

moral and religious duties and the branches of learning usually taught in the Commonwealth.

Of managing and binding out such children.

SECT. 4. Said society may retain and employ such children, after they are of suitable age to be bound out as apprentices, or may bind out such children, when of suitable age as domestics in virtuous families, or as apprentices at any reputable trade until the age of twenty-one years, if males, or of eighteen years, if females, in like manner, and on the same conditions, as overseers of the poor may by law bind out the children of poor persons in their respective towns; or said society may place such children in the families of virtuous and respectable citizens, to be brought up in such families as adopted children and members thereof. [*Approved by the Governor, April 5, 1849.*]

Chap. 89.

An Act to establish the City of Lynn.

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

Lynn to be a city.

SECT. 1. The inhabitants of the town of Lynn shall continue to be a body politic and corporate, under the name of the city of Lynn, 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.

Mayor, 8 aldermen, 25 common council, without compensation.

SECT. 2. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of eight, to be called the board of aldermen; and one council of twenty-five, to be called the common council;—which boards, in their joint capacity, shall be denominated the city council, and the members thereof shall be sworn to the faithful performance of the duties of their respective offices. A majority of each board shall constitute a quorum for doing business, and no member of either board shall receive any compensation for his services.

Eight wards, as specified.

SECT. 3. It shall be the duty of the selectmen of the town of Lynn, as soon as may be, after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide said town into eight wards, as follows, to wit:—To constitute the peninsula of Nahant one ward, which ward shall be entitled to one member of the common council, and one member of the school committee, and to continue the division lines of school district number one, which ward shall be entitled to two members of the com-

mon council, and one member of the school committee ; to continue the division lines of school district number seven, to form one ward, which shall be entitled to one member of the common council, and one member of the school committee ; and school wards number three and nine shall be united to constitute one ward, and shall have two members of the common council, and one member of the school committee ; and to continue the division lines of school district number two, to form one ward, which shall have four members of the common council, and two members of the school committee ; also, to continue the division lines of school districts numbers four, five and six, which shall form three wards, and each shall be entitled to five members of the common council, and each two members of the school committee ; and the school committee so chosen shall have the care and superintendence of the public schools, and shall serve without compensation. And the city council shall, once in five years, revise and alter, if it be needful, the boundaries of the wards, by the vote of a majority, present and voting thereon.

Lines of wards
to be revised
once in five
years.

SECT. 4. On the second Monday in March, annually, there shall be chosen, by ballot, in each of said wards, a warden, clerk, and three inspectors of elections, residents of wards in which they are chosen, who shall hold their offices for one year, and until others shall have been chosen in their places, and qualified to act. It shall be the duty of such warden to preside at all ward meetings, with the power of moderators of town meetings ; and if, at any meeting, the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden *pro tempore* shall be chosen by ballot. And if, at any meeting, the clerk shall not be present, a clerk *pro tempore* shall be chosen by ballot. The clerk shall record all the proceedings and certify the votes given, and deliver over, to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. And it shall be the duty of the inspectors of elections to assist the warden, in receiving, assorting, and counting the votes. And the warden, clerk, and inspectors, so chosen, shall respectively make oath, or affirmation, faithfully and impartially to discharge their several duties relative to all elections, which oath may be administered by the clerk of such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Essex. All warrants for meetings of the citizens for municipal purposes, to be held either in wards, or in general meetings, shall be issued by the mayor

Ward officers.

Their duties.

Warrants for
meetings.

and aldermen, and shall be in such form, and shall be served, executed and returned, in such manner, and at such times, as the city council may, by any by-law, direct.

Election of mayor, aldermen, common council men, and school committee.

SECT. 5. The mayor and aldermen, to be selected from the city at large, shall be elected by the qualified voters, voting in their respective wards; and not more than two aldermen shall be taken from any one ward. The common council men and school committee shall be elected from, and by the voters of, each ward, and shall be residents of the wards in which they are elected. All said officers shall be chosen by ballot, and shall hold their offices for one year, from the first Monday in April, or until others shall be elected and qualified.

Time and manner of voting for city officers.

SECT. 6. On the second Monday in March, annually, the qualified voters in each ward shall give in their votes for mayor, aldermen, and common council men, school committee, warden, clerk, and inspectors, as provided in the preceding sections; and all the votes, so given, shall be assorted, counted, declared and registered, in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward records, in words at length. The clerk of the ward, within twenty-four hours after such election, shall deliver, to the persons elected members of the common council, and school committee, certificates of their election, signed by the warden and clerk, and by a majority of the inspectors of elections, and shall deliver, to the city clerk, a copy of the records of such elections, certified in like manner; *provided, however,* that, if the choice of the common council men and school committee cannot be conveniently effected on that day, the meeting may be adjourned from time to time, to complete such election. The board of aldermen shall, as soon as conveniently may be, examine the copies of records of the several wards, certified as aforesaid, and shall cause the person who may have been elected mayor, to be notified, in writing, of his election; but, if it shall appear that no person has received a majority of all the votes, or, if the person elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are herein before provided, for the choice of a mayor, and repeated, from time to time, until a mayor shall be chosen.

Vacancy in office of mayor.

In case of the decease, resignation, or absence of the mayor, or his inability to perform the duties of his office, it shall be the duty of the board of aldermen and the common council, in convention, to elect a mayor to serve during the unexpired term, or until the occasion, causing the

vacancy, is removed. And if it shall appear that the whole number of aldermen have not been elected, the same proceedings shall be had, as are herein before provided for choice of mayor. Each alderman shall be notified, in writing, of his election, by the mayor and aldermen for the time being.

Notice of election.

The oath prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace for the county of Essex.

Oaths.

The aldermen and common council men elect shall, on the first Monday of April, at ten o'clock in the forenoon, meet in convention, when the oath required by this act shall be administered to the members of the two boards present, by the mayor, or by any justice of the peace for the county of Essex; and a certificate of such oath, having been taken, shall be entered on a journal of the mayor and aldermen, and of the common council, by their respective clerks.

And whenever it shall appear that no mayor has been elected previously to the said first Monday in April, the mayor and aldermen for the time being shall make a record of that fact; an attested copy of which, the city clerk shall read at the opening of the convention to be held as aforesaid.

After the oath has been administered as aforesaid, the two boards shall separate, and the common council shall be organized by the choice of a president and clerk, who shall be sworn to the faithful performance of their duties.

Organization.

In case of the absence of the mayor elect, on the first Monday in April, the city government shall organize itself in the manner herein before provided, and may proceed to business in the same manner as if the mayor were present, and the oath of office may be administered to the mayor at any time thereafter, in a convention of the two branches.

In the absence of the mayor, the board of aldermen may choose a chairman *pro tempore*, who shall preside at joint meetings of the two boards.

Absence of mayor.

Each board shall keep a record of its own proceedings, and judge of the election of its own members; and, in case of failure of an election, or in case of any vacancy declared by either board, the mayor and aldermen shall order a new election.

Record of proceedings.

SECT. 7. The mayor thus chosen and qualified, shall be the chief executive officer of said city. It shall be his duty to be vigilant in causing the laws and regulations of the city to be enforced, and keep a general supervision over the conduct of all subordinate officers, and to cause their neg-

Duties of mayor.

lect of duty to be punished. He may call special meetings of the boards of aldermen and common council, or either of them, when necessary, in his opinion, by causing notices to be left at the places of residence of the several members; he shall communicate, from time to time, to both of them, such information, and recommend such measures, as, in his opinion, the interests of the city may require; he shall preside in the board of aldermen, and in convention of the two boards; but shall have a casting vote only. His salary shall be, for the first year under this charter, five hundred dollars, and no more. He shall afterwards receive, for his services, such salary as the city council shall determine, and shall receive no other compensation; but such salary shall not be increased, or diminished, during his continuance in office.

Salary.

Executive power in mayor and aldermen.

SECT. 8. The executive power of said city generally, and the administration of the police, with all the powers heretofore vested in the selectmen of Lynn, shall be vested in the mayor and aldermen as fully as if the same were herein specially enumerated.

Police officers.

And the mayor and aldermen shall have full and exclusive power to appoint a constable and assistants, or a city marshal and assistants, with the powers and duties of constables, and all other police officers; and may remove the same, when, in their opinion, sufficient cause for removal exists.

City officers, overseers of poor, &c., &c.

All other powers, now vested in the inhabitants of said town, and all powers granted by this act, shall be vested in the mayor and aldermen and common council of said city, to be exercised by concurrent vote, each board to have a negative upon the other. But the city council shall, annually, as soon after their organization as may be convenient, elect, by joint ballot, in convention, the overseers of the poor, and these shall be selected in manner as follows, viz., one overseer of the poor, at least, shall be taken from each ward; also, city treasurer and collector, firewards, city clerk, assessors and assistant assessors, and shall, in such manner as said city council shall determine, by any by-law made for the purpose, appoint or elect all subordinate officers, not herein otherwise directed, for the ensuing year, define their duties, and fix their compensations, in cases where such duties and compensations shall not be defined and fixed by the laws of this Commonwealth.

Appropriations of money.

All sittings of the common council shall be public, and all sittings of the mayor and aldermen, when they are not engaged in executive business. The city council shall take care that money shall not be paid from the treasury

unless granted or appropriated; shall secure a just and prompt accountability, by requiring bonds, with sufficient penalty and sureties, from all persons trusted with the receipt, custody, or disbursement of money; shall have the care and superintendence of city buildings, and the custody and management of all city property, with power to let or sell what may be legally let or sold, except the common; and to purchase property, real or personal, in the name, and for the use of the city, whenever its interest or convenience may, in their judgment, require it.

And the city council shall, as often as once a year, cause to be published, for the use of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

Receipts and expenditures.

SECT. 9. In all cases, in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, such nomination, however, being subject to be confirmed or rejected by the board of aldermen: *provided, however*, that no person shall be eligible to any office, the salary of which is payable out of the city treasury, who, at the time of his appointment, shall be a member either of the board of aldermen or common council; and neither the mayor, nor any alderman, or member of common council, shall, at the same time, hold any other office under the city government: *provided, however*, that the mayor and president of the common council shall be, *ex officio*, members of the school committee; and *provided, further*, that said mayor and aldermen, and one common council man from each ward, shall be overseers of the poor, if said city council shall so determine.

Mayor to nominate.

Provido, as to salaries.

SECT. 10. Said city council shall have power to choose a city clerk, who shall be clerk of the board of aldermen. He shall perform such duties as shall be prescribed by the board of aldermen, and shall perform all the duties, and exercise all the powers, by law incumbent upon, or vested in, the town clerk of the town of Lynn.

City clerk.

Duties.

SECT. 11. Three assessors shall be annually chosen by the city council, who shall exercise the same powers, and be subject to the same duties and liabilities, that the assessors in the several towns in the Commonwealth may exercise or be subject to, under existing laws.

Assessors.

And the city council shall appoint one person in each ward, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in their several wards, and who shall be sworn to the faithful performance of their duty.

All taxes shall be assessed, apportioned and collected in

the manner prescribed by the laws of the Commonwealth: *provided, however*, that the city council may establish further or additional provisions for the collection thereof.

Streets and
town-ways.

SECT. 12. The city council shall have exclusive authority and power to lay out any new street or town-way, and to estimate the damages any individual may sustain thereby; but all questions relating to the subject of laying out, accepting, altering or discontinuing any street or way, shall first be acted upon by the mayor and aldermen.

And any person dissatisfied with the decision of the city council, in the estimate of damages, may make complaint to the county commissioners of the county of Essex, at any meeting held within one year after such decision, whereupon the same proceedings shall be had as are now provided by the laws of the Commonwealth, in cases where persons are aggrieved by the assessment of damages by the selectmen, in the twenty-fourth chapter of Revised Statutes.

Health.

SECT. 13. All power and authority now by law vested in the board of health for the town of Lynn, or in the selectmen of said town, shall be transferred to, and invested in, the city council, to be carried into execution in such manner as the city council shall deem expedient.

Drains, &c.

SECT. 14. The city council shall have authority to cause drains and common sewers to be laid down through any streets or private lauds, paying the owners such damage as they may sustain thereby; and to require all persons to pay a reasonable sum for the privilege of opening any drain into said public drain or common sewer.

Inspection of
lumber, &c.

And the city council may make by-laws, with suitable penalties, for the inspection, survey, measurement, and sale of lumber, wood, coal, and bark, brought into the city for sale.

City council to
determine number
of representatives.

SECT. 15. It shall be the duty of the city council, in the month of October, annually, to meet in convention and determine the number of representatives to be sent to the General Court, by said city in such year, and to publish such determination, which shall be conclusive; and the number thus determined shall be specified in the warrant calling a meeting for the election of representatives.

Election of
county, state
and U. S. officers.

SECT. 16. All elections for county, state, and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections, in their respective wards, at the time fixed by law for these elections respectively; and, at such meetings, all the votes, given for said several officers respectively, shall be assorted, counted, declared and registered in open ward meeting, by causing the names of all persons voted for, and

the number of votes given for each, to be written in the ward record in words at length. The ward clerk shall forthwith deliver to the city clerk a certified copy of the record of such elections.

The city clerk shall forthwith record such returns, and the mayor and aldermen shall, within two days after every such election, examine and compare all said returns, and make out a certificate of the result of such elections, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner as similar returns are by law directed to be made by selectmen of towns. And in all elections for representatives to the General Court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrant for a new election, conformably to the provisions of the constitution and the laws of the Commonwealth.

SECT. 17. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward, qualified to vote in such elections, in the manner in which selectmen of towns are required to make out lists of voters; and, for that purpose, they shall have full access to the assessors' books and lists, and be entitled to the assistance of all assessors, assistant assessors, and city officers; and they shall deliver said lists, so prepared and corrected, to the clerks of said wards, to be used at such elections; and no person shall be entitled to vote whose name is not borne on such lists.

Lists of voters.

SECT. 18. General meetings, of the citizens qualified to vote, may, from time to time, be held, to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress for any grievances, according to the right secured to the people by the constitution of this Commonwealth.

General meetings.

And such meetings may and shall be duly warned, by the mayor and aldermen, upon the requisition of fifty qualified voters.

SECT. 19. The city council shall have power to make all such salutary and needful by-laws as towns, by the laws of this Commonwealth, have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof; which by-laws shall take effect, and be in force, from and after the time therein respectively limited, without the sanction of any court, or other authority whatever: *provided, however,* that all laws and regulations, now in force in the town of Lynn, shall, until they shall

By-laws.

Proviso.

expire by their own limitation, or be revised or repealed by the city council, remain in force, and all fines and forfeitures, for the breach of any by-law, or ordinance, shall be paid into the city treasury.

Fines, &c., for
breach of
by-laws.

SECT. 20. All fines, forfeitures, and penalties, accruing for the breach of any by-laws of the city of Lynn, or of any of the ordinances of the city council, or of any of the orders of the mayor and aldermen, may be prosecuted for and recovered, before the police court in said city of Lynn, by complaint or information, in the same way and manner in which other criminal offences are now prosecuted before the police courts within this Commonwealth; reserving, however, in all cases, to the party complained of and prosecuted, the right of appeal to the court of common pleas, then next to be held in the county of Essex, from the judgment and sentence of the police court.

And the appeal shall be allowed on the same terms, and the proceedings shall be conducted therein in the same manner, as provided in the one hundred and thirty-eighth chapter of the Revised Statutes of this Commonwealth.

And it shall be sufficient, in all such prosecutions, to set forth, in the complaint, the offence fully, plainly, substantially, and formally; and it shall not be necessary to set forth such by-law, ordinance or order, or any part thereof.

All fines, forfeitures, and penalties, so recovered and paid, shall be paid to the treasurer of the city of Lynn, and shall enure to such uses as said city council shall direct.

When any person, upon any conviction before the police court, for any breach of any by-law of said city of Lynn, or any of the ordinances of the city council, or any of the orders of the mayor and aldermen, shall be sentenced to pay a fine, or ordered to pay any penalty or forfeiture, provided by any such by-law, ordinance, or order, or, upon claiming an appeal, shall fail to recognize for his appearance at the court appealed to, and there to prosecute his appeal, and to abide the sentence or order of the court thereon, and, in the mean time, to keep the peace, and be of good behavior; and, upon not paying the fine, penalty, or forfeiture, and cost so assessed upon him, he shall be committed to prison, there to remain until he or she shall pay such fine, forfeiture or penalty, and costs, or be otherwise discharged according to law.

The provisions of this section shall also apply to all prosecutions founded on the by-laws or ordinances of the town of Lynn, which may continue in force after this act shall go into operation, and all the powers of the police court, already established, shall be continued to it.

SECT. 21. For the purpose of organizing the system of government hereby established, and putting the same into operation, in the first instance, the selectmen of the town of Lynn for the time being, shall, on some day during the months of May or June, of the present year, issue their warrants, seven days at least previous to the day so appointed for calling meetings of the said citizens, at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk, and inspectors for each ward, and all other officers, whose election is provided for in the preceding sections of this act, and the transcripts of the records of each ward, specifying the votes given for the several officers aforesaid, certified by the warden and clerk of such ward at said first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same, and, in case said elections should not be completed at the first meeting, then to issue new warrants until such elections shall be completed; and to give notice thereof, in the manner hereinbefore provided, to the several persons elected.

First organization of city government.

And, at said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order, and preside until a warden shall have been chosen. And, at said first meeting, a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when elected, to be used as herein before provided. And the selectmen shall appoint such time for the first meeting of the city council, as they may judge proper, after the choice of city officers, as aforesaid, or a majority of the members of both branches, in the year one thousand eight hundred and forty-nine, and shall also fix upon the place and the hour of said first meeting, and a written notice thereof shall be sent, by said selectmen, to the place of abode of each of the city officers chosen as provided in this section.

And after this first election of city officers, and this first meeting for the organization of the city council, as in this section is provided, the day of holding the annual elections, and the day and hour for the meeting of the city council, for the purpose of organization, shall remain as provided in the sixth section of this act.

And it shall be the duty of the city council, immediately after the first organization, to elect all necessary city officers, who shall hold their offices respectively until others are chosen and qualified.

SECT. 22. All officers of the town of Lynn, having the care and custody of any records, papers, or property, be- City clerk to have custody of all records, &c.

longing to said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office.

Repeal.

SECT. 23. All such acts, and parts of acts, as are inconsistent with the provisions of this act, shall be, and the same are hereby repealed.

Power of legislature over this charter.

SECT. 24. 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.

This act to be void if rejected by the citizens.

SECT. 25. This act shall be void, unless the inhabitants of the town of Lynn, at a legal meeting called for that purpose, at which meeting the selectmen shall preside, and the check-list used in the same manner as at meetings called to choose State officers, and the polls be kept open at least six hours, shall, by a vote of a majority of the voters present, and voting thereon, yea or nay, by a written ballot, determine to adopt the same within twenty days from and after its passage.

SECT. 26. This act shall go into operation from and after its passage. [*Approved by the Governor, April 9, 1849.*]

Chap. 90.

An Act to incorporate the Pittsfield Young Ladies' Institute.

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

Corporators.

SECT. 1. Heman Humphrey, John Todd, Moses H. Baldwin, their associates and successors, are hereby made a corporation, by the name of the Pittsfield Young Ladies' Institute, for the education of youth, to be established in Pittsfield, in the county of Berkshire; with all the powers and privileges, and subject to all the duties, restrictions, and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

For education of youth.
Powers and duties.
R. S. ch. 44.

Estate.

SECT. 2. The corporation may hold real estate, not exceeding in value thirty thousand dollars, and personal estate, to the amount of ten thousand dollars, to be devoted exclusively to purposes of education. [*Approved by the Governor, April 9, 1849.*]

Chap. 91.

An Act giving the Cohannet Bank further Time to close its Concerns.

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

1828, ch. 126.
1836, ch. 110.
1846, ch. 146.
1847, ch. 84.
1848, ch. 250.

Eighteen months further allowed.

The President, Directors and Company of the Cohannet Bank are hereby continued a body corporate, for the period of one year and six months from the first day of October,