

CHAP. CXXCTV.—*An Act to amend an Act entitled an Act to incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, and repealing certain other Acts in relation to said city.*

[Approved April 24, 1862.]

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

SEC. 2. The boundaries of said city shall be the same as the Boundaries.
boundaries of the late Town of Oakland, which are more particularly defined and described, as follows, to wit: Northernly, by a straight line drawn at right angles with Broadway, formerly Main street, in said city, crossing the extended line of Broadway at a point three hundred and sixty rods northerly from where stood the "Oakland House," on the northwest corner of Broadway and First streets, and running from the Bay of San

Boundaries. Francisco, on the west, to the easterly or southeasterly line of that branch of the San Antonio slough, or estuary, over which crosses the bridge from Oakland to Clinton; thence among the eastern and southern highest tide line of said slough, and of the estuary of San Antonio, following all the meanderings thereof to the mouth of said estuary, in the Bay of San Francisco; thence southwesterly to ship channel; thence northerly, along the line of ship channel to a point where the same intersects the said northern boundary line, extending westwardly; *provided*, that nothing in this section contained shall be so construed as to prohibit or abridge the right of the Trustees of the Town 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 villages, at their respective sites.

MUNICIPAL OFFICERS.

Officers. SEC. 3. The municipal election 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 in this Act provided otherwise. There shall be elected and appointed, for the government of the City of Oakland, seven Councilmen, who shall constitute a Board, known as the City Council; a Mayor, an Assessor, a Treasurer, who shall be ex officio Clerk of the City Council, and a Marshal, who shall be ex officio Tax Collector of said city. The Mayor shall be elected for one year, and until his successor is elected and qualified. The Assessor shall be elected for two years, and until his successor is elected and qualified. The Marshal shall be elected for two years, and until his successor is elected and qualified, except at the first election, when he shall be elected and hold his office for one year. The Treasurer shall hold his office for two years, and until his successor is elected and qualified. The Councilmen shall be elected and hold their office for two years, and until their successors are elected and qualified; *provided*, that, at the first election, the three Councilmen, of the seven elected, having received the least number of votes at the election, shall be elected and hold their office one year, and until their successors are elected and qualified.

POWERS AND DUTIES OF THE CITY COUNCIL.

Powers and duties of City Council. SEC. 4. The City 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 Common Council shall constitute a quorum for the transaction of business; they shall determine the rules of their proceedings, and judge of the qualification and election of all officers elected under the provisions of this Act; and shall provide, by ordinance, the method of calling special meetings of the Council; their sittings shall be public. A journal of their proceedings shall be kept by the Clerk, under

their direction, and the ayes and noes 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; they shall have the power to raise, by tax, not exceeding one and one fourth per cent. for all purposes, (except for the redemption of bonds,) on the assessed value of the real and personal property within the limits of said city, moneys for the establishment and support of free common schools, and to provide suitable grounds and buildings therefor; and for the defraying the ordinary expenses of the city, as well as for paving, planking, or otherwise improving, the streets of the city; they shall also have power to pass all proper and necessary ordinances for the regulation and sale of city property, and to give deeds therefor; they shall have power to open, alter, establish, grade, or otherwise improve and regulate, streets, alleys, and lanes, and the sidewalks upon the same; to construct and keep in repair, bridges, fences, public places, wharves, docks, ferries, piers, slips, sewers, and wells, and to make the assessments therefor; to regulate and collect tolls, wharfage, dockage, and craneage, 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 of prisons and markets; for licensing, taxing, and regulating all such vehicles, business, and employments, as the public good may require, and as may not be prohibited by law; to levy a tax license upon all dogs, or otherwise prevent the same from running at large in the streets and public grounds of the city; to regulate and suppress all occupations, houses, places, amusements, and exhibitions, which are against good morals, or contrary to public order and decency; for the regulating and location of slaughter houses, markets, stables, and gas works, 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 pass such ordinance, or ordinances, as may be necessary to prevent animals from running at large within the limits of the city; to establish a Pound, and appoint a Pound Keeper, and prescribe his duties, and to provide for the public sale, by the Pound Keeper, of such animals as may be impounded, in the same way, and upon like notice, that personal property is sold by execution, under the laws of the State; *provided*, said City Council shall allow, by ordinance, the owner or owners of such property so impounded, to reclaim the same at any time before sale, upon payment of costs and charges of taking up and impounding, and within thirty days after the sale, shall allow him or them, upon proof of the ownership of the property sold, duly made before the Mayor, and upon payment of the costs and expenses of impounding and selling, and upon the payment of the sum of one dollar to the Mayor, as a fee for the investigation of the question of ownership, and for his certificate to that

powers and
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effect, the purchase money arising from such sale or sales; they shall also have power to affix penalties to the violation of any and all ordinances; such penalties shall be by fine, not exceeding one hundred dollars, and in case the fine be not paid, then they may direct that the person or persons may be imprisoned, at the rate of one day for every two dollars of the fine imposed, or, in lieu of the imprisonment, or any part of it, they may direct that the person or persons so fined, shall labor, under the direction of the city authorities, either upon the streets, public grounds, or buildings, or in such other places as may be deemed advisable for the benefit or revenue of said city; they shall have power to appoint suitable persons to fill vacancies in the office of Mayor, Councilmen, or any other elective office, until the next regular charter election, when, if the term be unexpired, an election shall be held, to fill such vacancy for the unexpired term of said officers. They shall also have power to determine the compensation to be paid to the Assessor, Treasurer, and Clerk, Marshal, and all other officers to whom the receipt or expenditures of the moneys or funds of the city shall be entrusted; *provided*, that the members of the City Council shall receive no salary for their services. The City Council shall have no power to borrow money, unless they shall by ordinance direct the same, in anticipation of the revenue for the coming 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 from their own body to preside at the meetings, and to discharge the duties of 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; and in absence of the Clerk, to appoint one of their members to act as Clerk; they shall have power, whenever they may deem it necessary to exercise the same, to establish and fix, by ordinance, a salary for Mayor, in addition to the fees received by him as 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 election; they shall also have power, and may set aside any amount of money belonging to the city which may at any time be in the hands of the Treasurer, after deducting the current expenses of the city, and the interest due upon the funded debts of said city, as a sinking fund, whereby the bonds issued by said city may be redeemed, or they may, at any time before said bonds shall become due, with any surplus money which may belong to the city, after paying said expenses and interest, redeem, or purchase for the city, and in its name, in the manner most advantageous to the city, any outstanding bonds, which bonds, or claims, when so purchased, shall be immediately cancelled; *provided*, this right shall not affect the rights of the holders of said bonds, or in any way prevent them from holding the same

until said bonds become due and payable; they shall also have the power to determine the width of sidewalks, and the material and manner of their construction, as well as the grade of the same; and shall also have the power and right to require and compel the owner, or occupant, of any lot or lots, situate upon any street of said city, to erect, construct, and keep in repair, the sidewalks fronting his or her lot or lots; and in case the owner, or occupant, of any lot or lots, after due notice, refuse to build, repair, or keep in repair, said sidewalks, in accordance with the general regulations, then the Council may cause the same to be built or repaired, and the costs and charges shall be a lien on said lot or lots, and may be enforced by suit at law; and said lien shall not be discharged until said costs and charges have been paid; they shall also have the power to establish fire districts, and within said districts to prevent the erection of wooden buildings, or any buildings composed of combustible materials, and also to prevent the further repairing of wooden buildings within the fire limits established.

Sec. 5. They shall also have the exclusive right, in the manner described by ordinance, of issuing and granting of licenses, and of collecting the tax licenses, for the benefit of the city, upon the following business and property, to wit: Upon each and every person, within the limits of said city, who shall vend any goods, wares, or merchandise, wines, or distilled and fermented liquors, drugs, or medicines, jewelry, or wares of precious metals, and persons who keep horses or carriages for rent or hire, (except mules, horses, or animals, used in the transportation of goods,) that is to say, all persons dealing in the aforesaid business in said city, and whose average monthly sales, rents, or receipts, are estimated at one thousand dollars, and less than five thousand dollars; and those, also, whose average monthly sales, rents, or receipts, are one thousand dollars, and less than one thousand dollars; also, upon all taverns, innkeepers, and upon all persons who may sell and dispose of any malt, spirituous, or fermented, liquors, or wines, in less quantities than one quart, and the said licenses shall be issued quarterly or yearly; also, upon every person, within the limits of said city, who shall keep a stallion, jack, bull, or ram, and who shall permit the same to be used for the purpose of propagation, for hire or profit, which license shall be a yearly license; all of which licenses, when granted by said city, and duly obtained by the person or persons desiring the same, shall entitle them to carry on said business, trade, or profession, in said city; but this section shall not be so construed as to require those having licenses for carrying on said business, to obtain one from the city until the expiration of the licenses now held by them.

TIME AND METHOD OF LEVYING TAXES.

Sec. 6. The City Council shall, between the first Monday in January and the first Monday of March, in each year, by ordinance, levy a tax sufficient to pay the interest on the funded debt of said city, and in addition thereto, any amount that they may deem necessary for any and all purposes for which they are authorized to levy a tax, the whole amount of which, not

Taxes.

exceeding one and one fourth per cent. on all real and personal property. Such ordinance shall designate the number of cents which shall, on each one hundred dollars of taxable property, real and personal, and improvements, be levied. The City Council shall, prior to the first Monday of March, of each year, furnish, or cause to be prepared, suitable and well bound books for the use of the Assessor, in which he shall enter his tax list or assessment roll, as hereinafter set forth.

SEC. 7. Every tax levied under the provisions or authority of any ordinance passed in pursuance of this Act, is hereby made a lien upon the property assessed, which lien shall attach on the first Monday of March in each year, and shall not be satisfied or removed until the taxes are all paid, or the property has absolutely vested in a purchaser, under a sale of taxes.

SEC. 8. Every ordinance passed by the City Council shall be presented to the Mayor, for his approval; if he approve, he shall sign it; if not, he shall return it within five days thereafter, or if the City Council be not then in session, at its next meeting, when said City 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.

DUTIES OF THE ASSESSOR.

Assessor.

SEC. 9. It shall be the duty of the Assessor, before entering upon the duties of his office, and within ten days from the time he has received his certificate of election, to qualify, and also to file his official bond, payable to the city, with two or more sufficient securities, in such sum as the City Council shall determine, for the faithful discharge of his official duties. If the Assessor shall neglect to assess any property liable to be taxed, or shall fail to perform his duties in the manner, time, and form, prescribed in this charter, he shall be liable on his official bond for all the damages and losses the city or any person may sustain, by reason of said neglect.

SEC. 10. The Assessor shall have power to administer oaths or affirmations, contemplated by law, in the discharge of his official duties.

SEC. 11. Between the first Monday in March and the first Monday in August, in each year, he shall ascertain, by diligent inquiry and examination, all property within the corporate limits of said city, real or personal, subject to taxation, and also the names of all persons, corporations, associations, companies, or firms, owning, claiming, or having the possession or control thereof; and he shall determine the cash value of all such property, and shall list and assess the same to the person, firm, corporation, association, or company, owning, or having the possession, charge, or control thereof; *provided*, that real property shall be assessed to the person, firm, corporation, association, or company, owning or having possession, charge, or control thereof, and to all owners and claimants, known and unknown; and, *provided*, further, that where the owner is unknown to the Assessor, it shall be assessed to unknown owners. For the purpose of enabling the Assessor to make such assessment, he shall demand from each person and firm, and from the President,

Cashier, Treasurer, or Managing Agent, of each corporation, ^{Same.} association, or company, within the city: a statement, under oath or affirmation, of all the real estate and personal property, within the city limits, owned or claimed by, or in the possession or control of, such person, firm, or corporation, association, or company. If any person, officer, or agent, shall neglect or refuse, on the demand of the Assessor, to give, under oath or affirmation, the statement required by this section, the Assessor shall make an estimate of the value of the taxable property which such person, officer, or agent, neglected or refused to render, under oath or affirmation, and the value so fixed by the Assessor shall not be reduced by the Board of Equalization.

SEC. 12. At the same time and in the same manner as the ^{Same.} other lists of property herein required are given, each and every person shall deliver, under oath or affirmation, to the Assessor, a similar list of all the real estate, with the improvements thereon, if any, and other personal property, which he, and the firm of which he is a member, and the corporation, association, or company, of which he is President, Cashier, Treasurer, Secretary, Trustee, or Managing Agent, owns, claims, or has charge, possession, or control of, within the limits of the city, which list shall particularly describe each block, or plot, or, of less than a block, each lot, so that each may be found and known by reference to the official map of said city; also, all vessels, steamers, and other water crafts; also, oyster beds, and extent and location thereof; and shall also specify each and all deposits, and with whom such deposits are made, and the place or places in which the same may be found; also, all bonds, notes, mortgages, due bills, and other evidences of debt, together with all money and gold dust; and shall also specify the kind and nature of all other personal property belonging to, or under the control, charge, or in the possession of, him, or them.

SEC. 13. If any person shall wilfully make, or give, under ^{False list.} oath or affirmation, a false list of his, her, or their, taxable property, under his or her control, such person shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as is by law provided for the punishment of perjury.

SEC. 14. If any person shall give the Assessor a false name, ^{False name.} or shall refuse to give his or her name, or shall refuse to give a list of property theretofore provided, or shall refuse to swear, or affirm, to such list, he or she shall be deemed guilty of a misdemeanor, and shall be arrested upon complaint of the Assessor, and, upon conviction before the Mayor, or a Justice of the Peace, he or she shall be punished by a fine, of not less than ten dollars nor more than five hundred dollars, or by imprisonment, not less than two days nor more than two months, or by both such fine and imprisonment.

SEC. 15. It shall be the duty of the Assessor to prepare a ^{Assessor.} tax list or assessment roll, alphabetically arranged, in the book furnished for that purpose, in which shall be listed or assessed all the real estate, and improvements on real estate and on public lands, and all personal property, within the limits of the city. And he shall set down in separate columns:

First—The names of the taxable inhabitants, firms, incorporated companies, or associations, in alphabetical order, if known;

Assessment
roll.

if unknown, the property shall be assessed to unknown owners; and if any person shall refuse to make a statement of his property, under oath, as required, that fact shall be noted under his name.

Second—All real estate and improvements, taxable to each inhabitant, firms, incorporated companies, or associations, described by "plots," "blocks," "lots," or fractions of lots, where it can be done; and where it is by plots, give, as near as may be, the number of acres; and if any lands or improvements have not been plotted, then describe the same by metes and bounds, and the number of acres, and location; *provided*, that when two or more parties claim, or give a description of, the same land, it shall be assessed to each party making such claim, or giving such description, according to the estimated value of the claims of each.

Third—The cash value of real estate, and the improvements thereon.

Fourth—The cash value of all the improvements on real estate, where the same is assessed to a person other than the owner of said real estate.

Fifth—The cash value of all personal property, except improvements on real estate or public lands, taxable to each.

Sixth—The total value of all property taxable to each.

And no further description of personal property than that required by the foregoing provisions of this section shall be needed, or be requisite, to render the assessment binding and effective.

SEC. 16. On or before the first Monday in August, in each year, the Assessor shall complete his list or assessment roll, and shall attach his certificate thereto, and deliver it and the books, and any map he may have accompanying the same, and all the original lists of property given to him, to the Clerk of the city; and the Clerk shall thereupon notify the Board of Equalization, and the tax payers, of the facts, by posting three notices, specifying the time of the meeting of said Board for the purpose of equalizing the taxes. Said roll shall be kept open in his office, for public inspection.

Subsequent
assessment.

SEC. 17. It shall be lawful for the Assessor, at any time subsequent to the first Monday in August, and prior to the last Saturday in October, of each year, to assess any property which shall not be on the regular list, and he shall enter such assessment in a separate portion of the tax list or assessment roll, under the head of "Subsequent Assessments," and shall deliver the original assessment, or a true copy thereof, to the Clerk of said city, to be by him compared with the entries on the assessment roll, which subsequent shall be certified to by the Assessor.

BOARD OF EQUALIZATION.

Board of
Equalization.

SEC. 18. The Mayor of said city, the President of the City Council, the City Marshal, and the Clerk of the city, shall constitute a Board of Equalization, and said Clerk shall be the Clerk of said Board. The Board shall meet on the second Monday of August, and shall continue in session, from time to time, until the business of equalization, presented to them, is

disposed of; *provided*, however, they shall not sit after the first Monday of September, except as hereinafter provided. The Board of Equalization shall have power to determine all complaints made in regard to the assessed value of any property, and may change and correct any valuation, either by adding thereto, or deducting therefrom, if they deem the sum fixed in the assessment roll too small or too great, whether said sum was fixed by the owner or the Assessor; except, that in cases where the person complaining of the assessment has refused to give the Assessor his list, under oath, as required under this Act, no reduction shall be made by the Board of Equalization, in the assessment made by the Assessor; and if the Board of Equalization shall find it necessary to add to the assessed valuation of any property on the assessment roll, they shall direct the Clerk to make a list of the names of all persons whose assessments have been so added to, and opposite the name of each person on said list they shall state the amount so added on the assessment roll, a copy of which list, certified to by said Clerk, shall be posted at some public or conspicuous place in said city, which list shall be posted prior to the first Monday in September; and it shall also contain a notice that the Board of Equalization will again meet, on the second Monday of September, to hear and determine any and all complaints in relation to said increased assessment. And the Board shall meet on the second Monday of September, for said purpose, and may, if necessary, continue in session, from time to time, during said week; but no person shall be entitled to be heard in the matter unless he shall make affidavit that he did not appear before said Board in August, or if he did so appear, that he had no knowledge of such increased assessment or valuation while said Board were in session in September; and any and all changes, which said Board shall then make, shall at once be entered on the assessment roll or list, and the same shall also be noted on the original increased assessment list.

SEC. 19. During the session of the Board of Equalization, the Clerk shall enter upon the assessment roll all the changes and corrections made by the Board, and he shall also add up the columns of valuation of each description of property on the roll; and on or before the third Monday in September, as to the original assessment roll, and on or before the second Monday in November, as to the subsequent assessment roll, he shall deliver a corrected roll, duly certified by him, or a certified copy thereof, to the Tax Collector.

SEC. 20. Upon the first Monday in November, the Board of Equalization shall again meet, to equalize the subsequent assessment made by the Assessor, and to hear complaints, as provided in the foregoing sections. A quorum of said Board shall consist of three of any of the persons composing said Board, and a quorum of said Board shall be sufficient to constitute the Board of Equalization, and for the transaction of business; and, should the Clerk be absent at any of the meetings of said Board, said Board may appoint one of their number to perform his duties herein described, during his absence.

DUTIES OF TAX COLLECTOR.

Tax
Collector.

SEC. 21. The City Marshal, who shall be ex officio Tax Collector, before entering upon the duties of his office, shall execute to the City of Oakland an official bond, with two or more sufficient sureties, in such sum as the City Council may direct, and to be approved by the Mayor, conditioned for the faithful performance of all the duties of City Marshal and all the duties of Tax Collector, as required by law, or as may be required by virtue of any ordinance of the city, and shall take the oath of office, which shall be indorsed upon his certificate of election or appointment.

SEC. 22. The Tax Collector is hereby authorized and empowered, and it shall be his duty, upon the entry of any assessment of movable property, to any firm, person, corporation, association, or company, who does not own real estate within the city, to demand forthwith the payment of the taxes; and if any such person, firm, corporation, association, or company, shall neglect or refuse to pay such taxes, the Tax Collector shall seize sufficient of the personal property of the party so neglecting or refusing to pay, to satisfy the taxes and costs, and shall post a notice of such seizure, with a description of the property, and the time and place where it will be sold, in three public places in the city, and shall, at the expiration of five days, proceed to sell, at public auction, at the time and place mentioned, to the highest bidder, for cash, a sufficient quantity of said property to pay the taxes and expenses incurred; and for this service the Tax Collector shall be allowed from the delinquent party a fee of three dollars, and the same mileage that a Sheriff would be entitled to receive for travelling to the place to make a levy; and upon payment of the purchase money, he shall deliver to the purchaser the property sold, together with a certificate of sale, and the amount of taxes or assessments and expenses thereon, for which the property was sold, whereupon the title to the property so sold shall vest absolutely in the purchaser.

SEC. 23. The Tax Collector shall, on the first Monday in each month, return to the Clerk a list of all collections made under the preceding section, and it shall be the duty of the Clerk to mark the word "paid" on the original, or subsequent assessment roll, opposite the name of each party whose taxes are so paid, as soon as the same shall have been delivered to him.

SEC. 24. The Tax Collector, upon receiving the assessment roll, or the duplicate thereof, shall proceed to collect the taxes, and shall forthwith give notice, by publication in a newspaper, if there be one published in the city, and if not, by posting three notices in three public and conspicuous places in the city, that the city taxes are due and payable, and that the law in regard to their collection will be strictly enforced. The Tax Collector shall be chargeable for all the taxes on the roll assessed.

SEC. 25. Whenever any tax is paid to the Tax Collector, he shall mark the word "paid," and the date of the payment, opposite the name of the person, or the description of the property, liable for such tax, and shall give a receipt therefor, specifying the amount of the assessment, the amount of the tax, and a de-

scription of the property assessed; but the Tax Collector shall not receive any taxes on the real estate for any portion less than the least subdivision entered on the assessment roll; *provided*, always, that an owner of an undivided real estate may pay the proportion of taxes due on his interest therein.

SEC. 26. On the third Monday in November, of each year, the Tax Collector, at the close of his official duties on that day, shall enter upon the assessment roll, or duplicate, as the case may be, a statement, that he has made the levy upon all the property therein assessed, the taxes upon which have not been paid, and shall immediately ascertain the total amount of taxes then delinquent, and he shall immediately enter in a book, to be styled "The Delinquent Tax List," a list of all persons and property then owing taxes, in the manner entered in the assessment roll, to which the Tax Collector shall append his certificate, and in said certificate he shall set forth that the persons and property set forth in said delinquent list have not paid the taxes therein assessed, and that all those having paid taxes have been duly marked on the assessment roll "paid," and he shall certify the same, by his oath, before the Clerk of the city, who, for all purposes connected with city offices and business, is hereby authorized to administer oaths; which delinquent tax list, certificate and oath, shall be completed, and the same delivered, together with the assessment roll, or duplicate, as the case may be, by the first Monday in December, to the City Clerk, and, after the third Monday in November, the Tax Collector shall receive no taxes.

SEC. 27. The Tax Collector shall, on the first Monday of each month, and oftener, if required by the City Council, pay over to the City Treasurer, all the moneys collected by him for taxes, and shall take the City Treasurer's receipt for the same, and he shall, at the same time, deliver to the Clerk of the city, a true, full, and correct account of all his transactions and receipts since his last settlement, as Tax Collector, made with the Treasurer, but he may retain duplicates of his receipts, in which statement he may set forth that all the money collected by him as Tax Collector has been paid to the Treasurer, and the Clerk shall file the same. On the first Monday of December, in each year, the Tax Collector shall attend at the office of the City Clerk, and they shall carefully examine the assessment roll, and, if there be a duplicate, compare it with the original, and they shall foot up the taxes which are not marked "paid," and deduct said amount from the whole amount of taxes, and the Clerk shall credit the Tax Collector with the amount of the delinquent taxes, and charge him with the balance. The Clerk shall also credit the Tax Collector with the sum specified in the Treasurer's receipts, giving the amount and date of each receipt, and shall thereupon strike the balance, and make full and final settlement.

SEC. 28. If the Tax Collector shall refuse, or wilfully neglect, for a period of five days, to make full payment to the Treasurer, of all the taxes collected by him, and to present the receipt or receipts thereof to the Clerk, and make a full and final settlement, as in this Act provided, he and his sureties shall be held liable to pay the full amount of taxes charged upon the assessment roll, and the City Attorney shall immediately cause suit

to be brought against him and his sureties, for the full amount due on the assessment roll, and if such suit is brought, no credit or allowance whatever shall be made for the delinquent taxes outstanding.

City officers. SEC. 29. It shall be the duties of the City Marshal, the Tax Collector, the Treasurer, the Clerk, and the Assessor, whenever required by the City Council, to make their reports to the said Council, and in the manner required of them, and in their reports to embody all the matters and information required pertaining to the duties of their respective offices.

Name. SEC. 30. If the Assessor, or the Clerk, or Treasurer, or Marshal, or the Tax Collector, shall wilfully neglect, or refuse, to perform any of the duties enjoined on him by the provisions of this charter, or the duties properly imposed upon them by virtue of any ordinance passed by the City Council, he shall be guilty of a misdemeanor in office, and, upon conviction thereof, before any Justice of the Peace, he shall be punished by a fine, of not more than five hundred dollars, or by imprisonment, not more than six months, or by both such fine and imprisonment, and his office shall forthwith become vacant.

SEC. 31. The City Clerk shall, within ten days after receiving the delinquent tax list, deliver the same, duly certified by him to be correct, as the same appears by the assessment roll, to the City Attorney.

METHOD OF COLLECTING DELINQUENT TAXES.

Delinquent taxes. SEC. 32. The City Attorney, upon the receipt of said delinquent tax list, shall cause three notices to be posted, in the most public places in the city, setting forth that the said delinquent list has been delivered to him, and that unless the taxes are paid within five days, he will commence suits for the recovery of the same.

Name. SEC. 33. The City Attorney is hereby authorized and required, immediately after the expiration of the five days notice in the previous mentioned sections, to commence actions, in the name of "The City of Oakland," against the persons so delinquent, and against the real estate and improvements assessed to delinquents, and against all owners or claimants to the same, known or unknown; said actions shall commence before the Mayor, acting ex officio as Justice of the Peace, or in any Justice's Court in said city, or in the District Court of Alameda County, where the amount claimed is over two hundred dollars; *provided*, that if the property be assessed to an unknown owner, then any fictitious name may be inserted, to represent such true owner or owners, as defendant in said cause.

Actions. SEC. 34. Upon filing the complaint in the District Court, or before the Mayor, or any Justice of the Peace of the city, a summons shall be issued, as provided in civil cases.

Summons. SEC. 35. The summons issued upon cases in the District Court, arising under this Act, shall be served personally upon the defendant; *provided*, that where the defendant does not reside in the County of Alameda, or if he is not found in the county by the Sheriff, or his deputies, it shall be served by depositing a copy of the summons in the post office, directed to the

defendant, and by posting a copy of the summons in a conspicuous place at the Court House door, for the period of twenty days; and it shall be the duty of the Sheriff, without order of Court, to post said summons in cases coming within this provision, where the defendant does not reside, or is not found, within the county, and the service of the summons shall be deemed complete at the expiration of twenty days from the time of being thus posted.

SEC. 36. The summons issued from a Justice's or Mayor's Court, under the provisions of this Act, shall be made returnable on the tenth day from the date of its issuance, and shall, on the day of its issuance be delivered to the Marshal, or Constable, for service, and shall be served personally, at least two days before the return day, and it shall be the duty of the officer in whose hands the summons is placed for service, on the second day after he has received the same, if he has been unable to find the defendant in the city, to deposit a copy of the summons in the post office of said city, directed to the defendant; and, also, to post a copy in a conspicuous place at the Council room door, for six days, at the end of which time the service shall be deemed complete, and, for all purposes, shall be as effectual as if the summons had been served personally.

SEC. 37. The defendant may answer, which answer shall be verified: Defendant's answer.

First—That the taxes have been paid before suit.

Second—That the taxes and costs have been paid since suit, or that the property is exempt from taxation, under the provisions of an Act of the Legislature.

Third—Denying all claim, title, or interest, in the property assessed, at the time of the assessment.

Fourth—Fraud in the assessment, or fraud in failing or neglecting to comply with the provisions of this Act, by which fraud, the party, or property assessed, has suffered injury.

Provided, however, that the acts herein required, after the assessment, shall be deemed directory merely, and no other answer shall be permitted.

SEC. 38. The delinquent list, or a copy thereof, duly certified as before provided, showing unpaid taxes against any person, or property, shall be prima facie evidence in any Court, to prove the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of law, in relation to the assessment and levy, have been complied with. Trial.

SEC. 39. In case judgment is rendered for the defendant, it shall be general, without costs, and may be entered in favor of some one or more of them, and against others, as in other civil cases; and in case judgment is for the plaintiff, it may be entered against such defendants as is found liable for the tax, and for such amount, or portion thereof, as he or they shall be adjudged liable; *provided*, no personal judgment shall be rendered, unless the person against whom it is rendered shall have been served with a summons, as in this Act provided, or unless he shall have appeared in the action. Judgment may be entered against the real estate and improvements, severally, for taxes, severally assessed and levied thereon, and when it shall appear upon the assessment roll, and not be disproved on the trial, that Judgments.

Judgments. the real estate and improvements belong to the same person or persons, then judgment may be rendered against said real estate and improvements, jointly, for the taxes thereon, or such part thereof as may be adjudged. Such judgments, docketed in the District Court, shall become liens against all property against which judgment is rendered, from the date of such assessment, and against all other real estate of the person assessed, subject to execution for the amount of any judgment against him from the time of such docketing, as in other civil cases, and the City Attorney may file transcripts of judgments rendered in Justice's Court, under this Act, with the County Clerk, and they shall become liens from and after such docketing; *provided*, however, that when the lien attaches against the property owing the taxes, such liens shall not be released until the delinquent taxes are paid thereon, and the County Clerk may issue executions thereon. Judgments may be rendered for want of an answer, as in other civil cases. In case any person shall be sued on land and improvements, of which he was the owner, or in which he had a claim, or interest, at the institution of the suit, and shall be discharged from personal liability, under an answer in conformity with the third subject matter of defence, as above referred to, and such lands, or improvements, shall be sold under a judgment obtained against it, and shall thereafter be redeemed by such discharged defendant, or if he shall pay the taxes and cost, to prevent sale, then such personally discharged defendant shall have, and is hereby given, the right of recovery over against the owner at the time of the assessment, for the full sum of taxes and costs, or redemption money paid; and in every case of such recovery the judgment shall, in addition to the taxes and costs, or, in addition to the redemption money paid, include twenty-five per cent. of the amount of taxes and costs, or redemption money, as liquidated damages, and the receipt of the City Attorney, Sheriff, or Marshal, shall be sufficient evidence of the debt and amount.

Acts made
applicable.

Sec. 40. An Act to regulate Civil Cases in Courts of Justice of this State, and the several Acts amendatory thereto, so far as the same are not inconsistent with this charter, are hereby made applicable to proceedings under this Act, but, so far as they conflict with the charter in their application to cases arising under this Act, are hereby repealed; also, that part of the Revenue Law of this State, so far as the same is not in conflict with the provisions of this charter, is also made applicable, but in every particular in which it is in conflict with this charter, as to the manner of levying and collecting of taxes in said city for city purposes, and so far as it conflicts with the manner of issuing and collecting of license in said city, is hereby repealed; and any deed derived from a sale of real property under this Act shall be conclusive evidence of title, except as against actual fraud, or payment of taxes by one not a party to the action or judgment in or upon which sale was made, and shall entitle the holder thereof to a writ of assistance, from the District Court, to obtain possession of such property; *provided*, that the Sheriff or Marshal, in selling said property, shall sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, that the

Proviso.

said real estate may be redeemed as in the other cases of sale under execution. All sales of real estate for delinquent taxes, as in this charter provided, by virtue of any execution issued by the Mayor or Justice of the Peace, shall be made by the City Marshal, and in front of the Council chamber, and upon such notice as is required by law; and he shall execute and deliver a certificate of sale to the purchaser; and when the time of redemption has expired, if the property be unredeemed, he shall execute and deliver a deed, for the premises so sold, to the purchaser or his assigns.

SEC. 41. The City Attorney shall receive, as fees, ten per cent. on the amount of the taxes due, if paid after delinquency, and before such suit is brought, and fifteen per cent. if paid after suit is brought, which shall be added to the amount of taxes due; and in all cases after delinquency, five per cent. shall be added to the amount of taxes due, for the benefit of the city; and said fees shall be taxed up as costs. All officers shall perform such service as may be required of them under this Act, without payment of fees in advance; and all costs shall be taxed and entered in the judgment against the person or property, where the judgment is in favor of the plaintiff; *provided*, no costs shall be paid to any officer, unless the same be collected of the defendant or from the property. City Attorney's fees. Proviso.

SEC. 42. It shall be the duty of the City Attorney, as soon as any delinquent tax has been paid, to enter the same on the delinquent tax list, and the time of payment opposite the name of the person or property so paying, and he shall, within one month, pay over the same to the City Treasurer, and take his receipt therefor; and on the last Saturday before the first Monday of March, he shall make a final settlement, or sooner, if required by the City Council, and he shall then make affidavit that he has paid to the City Treasurer all the moneys collected by him, and that all that have paid to him taxes, as well as those from whom taxes have been collected subsequent to the time the delinquent list has been given to him, are marked "paid," on the delinquent assessment roll. City Attorney.

SEC. 43. If the City Attorney shall fail to make a final settlement, as above provided, for the space of ten days, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined, in any sum not more than five hundred dollars, or by imprisonment, not more than six months, or by both such fine and imprisonment, and his office shall thereupon become vacant. Same.

SEC. 44. The City Council may require of the City Attorney, as well as of all the officers of trust, a good and sufficient bond, for the faithful discharge of all the duties imposed by law or ordinance, and each and all officers who fail or neglect to perform all the duties imposed upon them, shall be liable upon their official bond, to the city, or to any party aggrieved. Bond.

SEC. 45. The Mayor elected under this charter shall, before entering upon the duties of his office, execute an official bond, payable to the city, in such sum as the Council may direct, for the faithful discharge of his official duties, which bond shall be subject to the approval of the Council, and be deposited with the Clerk. He shall communicate to the Council, semi-annu- Mayor. Bond.

Duties. ally, or 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, and 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 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, and shall act as City Attorney until the next election—after which he may be appointed City Attorney, by the Council.

Powers and Jurisdiction.

Treasurer. SEC. 46. 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 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.

Marshal. SEC. 47. The Marshal shall execute, within the city, and return, all processes 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 pay over all moneys into the City Treasury, received in pursuance of the ordinances 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.

Bonds of officers. SEC. 48. The officers or persons to whom the receipts or expenditure 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, etc. SEC. 49. 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 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.

SEC. 50. The corporation created by this Act shall succeed to all the legal and equitable rights, claims, and privileges, and

shall be subject to all the equal or equitable liabilities and obligations, made bona fide, of the Town and City of Oakland. Rights of corporation And the City Council shall have full power to maintain suits in proper Courts to recover any right or interest to property which may have accrued to the Town and City of Oakland.

SEC. 51. All sales or leases of property, belonging to the City of Oakland, shall be by public auction, to the highest bidder, Sales or leases of property. and upon such terms and conditions as the Council may, by ordinance, direct; and all contracts for work, or supplies of any kind, for more than fifty dollars, shall be let to the lowest responsible bidder, after ten 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.

SEC. 52. Licenses shall be discriminating, and proportionate to the amount of business.

SEC. 53. The style of the city ordinance shall be as follows: Style of ordinances. "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.

SEC. 54. No executive officer, nor member of the City 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 any thing whatever, the expence, price, or consideration of which is payable from the City Treasury, or by assessment levied under an ordinance of the City Council. Officers not to be interested in contracts.

SEC. 55. For all services rendered by the Mayor, he shall Mayor. 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 Marshal. fees as are by law allowed to Constables for similar services, and for all duties required of him except as herein otherwise provided for.

SEC. 56. If any officer, under this Act, or member of the City 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 City Council shall thereupon fill the vacancy. Vacancies.

SEC. 57. The City Council shall, when they may deem the same necessary, establish, by ordinance, a general plan of streets, for any or all portions of the city not laid out into streets, and after such general plan shall have been so established, any improvements which may have been made, or erected, within the lines of any street contemplated by said plan, shall not be included in any assessment of damages which may be made when the city proceeds to open said streets. Applications for opening any street or streets, embraced in the plan adopted by the city, shall be made to the Council, by petition, in writing, Powers of Council.

Powers of
Council.

designating the street, or part thereof, so to be opened, and the Council shall, if they deem the public convenience requires the same to be opened, direct the Marshal to give written notice to the owners and occupants of the land embraced in the street so to be opened, stating the substance of said petition, and requiring them to appear before said Council at a time mentioned in said notice, not less than twenty days from the serving thereof, and make their objections, if they have any, to the opening of said street. At the time appointed for said hearing, if no objections have been made by the parties who have been served with said notices, and no damages are claimed, the Council may direct the Marshal to open said street, in accordance with the prayer of said petition, or so much thereof as the Council may deem expedient. If said owners appear at the time appointed, and object to the opening of said street, or claim damages therefor, the Council shall hear said objections, and if, after hearing the same, it shall decide to open said street, it shall thereupon appoint three disinterested persons, real estate owners, in said city, as Commissioners, who shall proceed, after having taken an oath to discharge their duties faithfully, to ascertain, as near as they can, the amount of said damages, and report the same to the Council; *provided*, that persons petitioning for the opening of any street shall not be entitled to any damages; said damages shall be estimated both with reference to the value of the land to be taken, and also to any advantage resulting to the owner thereof, from the opening of said street, whereupon the Council, upon payment of said damages, may direct the Marshal to open said street, in accordance with the prayer of said petition. Parties aggrieved by the action of the Council respecting the amount of damages allowed them, shall have the right to appeal to the County Court, where the question of damages shall be heard anew, and determined, and any cause so removed into the County Court, shall be subject to the same rules of procedure as if the same had been originally commenced by summons at the suit of the city therein, and with the same right of appeal to either party. All streets that have been laid out by the authorities of the Town or City of Oakland, and declared to be public thoroughfares, or streets, and that have been used as such, shall be, and are hereby declared, public streets, in the extent to which the same may have been used; *provided*, that private rights of property shall not be affected thereby.

Acts
repealed.

SEC. 58. An Act to incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, and also an Act to amend an Act entitled an Act to incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, approved May fifteenth, eighteen hundred and sixty-one, and also an Act amendatory of and supplementary to an Act entitled an Act to incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, approved May fourteenth, eighteen hundred and sixty-one, and also all other Acts in conflict with the provisions of this charter, are hereby repealed; *provided*, that the validity of the ordinances or proceedings of the Trustees of the Town of Oakland, and of

the authorities of the City of Oakland, shall in no wise be affected thereby.

Sec. 59. This Act shall take effect from and after its passage; but no part thereof shall be so construed as to alter the terms of office to which the present officers of the city were elected at the last charter election, March third, eighteen hundred and sixty-two.
