

CHAPTER LXXIII.

AN ACT to incorporate the City of Oakland.—[Passed March 25,
1854.]

*The People of the State of California, represented in Senate and
Assembly, do enact as follows :*

SECTION 1. The corporation or body corporate, now existing and known as the town of Oakland, shall remain and continue to be a body politic and corporate, by the name of the city of Oakland, and by that name shall have perpetual succession, may sue and defend in all courts and places, and in all actions, and shall have and use a common seal and alter the same at pleasure; and may purchase, receive, hold and

The present corporation to continue.

Powers.

Proviso. enjoy real and personal property, and sell convey and dispose of the same for the common benefit; *provided*, that it shall purchase without the city, no property except such as shall be necessary for establishing hospitals, prisons, cemeteries and water works.

Boundaries of the city. Proviso. SEC. 2. The boundaries of said city shall be the same as the boundaries of the present town of Oakland; *provided*, that nothing herein contained shall be so construed as to prohibit or abridge the right of the trustees of the towns of Clinton and San Antonio whenever the citizens thereof may elect to become a body corporate under the provisions of "An Act for the Incorporation of Towns," or under the provisions of any Act which may hereafter be passed, to provide for the construction of wharves and other improvements for the accommodation and convenience of the trade travel and commerce, of the said towns or vilages, at their respective sites.

Government of Oakland. Officers to be elected. Term of office. Time of holding election. SEC. 3. There shall be elected and appointed for the government of the city of Oakland, six councilmen, who shall constitute a board known as the Common Council, a Mayor, an Assessor, a Treasurer and City Marshal, who shall hold their offices for one year, and until their successors are elected and qualified. The municipal elections shall be held on the first Monday of March of each year, and such elections shall be subject to all the provisions of the law regulating elections for state officers, except as hereinafter provided.

When Common Council shall meet. Majority, a quorum. Sittings to be public. Journal of proceedings to be kept. Duties of Common Council. SEC. 4. The Common Council shall meet on the first Monday after their election, and at such other times as they may by ordinance appoint; a majority of the Council shall constitute a quorum for the transaction of business; they shall determine the rules of their proceedings, and judge of the qualifications and elections of all officers elected under the provisions of this Act. Their sittings shall be public, a journal of their proceedings shall be kept by the clerk, under their direction, and the yeas and nays on any question shall be taken and entered on the journal, at the request of any member. They shall prescribe by ordinance the duties of all officers, whose duties are not defined in this Act, and shall have the power to elect such other officers as they may deem necessary in the government of the city, and they shall have power to determine the compensation to be attached thereto. They shall have power to raise, by a tax not exceeding one and a half per cent. on the assessed value of the real and personal property in the city, money for the establishment and support of free Common Schools, and to provide suitable buildings therefor, and for defraying the ordinary expenses of the city. They shall also have power to pass all proper and necessary ordinances for the regulation, improvement and sale of city property; *provided*, that an amount not exceeding ten per cent. of the proceeds of the sales of the said property made by virtue of this Act, shall be set apart, and appropriated from time to time by said Common Council, for the construction and endowment of a college or university within the limits of said city.

Powers of Common Council. They shall have power to open, alter, extend, establish; grade, pave, or otherwise improve and regulate streets, alleys and lanes; to construct and keep in repair bridges, fences, public places, ferries, wharves, docks, piers, slips, sewers and wells, and to make the assessments therefor; to regulate and collect tolls, wharfage, dockage and cranage upon all water crafts, and all goods landed; to make regulations for securing the health, cleanliness, ornament, peace and good order of the city; for preventing and extinguishing fires, and regulating firemen, policemen, and such other officers as may be necessary to appoint for the care and regulation

The same of prisons and markets; for licensing, taxing and regulating all such

vehicles, businesses and employments as the public good may require. The same. and as may not be prohibited by ordinance; to regulate and suppress all occupations, houses, places, amusements and exhibitions, which are against good morals, or contrary to public order and decency; for regulating the location of slaughter-houses, markets, stables and houses for the storage of gunpowder and other combustible materials; and to pass all such other ordinances, and provide suitable buildings for the management, good government and general welfare of said city, as may not be inconsistent with this charter, or with the Constitution or Laws of this State or the United States. They shall also have power to affix penalties to the violation of any ordinances, such penalties not to exceed imprisonment for ten days, and a fine of two hundred dollars; they shall provide for vacancies in the office of Mayor, Councilmen, or any other office, and to determine the compensation to be paid to the Assessor, Treasurer and Clerk, Marshal, and all other officers to whom the receipt or expenditure of the moneys or funds of the city shall be entrusted: *Provided*, that the members of the Common Council shall receive no compensation for their services. The Common Council shall have no power to borrow money, unless they shall, by ordinance, direct the same in anticipation of the revenue for the current year, and shall provide in said ordinance for repaying the same out of such revenue, nor in such case shall they borrow a sum to exceed ten thousand dollars. They shall have power to provide for all city elections, to designate the place or places of holding the same, giving at least ten days' notice thereof; to appoint inspectors and judges of election; examine the returns and declare the result, and to determine contested elections. The Board shall elect a member of their own body to preside at their meetings, and to discharge the duties of the Mayor whenever there shall be a vacancy in the office of Mayor, or the Mayor shall be absent from the city, or be unable, from sickness or other cause, to attend to the duties of his office. They shall have power, whenever they may deem it proper to exercise the same, to establish and fix, by ordinance, a salary for the office of Salary of Mayor, Mayor, in addition to the fees received by him as a Justice of the Peace, but such ordinance shall not take effect unless ratified by a vote of the citizens of said city at the next succeeding general election. Every ordinance passed by the Common Council shall be presented to the Mayor for his approval; if he approve he shall sign it, if not he shall return it Veto of Mayor. within five days thereafter: or if the Common Council be not then in session, at its next stated meeting, when said Common Council shall reconsider said ordinance, and if approved by two-thirds of all the members elected to such Board, it shall take effect and stand as an ordinance of the city.

SEC. 5. The Mayor shall communicate to the Council semi-annually, and oftener if necessary, a general statement of the situation and condition of the city, together with such recommendations relative thereto, as he may deem expedient; he shall be vigilant and active in causing the ordinances of the city to be executed and enforced; he shall be the head of the police, and shall exercise a supervision and control over the conduct of all subordinate officers, and receive and examine into all such complaints as may be preferred against any of them for violation or neglect of duty, and certify the same to the Council; he shall sign all The same. ordinances and contracts made in behalf of the city, and countersign all licenses and warrants on the Treasury, and have jurisdiction of all violations of the city ordinances, and shall have within the limits of the

city like jurisdiction as is conferred on Justices of the Peace. He shall have power to administer oaths and affirmations.

Powers and
duties of
Treasurer.

SEC. 6. The Treasurer shall receive and pay out all moneys belonging to the city, and keep an account of all receipts and expenditures under such regulations as may be prescribed by ordinance. He shall make a monthly statement to the Council of the receipts and expenditures of the preceding month, and publish the same by posting in three of the most public places in the city, or by publishing the same in any newspaper that may be published in the city. He shall also be ex-officio clerk of the city, and keep all the papers and documents belonging to the city, attend the meetings of the Council, and keep a journal of their proceedings, and a record of all their ordinances, and shall do all other things required of him by ordinances.

Powers and
duties of Marshal

SEC. 7. The Marshal shall execute within the city and return all process issued and directed to him by the Justice or Mayor, arrest all persons guilty of a breach of the peace, or of a violation of any ordinance of the Council, and take them before the Mayor or any other legal authority within the city. He shall collect the taxes of the city and pay over all moneys into the City Treasury received in pursuance of the ordinance of the Council, and shall attend the meetings of the Council. He shall also perform the duties of Street Commissioner, and do and perform such other duties as may be prescribed by ordinance.

Powers and
duties of Assessor

SEC. 8. The Assessor shall prepare, within such time as the City Council may direct, a correct list of all the taxable property within the city, with the true valuation thereof, and shall present the same certified by him to the Council; said listing and assessment shall be made as nearly as can be in conformity to the law for listing and assessing property for State and county taxes, should the owner of any property assessed as aforesaid, not be satisfied with the valuation thereof, he may apply under oath to the Mayor, Assessor, and Marshal, who shall constitute a Board of Commissioners of Assessment, for the reduction and equalization of the assessment, if they refuse he may appeal to the Council, and their decision shall be final.

Revenue officers
to give bond.

SEC. 9. All officers or persons to whom the receipt or expenditures of the moneys or funds of the city shall be entrusted, shall give security in such amount as the Council may require, payable to the city, and subject to the approval of the Mayor, such bond or bonds shall be subject to the provisions of the law concerning the official bonds of officers. In case such security becomes insufficient, additional security may be required, and if not given the Council, by a vote of two-thirds of the members, may declare the office vacant, and order a new election.

Fines, &c.,
collected.
How disposed of.

SEC. 10. All fines and other moneys received by any officer or person under this charter, or collected under ordinance of the Council shall be paid over every month by such officer or person, unto the City Treasurer, under oath, and no officer shall be entitled to receive compensation for any services rendered until he shall file his affidavit with the Mayor, that he has faithfully accounted for and paid over all moneys received by him and for which he is bound to account.

Time of elections

SEC. 11. All regular elections decreed by this Act, except the first, shall be held on the first Monday in March of each year. The first election under this Act shall be held on the third Monday after its passage, at Justice Ferris' office in said city, by D. N. Vandyke, H. Marshall and S. B. McKee, or any two of them, who shall act as Judges of election. After being duly sworn they shall give public notice of the time of holding said election of not less than five (5) days, by posting up notices in

Judges of
Election.

three of the most public places in said city. They shall have power to appoint two competent persons to act as clerks of said election, which shall be conducted in all respects according to the provisions of the general election law of this State. They shall deliver certificates of election to the persons receiving the highest number of votes for the respective offices, and make their returns to the Council when organized.

How elections conducted.

SEC. 12. The corporation created by this Act shall succeed to all the legal and equitable rights, claims and privileges, and be subject to all the legal liabilities and obligations made bona fide of the town of Oakland; and the Common Council shall have full power to maintain suits in the proper courts to recover any right or interest or property which may have accrued to the town of Oakland.

Rights and privileges

SEC. 13. All sales or leases of property belonging to the city of Oakland shall be by public auction, to the highest bidder, and upon such terms and conditions as the Council may, by ordinance, direct; and all contracts for work or supplies of any kind shall be let to the lowest responsible bidder, after ten (10) days' notice given, by posting the same in three of the most public places in the city, or by publishing the same in any newspaper that may be established in said city or county.

Sales of property. How conducted

SEC. 14. Licenses shall be discriminating and proportionate to the amount of business; and taxation shall be uniform throughout the city.

Licenses

SEC. 15. The style of the city ordinances shall be as follows: "The Council of the city of Oakland do ordain as follows." All ordinances shall be published by written advertisements posted up at the Mayor's office, and at three other public places in the city, or in a newspaper published in the city.

Style of ordinances.

SEC. 16. No executive officer nor member of the Common Council, nor any officer of the corporation, shall be directly or indirectly interested, nor shall he be security for any person who may be so interested, in any contract, work or business, or the sale of anything whatever, the expense, price, or consideration of which is payable from the City Treasury or by an assessment levied under an ordinance of the Common Council.

Officers not to be interested in contracts.

SEC. 17. For all services rendered by the Mayor, he shall not receive any salary for the first year; but he shall be entitled to the same fees and emoluments for his acts as justice of the peace, as are by law allowed to justices of the peace for similar services, and the city marshal shall be entitled to the same fees as are by law allowed to constables for similar services, and for all duties required of him except as herein otherwise provided for.

Mayor to receive no salary first year. Fees.

Fees of Marshal.

SEC. 18. If any officer under this Act or member of the Common Council, shall remove from the city or absent himself therefrom for more than thirty days, or shall fail to qualify by taking the oath of office as prescribed by law, or to file his official bond whenever such bond is required, within ten days from the time his election is duly ascertained and declared, his office shall be thereby absolutely vacated, and the Common Council shall thereupon order an election to fill the vacancy.

Vacancy—how caused.

SEC. 19. The Act entitled "An Act to incorporate the town of Oakland, and to provide for the construction of wharves thereat," is hereby repealed; and any ordinance of said "Town of Oakland" providing for the levying and collection of taxes, and directing or authorizing the expenditure of money, or the assumption of any debts or liabilities, are hereby suspended until the organization of the government created by this Act.

Repealing clause

Collection of taxes suspended.

SEC. 20. This Act shall take effect from and after the passage thereof.