as provided by statute, and shall cause plans thereof to be made and filed with the city clerk, when required, after the passage of an order by the council. He shall make all contracts for labor and material, subject to the approval of the council, and give notice to the mayor, or to any police officer or constable, of any obstruction or encroachment thereon;

Duties and
powers.

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to superintend the building and repair of any sewer, drain or reservoir, and to make contracts for labor and material for the same, subject to approval of the council.

Shall obey
directions of
city council.

III. He shall perform such duties in said office as the city council may require, and shall at all times obey the directions of the council or its committees, in the performance of his official duties.

Shall certify
all accounts.

IV. The street commissioner shall certify all accounts contracted in the discharge of his official duties, to the city council for their examination and allowance, at each regular meeting of the council.

V. No person or corporation authorized by the city council to dig up any public street or sidewalk in said city shall begin such digging before furnishing to the street commissioner, security satisfactory to him to restore such street or sidewalk to its former condition.

Police
department.

SECT. 12. The city council may by the affirmative vote of two-thirds of all its members, establish, by ordinance, a police department, to consist of a chief of police and such other officers and men as it may prescribe, and may make regulations for the government of the department. Until a department of police shall be established in accordance with the provisions of this act, the mayor shall have the appointment, control and direction of the police force of the city.

Fire
department.

SECT. 13. The city council may establish a fire department for said city, to consist of such officers and men as it may prescribe, and it may make regulations for the government of the department.

Council shall
establish all
salaries.

SECT. 14. The city council shall establish, by ordinance, the regular salaries or remuneration of the offices established by this act, in case the same is not fixed herein, and of such other offices as may be hereafter established, and after the first municipal year no ordinance of the council changing any such salary or remuneration, shall take effect until the municipal year succeeding that in which the ordinance is passed.

Granting ap-
propriations,
and right in
or over
streets, shall
be by majority
vote of
council.

SECT. 15. In case any ordinance, order, resolution or vote involves the appropriation or expenditure of money to an amount which may exceed three hundred dollars, the laying of an assessment, or the granting to a person or corporation of any right in, over or under any street or other public ground

of this city, the affirmative votes of a majority of all the members of the city council shall be necessary for its passage. Every such ordinance, order, resolution or vote shall be read twice, with an interval of at least three days between the two readings, before being finally passed, and the vote upon its final passage shall be taken by roll call. No sum appropriated for a specific purpose shall be expended for any other purpose, and no expenditure shall be made nor liability incurred by or in behalf of the city, until an appropriation has been duly voted by the city council sufficient to meet such expenditure or liability, together with all unpaid liabilities which are payable out of such appropriation; provided, however, that after the expiration of the financial year until the passage of the regular annual appropriation, liabilities payable out of a regular appropriation to be contained therein may be incurred to an amount not exceeding one quarter of the total of such appropriation for the preceding year. No money shall be paid out of the city treasury, except on orders signed by the mayor, designating the fund or appropriation from which said orders are to be paid.

Money appropriated for specific purpose, shall be expended for no other purpose.

Orders for money shall be signed by mayor.

SECT. 16. For the purpose of organizing the system of government hereby established, and putting the same in operation in the first instance, the selectmen of the town shall, at least seven days before the first Monday of March after the acceptance of this charter, issue their warrant for calling a meeting of the legal voters at such place and hour of the day as they shall choose, for the purpose of choosing a mayor, seven aldermen, a school committee of seven, and seven constables to be taken from the city at large; said officers shall be elected by a plurality vote. The town clerk shall notify the several officers elect, of their election, in writing, within twenty-four hours. Their powers and duties shall be as herein provided. After the city has been divided into wards, ward meetings of the legal voters thereof shall be called, which meetings shall be presided over by some person appointed by the city council, and the records of said first meetings in the several wards shall be made by some person designated by the city council, and at said first meetings lists of voters, corrected by the aldermen, shall be delivered to the persons designated to act as recording officers in the several wards to be used as provided by law, in town meetings.

Selectmen shall call meeting, for purpose of organizing system of government.

Wards, and first meeting, how called and held.

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Annual meetings.

—how all officers shall be elected.

All officers shall be held to discharge of duties, if after removal from ward.

—if person elected refuses to accept, new election shall be called.

—vacancy in office of mayor, how filled.

—oath to mayor.

Meetings of city council.

Said recording officers shall perform the duties of ward clerks, as before herein provided, relative to making a record of the election and returning a copy of the records of the city council. On the first Monday in March, annually thereafter the qualified voters of each ward shall vote on one ballot for city and ward officers, as hereafter provided for, all of which officers except the mayor shall be residents of the ward or district where elected. And all officers shall be elected by ballot, by a plurality of the votes given, and shall hold their offices one year from the second Monday in March, except members of the school committee who shall be chosen for three years after the first election under this charter, and until others shall be elected and qualified in their places; all city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding the removal after their election, out of their respective wards, into any other ward in the city; the ward clerk within twenty-four hours after such election shall deliver to the ward officers elected, certificates of their election, and shall forthwith deliver to the clerk a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk upon the city records. If the person elected shall refuse to accept the office, the said board shall issue their warrants for another election; 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, to be called as herein provided, and held within twenty days after the vacancy occurs. The oath or affirmation prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace. The aldermen elect shall meet on the second Monday of March at seven o'clock in the evening, when the oath or affirmation, required by the second section of this act shall be administered to the members present by the mayor, or any justice of the peace. The city council shall by ordinance, determine the times of holding stated or regular meetings of the board, and shall also in like manner determine the manner of calling special meetings and the persons by whom the same shall be called, but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a

notification to be given in hand or left at the usual residence of each member.

SECT. 17. After the organization of the city government and the qualification of a mayor, and when a quorum of the city council shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who in the absence of the mayor, shall preside at all meetings of the board, and in case of any vacancy in the office of mayor caused by death, resignation or otherwise, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain; he shall continue to have a vote in the board, but shall not have the veto power. The board of aldermen, in the absence of the mayor and permanent chairman, shall choose a president, pro tempore, who shall exercise the power of a permanent chairman.

Permanent chairman of council, how chosen.

—powers of.

—president, pro tem.

SECT. 18. Every officer of the city, except the mayor, shall, at the request of the city council, appear before the board and give such information as may be required, and answer any questions that may be asked by the council in relation to any matter, act or thing connected with his office or the discharge of the duties thereof.

All city officers, except mayor, shall appear before board, and give information, as required.

SECT. 19. The aldermen shall not be entitled to receive any salary or other compensation during the year for which they are elected, nor be eligible to any office of profit or emolument, the salary of which is payable by the city, during said term; and all departments, boards, officers and committees, acting under the authority of the city and instructed with the expenditure of public money, shall expend the same for no other purpose than that for which it is appropriated, and shall be accountable therefor to the city in such manner as the city may direct.

Aldermen, shall receive no compensation.

SECT. 20. Neither the mayor, members of the board of aldermen, or any officer of the city, shall be interested, directly or indirectly, in any contract or agreement to which the city is a party. This provision shall not apply to local tradesmen furnishing supplies of any kind in their line to the city.

No member of city government, shall be interested in any contract, to which city is party.

SECT. 21. All officers of the police department shall be appointed by nomination by the mayor and confirmed by the city council, and may be removed by them for good cause. All other subordinate officers shall be elected by the city

Police and other officers, how appointed.

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council, and may be removed by them for cause. Except as otherwise specially provided in this act, all subordinate officers shall be elected annually on the second Monday of March, or as soon thereafter as may be, and their term of office shall be for one year, and until others are qualified in their place.

Eligibility of persons to hold office.

SECT. 22. No person shall be eligible for election or appointment to any office established by this act, unless at the time of election he shall have been a citizen of the United States, and a resident of the city for at least three months. Any office established by or under this act shall become vacant if the incumbent thereof ceases to be a resident of the city.

Municipal court, established.

SECT. 23. I. A municipal court is hereby established to be denominated the municipal court of South Portland, and to consist of one justice who shall be an inhabitant of said town and a person of sobriety of manners. Said judge shall be appointed as provided by law for the appointment of judges of municipal and police courts and shall be, ex-officio, a justice of the peace and of the quorum for the state, and have and exercise concurrent jurisdiction with trial justices of the county of Cumberland over all matters and things within their jurisdiction, and such authority and jurisdiction additional thereto as are conferred upon him by this act.

Judge, how appointed.

Exclusive jurisdiction, in certain cases.

II. Said court shall have exclusive original jurisdiction of all offenses against the ordinances and by-laws of said city, and concurrent jurisdiction of all such criminal offenses and misdemeanors committed therein as are cognizable by trial justices, and concurrent jurisdiction of all civil actions in the county of Cumberland wherein the debt or damages demanded do not exceed twenty dollars.

—shall not have jurisdiction, in actions in which title to real estate is in question.

III. Nothing in this act shall be construed to give said court jurisdiction of any civil action in which the title to real estate, according to the pleadings or brief statement filed therein by either party, is in question; and all such actions brought therein shall be removed to the supreme judicial court, or otherwise disposed of as in like cases before a trial justice.

—terms.

IV. Said court shall be held on the first and third Saturday of each month, at nine o'clock in the forenoon, for the transaction of civil business, at such place within said city as said

judge shall determine ; but the council may at any time, provide a court room in which case the court shall be held therein, and all civil processes shall be made returnable accordingly ; and it may be adjourned from time to time, by the judge at his discretion ; but it shall be considered in constant session for the cognizance of criminal actions.

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Council shall provide court room.

V. If said judge is prevented by any cause from attending at the time said court is to be held for civil business, it may be adjourned from day to day by a constable of said city, or any deputy sheriff residing therein, without detriment to any action then returnable or pending, until he can attend, when said action may be entered or disposed of with the same effect as if it were the first day of the term ; and it may be so adjourned without day when necessary in which event, pending actions shall be considered as continued, and actions then returnable may be returned and entered at the next term with the same effect as if originally made returnable at said term.

If judge is prevented from attending, court may be adjourned from day to day, without detriment.

VI. Said judge may establish a seal for said court, or use the seal in common use by trial justices ; and in addition to the judicial duties imposed upon him by this act, he shall keep the records of said court or cause them to be made and kept ; and perform all other duties required of similar tribunals in this state ; and copies of such records duly certified by said judge shall be legal evidence in all courts. All writs and processes issuing from said court shall be in the usual form, bear the teste of the judge, and be signed by him ; and shall be served as like precepts are required to be served when issued by trial justices. But warrants in criminal cases issuing from said court shall be made returnable before the same ; and no writ in a civil action shall be made returnable at a term of said court to begin more than two calendar months after the commencement of the action.

Judge shall establish seal, and perform all duties required.

Writs and processes, shall be in usual form, and bear teste of judge.

Writs, how made returnable.

VII. Actions in said court shall be entered on the first day of the term and not afterwards, except by special permission. When a defendant, legally served, fails to enter his appearance by himself or his attorney, on the first day of the return term, he shall be defaulted ; but if he afterwards appears during the term, the court may, for sufficient cause, permit the default to be taken off. Pleas in abatement must be filed on or before the day of the entry of the action. The defendant may file his pleadings, which shall be the general

Actions shall be entered on first day of term.

—when defendant fails to appear, shall be defaulted.

CHAP. 242

issue with a brief statement of special matters of defence, on or before the return day of the writ, and must file them on or before the first day of the next term, or he shall be defaulted, unless the court for good cause enlarge the time, for which it may impose reasonable terms. Actions in which the defendant files his pleadings on the return day, and all actions of forcible entry and detainer, seasonably answered to, shall be in order for trial at the return term, and shall remain so until tried or otherwise finally disposed of, unless continued by consent or on motion of either party for good cause, in which latter case the court may impose such terms as it deems reasonable; but all other actions, unless defaulted or finally disposed of, shall be continued as of course, and be in order for trial at the next term.

When actions shall be in order for trial.

Fees, shall be paid judge.

VIII. The judge of said court may demand and receive the same fees as are allowed to trial justices in similar cases, except that he shall be entitled to fifty cents for a complaint and warrant in criminal actions, twenty-five cents for the entry in a civil action, and one dollar for the trial of an issue, civil or criminal, and two dollars for every day after the first, occupied in such trial, to be paid by the plaintiff in civil actions and recovered by him as costs, if he prevail in the suit; and the fees so received by the said judge shall be payment in full for his services.

Costs and fees allowed to parties.

IX. The costs and fees allowed to parties, attorneys and witnesses in all actions in said court, shall be the same as allowed by trial justices in actions before them; except that the plaintiff, if he prevail, shall be allowed one dollar for his writ, and the defendant, if he prevail, one dollar for his pleadings.

Appeals, may be taken to court having jurisdiction.

X. Any party may appeal from a sentence or judgment of said court to the then next term for civil or criminal business, as the case may require, to the court having jurisdiction within the county of Cumberland, by appeal from trial justices; and such appeal shall be taken and prosecuted in the same manner as from a sentence or judgment of a trial justice.

Trial justices, restricted from exercising jurisdiction in city.

XI. Trial justices are hereby restricted from exercising any jurisdiction in said South Portland over any matter or thing, civil or criminal, except such as are within the jurisdiction of justices of the peace and of the quorum, and except that

—exceptions.

they may issue warrants on complaints for criminal offenses returnable before said court ; or in case of the death, disability or long continued absence from the state, of the judge, before themselves or some other trial justice within and for said county ; provided, that said restrictions shall be suspended until the said judge shall be appointed and enter upon the duties of his office.

SECT. 24. The members of the school committee first elected under the provisions of this charter, at their first meeting shall designate by lot, three of their number to hold office for three years, three for two years, and one for one year, and shall allot one member to represent each of said seven wards. Each member elected thereafter to fill the place of one whose term expires, shall hold office three years. They shall fill all vacancies in their number until the next annual election. A majority of the board shall constitute a quorum for the transaction of business. They shall have all the powers and perform all the duties in regard to the care and management of the public schools of said town which are now conferred upon superintending school committees by the laws of this state, including the employment of all teachers. They may annually, and whenever there is a vacancy, elect a superintendent of schools, who may be a member of the committee, for the current municipal year, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board ; they shall fix his salary at the time of his election, which shall not be increased nor diminished during the year for which he is elected, and may at any time dismiss him if they deem it proper or expedient. A suitable and convenient room shall be furnished by the city for the meetings of said committee, wherein shall be kept their records open to the inspection of the citizens. The said committee shall annually, before the spring election, furnish to the city council an estimate in detail of the several sums required during the ensuing year for the support of said public schools, and they shall not increase the expenditures beyond the amount appropriated therefor. The mayor shall be, ex-officio, chairman of the school committee, but shall have no vote unless the members present and voting be equally divided.

School committee, election and term.

--vacancies, how filled.

--quorum.

--powers.

May elect superintendent of schools.

--salary.

Committee, shall annually furnish estimate, of money required for schools.

CHAP. 242

Council, may lay out drains and sewers.

General meetings may be held.

Meetings for purpose of submitting question of acceptance of charter, any time within five years.

How vote shall be taken.

—if act shall fail, meeting may be held in six months.

—how called.

Act shall not affect existing rights, or pending suits.

Persons holding town office, shall continue in office till city government is organized.

SECT. 25. The city council may lay out, maintain and repair all main drains or common sewers in said city, in manner and form prescribed by statute.

SECT. 26. General meetings of the citizens, qualified to vote in the city affairs may, from time to time, be held to consult upon the public good, to instruct their representatives and to take all lawful measures to obtain redress of any grievances according to the rights secured to the people by the constitution of this state; and such meetings shall be duly warned by the mayor and aldermen upon requisition of twenty qualified voters. The city clerk shall act as clerk of such meetings and record the proceedings upon the city records.

SECT. 27. A town meeting may be held at the usual place of meeting, in said town, for the purpose of submitting the question of the acceptance of this act to the legal voters of said town at any time within five years after the passage thereof, except in the months of September and November. At such meeting the polls shall be open from eight o'clock in the forenoon until five o'clock in the afternoon, and the vote shall be taken by written or printed ballots in answer to the question, 'Shall the act passed by the legislature in the year of our Lord one thousand eight hundred and ninety-five, entitled An Act to incorporate the city of South Portland be accepted.' The selectmen shall preside at such election and use a check list. The affirmative votes of a majority of the voters present and voting thereon shall be required for its acceptance. If at any meeting so held this act shall fail to be thus accepted, it may, at the expiration of six months from any such previous meeting, be again thus submitted for acceptance, but not after the period of five years from the passage thereof. Such meetings shall be called as provided for by general laws of the state for calling and holding meetings for the transaction of town business.

SECT. 28. The passage of this act shall not affect any right accruing or accrued, or any suit, prosecution or other legal proceedings pending at the time when it shall take effect by acceptance as herein provided for, and no penalty or forfeiture previously incurred shall be affected thereby. All persons holding office in said town at the time this act shall be accepted as aforesaid, shall continue to hold such offices

until the organization of the city government hereby authorized shall be effected, and until their respective successors shall be chosen and qualified. CHAP. 243

SECT. 29. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of the said town, shall take effect upon its passage, but it shall not take further effect unless accepted by the legal voters of said town, as herein prescribed, in which case all acts and parts of acts inconsistent with this act, are hereby repealed. When act shall take effect.

Approved March 22, 1895.

Chapter 243.

An Act to incorporate the Water Commissioners of the city of Auburn, under the name of the Auburn Water Commissioners.

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

SECT. 1. The water commissioners of the city of Auburn, elected under the provisions of chapter eighty-two of the private and special laws of eighteen hundred and ninety-one, entitled "An Act to supply the city of Auburn with pure water," approved February eighteen, eighteen hundred and ninety-one, and in accordance with an ordinance of the mayor, aldermen and common council of the city of Auburn, finally ordained July twenty-four, eighteen hundred and ninety-three, and their successors, to be hereafter elected in accordance with said act and said ordinance, are hereby created a body corporate and politic, by the name of the Auburn Water Commissioners, and as such shall have a common seal, and power to sue and be sued. The Auburn Water Commissioners shall elect a president from among their own number, and shall elect a clerk, and choose such other officers as are designated by said ordinance and as the city council of the city of Auburn may hereafter designate by ordinance. The city treasurer of the city of Auburn, for the time being, shall be treasurer, ex-officio, of the Auburn Water Commissioners, and shall keep the accounts of the money received and disbursed by him as treasurer of the city, separate and distinct from those of the Water commissioners of Auburn, created a body corporate.

—corporate name.

—commissioners shall elect officers.

—city treasurer shall be treasurer, ex-officio.

—duties of.