

stream, and eight feet in a transverse direction, and that this act shall in no wise affect the legal rights of any persons or corporations whatever. [*Approved by the Governor, March 17, 1846.*]

An Act to authorize the Union Wharf Company to erect a Wharf on Herring River.

Chap 108.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

The Union Wharf Company, in the town of Wellfleet, are hereby authorized to erect and maintain a wharf, to extend from land owned by them, on Herring River, to the edge of the channel of said river, and shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided*, that this grant shall not in any manner interfere with the legal rights of any persons whatever. [*Approved by the Governor, March 17, 1846.*]

Wharf may be built in Wellfleet to the channel, &c.

Provided, &c.

An Act to establish the City of Cambridge.

Chap 109.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECTION 1. The inhabitants of the town of Cambridge, in the county of Middlesex, shall continue to be a body corporate and politic, under the name of the City of Cambridge; and, as such, shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to, said town, as a municipal corporation.

Cambridge to be a city.

SECTION 2. The administration of all the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of six, to be denominated the board of aldermen; and one council of twenty, to be denominated the board of common council; which two boards shall, in their joint capacity, be denominated the city council. A majority of each board shall constitute a quorum for the transaction of business. No member of either board shall receive any compensation for his services.

Administration, &c., to be vested in a mayor, 6 aldermen, and 20 common council, &c.; boards to serve without compensation.

The mayor and aldermen shall be chosen by the inhabitants of the city at large, voting in their respective wards.

Elections of mayor and aldermen.

The members of the common council shall be apportioned among the several wards, as nearly as may be, according to the number of inhabitants therein; and each ward shall elect the number of common council men to which it shall be entitled on such apportionment, from persons who shall be residents in the ward by which they shall be chosen.

Ratio and residence of common council men.

SECTION 3. The city of Cambridge hereby is, and shall continue to be, divided into three wards; and the bounda-

City divided into 3 wards.

Arrangement thereof to be revised every 5 years by the city council.

Apportionment of common council men therein.

Annual meeting of inhabitants, and term of city offices.

Warrants for ward and city meetings.

Election, qualification, and duties of wardens, clerks and inspectors of elections.

ries thereof shall be the same as the boundaries of the wards into which the town of Cambridge is now divided. But the city council shall, once in five years, and not oftener, revise the same, and may, by a vote of not less than two thirds of the members of each board present, and voting thereon, so alter the boundaries of said wards, as shall be most for the convenience of the inhabitants thereof. For the first five years after the passage of this act, the ward now known as ward number one, shall elect five members of the common council; the ward now known as ward number two, shall elect nine members of the common council; and the ward now known as ward number three, shall elect six members of the common council.

SECTION 4. The annual meeting of the inhabitants, for the choice of city officers, shall be holden on the first Monday in March; and all city and ward officers, who are chosen by the people, shall be chosen by ballot, and shall hold their respective offices for one year, from the first Monday in April succeeding the annual meeting, and until others shall be chosen and qualified to act in their stead.

SECTION 5. All meetings of the inhabitants for the purpose of voting at elections, or for the transaction of municipal affairs, whether in general or in ward meetings, shall be holden in pursuance of warrants for that purpose, which shall be issued by the mayor and aldermen, and shall be in such form, and served and returned in such manner, and at such time, as the city council, by any by-law, shall direct.

SECTION 6. Each ward, at the annual meeting, shall choose for itself a warden, clerk, and three inspectors of elections, who shall be sworn to the faithful and impartial discharge of their respective duties relative to elections; a certificate that said oath has been taken, shall be entered in the records of the ward by the clerk thereof.

The warden shall preside at all ward meetings, and shall be invested with all the powers, and shall perform all the duties of a moderator of town meetings. If, at any such meeting, the warden shall not be present, the clerk shall call the meeting to order, and preside until a warden pro tempore shall be chosen; and if the clerk shall not be present, a clerk pro tempore shall be chosen.

The inspectors of elections shall, at all meetings, aid and assist the warden in preserving order, and in assorting and counting the votes; and all votes shall be assorted, counted, recorded and declared, in open ward meeting.

The clerk shall record, in the ward records, the votes and proceedings of all ward meetings, and shall enter on said records the names of all persons voted for, and the number of votes given for each, in words at length, and shall, within twenty-four hours after each and every ward meeting holden for the purpose of any election, deliver to the city

clerk a true copy of the record of such election, certified by himself, the warden, and a majority of the inspectors. The clerk shall deliver to his successor in office, all the records, record books, journals, documents, papers, and other things, held by him in his capacity of clerk of the ward.

Each ward shall also, at the annual meeting, choose the number of common council men which it shall be entitled to elect. But if the choice of ward officers or common council men cannot be conveniently effected or completed on that day, the meeting shall be adjourned from day to day, to complete the choice. The clerk of the ward shall, within twenty-four hours after such choice, deliver to the respective persons elected common council men, a certificate of their election, signed by himself, the warden, and a majority of the inspectors.

Election of
common council
men.

SECTION 7. The qualified voters in each ward shall, at the annual meeting, give in, to the warden and inspectors, their votes for a mayor and six aldermen; a copy of the record of which shall be delivered to the city clerk, as provided in the preceding section. The city clerk shall, immediately after receiving said copies, enter the same, or a plain and intelligible abstract thereof, on the city records, and then lay said copies before the mayor and aldermen, who shall thereupon examine the same, and cause the persons who shall have been chosen mayor and aldermen respectively, by a majority of votes in all the wards, to be notified in writing of their election.

Proceedings at
and after meet-
ings for elec-
tions.

Record and
certificates of
election.

If a mayor, or the whole number of aldermen shall not have been so elected, or if either of the persons elected shall refuse to accept the office to which he was chosen, the mayor and aldermen shall make a record of the fact, and forthwith issue their warrant for another election; and the same proceedings shall be had, in all respects, as are provided in this section for the choice of mayor and aldermen; and the same shall be repeated, from time to time, until a mayor and the whole number of aldermen shall have been chosen.

Proceedings to
supply vacan-
cies in the offi-
ces of mayor
or aldermen.

Whenever the office of mayor shall become vacant by death, resignation or otherwise, the boards of aldermen and common council shall, respectively, by vote, declare the same and the cause thereof, and the expediency of filling such vacancy; and the two boards shall thereupon meet in convention, and elect a mayor to fill such vacancy for the time said cause shall continue, or until a new election.

SECTION 8. The mayor, aldermen and common council, shall, before entering on the duties of their office, be sworn to the faithful performance of the duties of their respective offices; and, for that purpose, shall meet in convention on the first Monday in April, in each year, at ten of the clock in the forenoon, when such oath may be administered to the

Administration
and record of
oaths of office.

mayor elect, if present, by any judge of any court of record in the Commonwealth, or by any justice of the peace for the county of Middlesex, and to the aldermen and common council men, by the mayor, he being first sworn as aforesaid, or by such justice of the peace. A certificate that such oath has been taken, shall be entered in the journal of the mayor and aldermen and of the common council, by their respective clerks. If, from any cause, the mayor, or any one or more of the aldermen or common council men, shall not be present on the first Monday in April, to take the oath required of them, the same may be administered to them at any time thereafter, before entering on the duties of their office.

Proceedings in case of absence of mayor, &c., elect, at the time for organization.

Duties of mayor.

SECTION 9. The mayor, thus chosen and qualified, shall be the chief executive officer of the city. He shall cause the laws and regulations of the city to be executed and enforced. He shall exercise a general supervision over the conduct of all the subordinate officers, and cause their violation or neglect of duty to be punished. He may call special meetings of the board of aldermen and common council, or either of them, when, in his opinion, the interests of the city require it, by causing a notification to be left at the usual dwelling-place of each member of the board or boards to be convened. He shall, from time to time, communicate to said boards respectively, such information, and recommend such measures, as the interests of the city shall, in his judgment, require. He shall preside in the board of aldermen, and in joint meeting of the two boards; but shall have a casting vote only. He shall have the exclusive power of nomination, in all cases in which appointments are directed to be made by the mayor and aldermen; but such nominations shall be confirmed or rejected by the board of aldermen. He shall be *ex officio* chairman of the school committee, and of the board of overseers of the poor. His salary, for the first year under this charter, shall be six hundred dollars, and no more. He shall afterwards receive for his services such salary as the city council shall determine, payable at stated periods, and shall receive no other compensation; but such salary shall not be increased or diminished during his continuance in office.

Compensation.

Sessions of mayor and aldermen.

SECTION 10. The mayor and aldermen shall compose one board, and shall sit and act together as one body, at all meetings of which the mayor shall preside, if present; but, in his absence, the board may choose a chairman for the time being. All their sittings shall be public, when not engaged in executive business.

Executive powers of mayor and aldermen.

SECTION 11. The executive powers of the city, and the administration of police, with all the powers heretofore vested by law in the selectmen of Cambridge, shall be vested in the mayor and aldermen, as fully as if the same

were herein specifically enumerated. They shall have full and exclusive power to appoint a city marshal and assistants, a constable or constables, and all other police officers; and to remove the same from office, for sufficient cause. They may require the marshal and constables, before entering on the duties of their office, to give bonds with sufficient sureties, to any reasonable amount; upon which the like proceedings and remedies may be had, as are by law provided in case of constables' bonds required by selectmen of towns in this Commonwealth. They shall have power to grant licenses to innholders and victuallers, and retailers, within the city, in the same manner as the mayor and aldermen of the city of Boston now have by provision of law. They shall prepare, revise, correct and post up, in the manner that selectmen of towns are required to do, an alphabetical list of voters in each ward of the city; and, for that purpose, shall have access to the assessors' books and lists, and be entitled to the aid and assistance of the assessors, collector, and other city officers, and shall deliver the lists so prepared and corrected, to the clerks of the respective wards, to be used at elections. And they shall do and perform all the duties which the selectmen of towns are, by law, required to do and perform within their respective towns, unless it be otherwise provided in this Act.

Power in respect to appointments, removals, bonds, licenses, &c.

Duties in respect to lists of voters.

SECTION 12. The mayor and aldermen shall, within two days after every meeting of the inhabitants holden for the choice of County, State or United States officers, examine and compare the copies of the record of votes returned from all the wards, and make out returns of the same, including the names of all the persons voted for, and the number of votes given for each; which returns shall be signed by the mayor and a majority of the aldermen, and countersigned by the city clerk, and shall be transmitted or delivered in the manner that similar returns are required to be made by selectmen of towns. They shall notify the persons, chosen to represent the city in the General Court, of their election, within three days after the choice; and if the whole number of representatives, determined upon by the city council, shall not have been chosen at any such meeting, they shall forthwith issue their warrant for a new election, conformably to the Constitution and laws of the Commonwealth.

Proceedings after meetings for election of County, State, or Federal officers.

The mayor and aldermen shall issue their warrant for a general meeting of the inhabitants, for any constitutional or legal purpose, whenever requested so to do, in writing, by thirty legal voters.

Warrants for city meetings.

The board of aldermen shall be the final judge of the election and qualifications of its members; and, whenever a vacancy shall occur therein by death, resignation or otherwise, may order a new election.

Aldermen to be judges of elections, &c., and may order new elections.

Fire department.

SECTION 13. An act establishing the fire department in the town of Cambridge, passed March seventeenth, one thousand eight hundred and thirty-two, and an act in addition thereto, passed March thirtieth, one thousand eight hundred and thirty-five, shall continue in force, and all the power and authority, now vested in the selectmen of Cambridge, in relation to the fire department in that town, shall be transferred to, and vested in, the mayor and aldermen.

Powers and duties of common council,

SECTION 14. The persons chosen and qualified as members of the common council shall sit and act together as one body, distinct from the mayor and aldermen, except when the two bodies are required to meet and act in convention. The said council shall, from time to time, choose one of its members to preside at all meetings of the board, and preserve order therein; and shall also choose a clerk, who shall be sworn to the faithful discharge of the duties of that office, and shall hold such office during the pleasure of the council. The clerk, so chosen and qualified, shall attend the common council when in session, and keep a journal of its acts, votes, and proceedings, and perform such other services in his said office, as the council may require. All sittings of the common council shall be public. The common council shall be the final judge of the election and qualifications of its members; and whenever a vacancy shall occur therein by death, resignation or otherwise, may order a new election.

and of their president,

and clerk.

Sittings to be public, &c.

Powers vested in city council.

SECTION 15. All the powers now vested by law in the town of Cambridge, or in the inhabitants thereof, as a municipal corporation, shall be vested in the city council composed as provided in the second section, and shall be exercised by concurrent vote, each board having a negative on the other.

Power of city council to make by-laws, &c.

SECTION 16. The city council shall have power to make all such salutary and needful by-laws, as towns, by the laws of the Commonwealth, have power to make, and to annex penalties, not exceeding twenty dollars, for the breach thereof; which by-laws shall take effect and be in force from the time therein limited, without the sanction or confirmation of any other authority whatever. All such by-laws and all city ordinances shall be duly published, in such newspaper or newspapers as the city council shall direct. All fines and forfeitures for the violation of any by-law or ordinance of the city, shall be recovered by complaint before any justice of the peace for the county of Middlesex, and shall enure to such uses as the city council shall direct; but the party prosecuted shall have the right of appeal to the Court of Common Pleas, in the same manner, and upon the same terms and conditions, as are provided by law for appeals from the judgment of justices of the peace in other criminal prosecutions. It shall be suffi-

To publish by-laws.

Recovery and use of fines, &c.

Appeals from justices' court.

cient, in any such complaint, to set out the offence plainly and substantially; but the by-law or ordinance, on which the complaint is founded, need not be recited or set out.

Form of complaint.

SECTION 17. The city council shall take proper care that no money be paid from the city treasury, unless previously granted and appropriated; shall secure a just and prompt accountability from all persons entrusted with the receipt, custody or disbursement of the moneys or funds of the city; shall have the care and superintendence of the city buildings, and all city property, and the power to let or sell what may be legally let or sold, and to purchase property, real or personal, in the name and for the use of the city, whenever the interest or convenience of the city shall require it. The city council shall, once in every year, at least, publish, for the use and information of the inhabitants, a particular account of the receipts and expenditures of the city, and a schedule of the property and debts of the city.

Safe keeping, &c., of city property.

Accounts, &c. to be published annually.

SECTION 18. The city council shall have exclusive authority and power to lay out new streets or ways within said city, and to estimate the damage which any person shall sustain thereby; but all petitions and questions, relating to laying out, widening, altering or discontinuing any street or way, shall be first acted on by the mayor and aldermen. Any person, aggrieved by the decision or judgment of the mayor and aldermen, or of the city council, in relation to laying out, widening, altering or discontinuing any street or way, or in the estimate of damages, may, within six months thereafter, make complaint to the county commissioners in the county of Middlesex; upon which complaint, the same proceedings shall be had, as are provided in the twenty-fourth chapter of the Revised Statutes, in cases where persons are aggrieved by the decision or judgment of selectmen of towns.

Power of mayor, aldermen, and of city council in respect to streets and ways.

Estimate and recovery of damages.

SECTION 19. The city council shall have the power to construct drains and common sewers through any highways, streets, or private lands, paying the owners such damage as they shall sustain thereby; and to require all persons to pay a reasonable sum for the right to open any drain into such public drain or common sewer.

Power of city council in respect to drains and common sewers.

SECTION 20. All the power and authority now vested by law in the board of health for the town of Cambridge, shall be transferred to, and vested in, the city council, and shall be carried into execution by the appointment of health commissioners, or in such other manner as the city council shall determine.

Health officers.

SECTION 21. The city council shall have the power to provide for the appointment or election of all necessary officers for the good government of the city, not otherwise provided for, and to prescribe their duties and fix their compen-

City council to provide for the appointment, &c. of certain officers.

But not from
their own body.

sation; but no person shall be elected by the city council, or appointed by the mayor and aldermen, to any office of emolument, who, at the time of his election or appointment, shall be a member of the board of aldermen or of the common council.

Election, duties,
&c. of clerk.

SECTION 22. The city council shall, annually, in the month of April, meet in convention, and elect by joint ballot, a city clerk, who shall be sworn to the faithful discharge of the duties of his office, and shall hold his office one year, and until another shall be chosen and qualified; removable, however, at the pleasure of the city council. The city clerk shall be *ex officio* clerk of the board composed of the mayor and aldermen. He shall keep a journal of all the votes and proceedings of the mayor and aldermen, and also of the city council, when sitting in convention; and shall perform such other duties as the mayor and aldermen or the city council shall prescribe. He shall also perform all the duties, and exercise all the powers, incumbent upon, and vested in the town clerk of the town of Cambridge. He shall deliver to his successor in office, as soon as chosen and qualified, all journals, records, record books, papers, documents, or other things, held by him in his capacity of city clerk.

City council to
elect treasurer,
&c. fill vacan-
cies, &c. in
April.

SECTION 23. The city council shall also, in the month of April, annually, in convention and by joint ballot, elect a city treasurer, a collector of taxes, and all other subordinate officers, who are not chosen by the inhabitants or appointed by the mayor and aldermen; and shall also fill all vacancies which shall exist in the boards of assessors, assistant assessors, overseers of the poor, or school committee, by reason of a failure to elect by the inhabitants at the annual meeting. The candidates for filling such vacancies shall be determined in the manner provided by the Constitution of the Commonwealth for fixing upon candidates to fill vacancies in the State Senate.

Power of city
council to deter-
mine number of
representatives
in General
Court.

SECTION 24. The city council shall, annually, in the month of October, meet in convention, and determine the number of representatives which the city shall elect to the General Court, and publish such determination, which shall be conclusive; and the number thus determined, shall be specified in the warrant calling the meeting for the election of Representatives.

Power of city
council to deter-
mine number of
members of
common coun-
cil in the wards.

SECTION 25. The city council shall, in the month of January, in the year one thousand eight hundred and fifty-one, and once in every five years thereafter, determine the number of members of the common council which each ward shall be entitled to elect, as provided in the second section.

School Commit-
tee.

SECTION 26. The qualified voters of the city, at the annual meeting, shall choose seven persons for a school committee, two of whom shall be residents in ward number one, three in ward number two, and two in ward number three;

six persons to be overseers of the poor, two of whom shall be resident in each ward; three persons to be assessors, one of whom shall be a resident in each ward; and such number of assistant assessors as the city council shall determine. The assessors and assistant assessors shall be sworn to the faithful discharge of the duties of their office, and shall perform all such duties as the assessors of towns are required by law to perform; and the boards of school committee and overseers of the poor, with the mayor as chairman of each, shall perform all such duties as the school committees and overseers of the poor in towns are required by law to perform.

Overseers of the poor.

Assessors.

Assistant assessors.

Duties of same.

SECTION 27. All meetings of the inhabitants, for the election of County, State or United States officers, who are voted for by the people, shall be held in their respective wards, at the time fixed by law for those elections respectively.

Meetings for election of county, State and Federal officers.

SECTION 28. After the acceptance of this act by the inhabitants of the town of Cambridge, and during the month of April in the present year, the selectmen of said town, for the purpose of the first election under this charter, shall issue their warrant for a meeting of the inhabitants, in their respective wards, for the choice of all city officers who are directed to be chosen by the people, and such county officers as are to be voted for by other towns in the county of Middlesex, at their annual meeting in the present year. Such warrant shall be served seven days, at least, before the time appointed for said meeting, and shall designate the time and place of the meeting in the respective wards.

First election of city officers, &c.

At said meeting, the wards respectively shall choose a warden, clerk, three inspectors of elections, and the number of members of the common council, which they are entitled to elect, by the third section of this Act; and shall also give in their votes for a mayor, six aldermen, seven members of the school committee, six overseers of the poor, three assessors, and such county officers as are then to be voted for.

If the whole number of ward officers or common councilmen, in either ward, cannot be chosen on that day, the meeting may be adjourned from day to day, to complete the choice. The clerks of the respective wards shall deliver certificates to the persons elected members of the common council, and copies of the record of the election to said selectmen, within the time, and signed and certified in the manner, provided in the sixth section. The selectmen shall, within two days after receiving said returns, examine and compare the same, ascertain the result of the election, and give notice in writing to the persons chosen mayor and aldermen, of their election. If a mayor, or the whole number of aldermen shall not have been elected at such meeting, the selectmen shall forthwith issue their warrant for another meeting, as provided in this section; and the same proceed-

ings shall be had and repeated, until a mayor and six aldermen shall have been chosen. Any legal voter, in the respective wards, may call the said first meeting to order, and preside until a warden shall have been chosen.

Organization of city government.

SECTION 29. Immediately after the election of city officers, as provided in the preceding section, the said selectmen shall appoint a place and some day not later than the first Monday in June, of the present year, for the first meeting of the city council, and for the organization of the city government, established by this act; and shall give notice thereof in writing to all the city officers elect, and shall also publish a notice thereof in one or more newspapers printed in Boston.

The mayor, aldermen, members of the common council, and all other city officers elect, shall meet at the time and place designated in such notices, and shall respectively take the oath required of them by this act, and shall then enter upon and perform all the duties of their respective offices, in the same manner as if they had been elected prior to the first Monday in April of the present year.

Annual town meeting suspended.

SECTION 30. The annual town meeting of the town of Cambridge, for the present year, shall be suspended, and may be holden in the month of May or June, if this act shall not be adopted by the inhabitants of the town, as provided in the thirty-fourth section.

Delivery of records, &c., to city clerk.

SECTION 31. All officers of the town of Cambridge, having the care and custody of any records, papers, or property, belonging to said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office.

Repeal of inconsistent provisions.

SECTION 32. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Legislature may alter and amend this act.

SECTION 33. Nothing in this act contained shall be so construed, as to prevent the Legislature from altering or amending the same, whenever they shall deem it expedient.

Act to be void unless accepted by inhabitants, &c.

SECTION 34. This act shall be void, unless the inhabitants of the town of Cambridge, at a legal town meeting, called for that purpose, shall, by a majority of the voters present, and voting thereon, by ballot, determine to adopt the same within twenty days after its passage.

When to take effect.

SECTION 35. This act shall go into operation from and after its passage. [*Approved by the Governor, March 17, 1846.*]