

Copy No. 2.
THE

STATUTES OF CALIFORNIA.

PASSED AT THE

SECOND SESSION

OF THE

LEGISLATURE:

BEGUN ON THE SIXTH DAY OF JANUARY, 1851, AND ENDED ON
THE FIRST DAY OF MAY, 1851, AT THE CITY
OF SAN JOSE

EUGENE CASSERLY, STATE PRINTER

1851.

ties are hereby confirmed, and deeds shall be granted by the Council for the same, and shall have the same validity in law as property sold for taxes due the State.

§ 6. The act entitled "An Act to incorporate the City of Benecia," Act repealed. passed March twenty seventh, one thousand eight hundred and fifty, is hereby repealed.

Chap. 84.

AN ACT to *Reincorporate the City of San Francisco.*

Passed April 15, 1851.

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

CHARTER OF THE CITY OF SAN FRANCISCO.

ARTICLE I.

General Powers, Boundaries and Wards.

§ 1. The People of the City of San Francisco shall continue to be a body politic and corporate, under the style of the "City of San Francisco," and by that name they shall have perpetual succession, may complain and defend in all courts and in all actions and proceedings, and may purchase, receive, and hold property, real and personal, and sell or otherwise dispose of the same for their common benefit: *Provided*, that they shall purchase without the city only such property as may be necessary for the purposes of burial, or for the erection of prisons, hospitals, asylums, and waterworks for supplying the city with water. City incorporated.

§ 2. The City of San Francisco shall hereafter be bounded as follows: Boundary of City.
On the south by a line parallel with Clay street, two and a half miles distant, in a southerly direction, from the centre of Portsmouth square, on the west by a line parallel with Kearney street, two miles distant, in a westerly direction, from the centre of Portsmouth square. Its northern and eastern boundaries shall be coincident with those of the County of San Francisco.

§ 3. The said city shall continue as now divided into eight wards, which number shall not be altered, unless by Act of the Legislature. Wards.
The Common Council shall, at least three months before the general election in the year eighteen hundred and fifty-two, and also during the second year thereafter, redistrict the city, so that each ward shall contain as near as may be the same number of inhabitants.

ARTICLE II.

Of Elections.

- City Officers.** § 1. For the government of said city there shall be elected annually, by general ticket, the following officers: A Mayor, Recorder, Comptroller, Treasurer, Collector, Attorney, Marshal, Street Commissioner, and three Assessors; and, also, by the respective wards, a body of Aldermen and a board of Assistant Aldermen.
- Who eligible for office.** § 2. No person who is not a qualified voter shall be eligible to any office under this charter, nor shall any person be entitled to vote at any city election unless he shall be an elector for State officers, and have resided in the ward thirty days next preceding said election.
- Vacancies.** § 3. All vacancies, except as hereinafter provided, shall be filled by election in such manner as may be prescribed by ordinance.
- Notice of election.** § 4. It shall be the duty of the Common Council to call all city elections, to designate the places of holding the same, giving at least ten days' notice thereof, to appoint inspectors of elections, to examine the returns and declare the results, and to determine contested elections.
- When elections to be held.** § 5. The first general election for officers under this charter shall be held on the fourth Monday of April, one thousand eight hundred and fifty-one, and thereafter annually at the general election for State officers. No election shall be held in any place where intoxicating liquors are vended.
- Law regulating elections.** § 6. All provisions of law regulating elections for State officers shall apply, so far as practicable, to elections under this charter.
- Tie votes.** § 7. When two or more persons have an equal, and the highest number of votes for the office of Mayor, the Common Council shall decide the election by joint ballot.
- Assessors.** § 8. At the first election under this charter only two Assessors shall be elected, and the County Assessor shall act as one of the City Assessors during the term for which he was elected.

ARTICLE III.

Of the Common Council.

- Aldermen and Assistants.** § 1. The legislative power of the city shall be vested in a Board of Aldermen and a Board of Assistant Aldermen, which shall each consist of one member from each ward, and shall form the Common Council of the city. No person shall be eligible to either Board who shall not be an elector of the ward for which he may be elected; nor shall he be a member except whilst a resident of the ward which he represents.
- Meetings of Aldermen.** § 2. Both Boards shall assemble on the first Monday after their election; they shall sit in separate chambers, and their proceedings shall be public. A majority in each Board shall be a quorum, but a smaller number may adjourn from time to time, and may compel the attendance of absent members. Each Board shall elect a president from its own body, choose its clerk and other officers, determine the rules of its pro-

ceedings, judge of the qualifications of election of its own members, and keep a journal of its own proceedings, and shall have power to compel the attendance of members, to punish them for disorderly conduct, and, with the consent of two thirds, to expel a member. Either Board may originate or amend any ordinance or resolution, and no ordinance or resolution shall be passed unless by a majority of all the members elected to each Board. On the final passage of every ordinance or resolution ayes and nays shall be taken and entered upon the journal.

§ 3. Every ordinance passed by both Boards, shall, before it takes effect, be presented to the Mayor for his approval. If he approve he shall sign it, if not he shall return it with his objections to the Board in which it originated. Said Board shall enter the objections on its journal, and publish them in some city newspaper. If at any stated meeting thereafter two thirds of all the members elected to each Board shall agree to pass said ordinance, notwithstanding the objections of the Mayor, it shall become a law. Should any ordinance not be returned by the Mayor within ten days after he shall have received it, it shall become a law, the same as if it had received his signature. Ordinances.

§ 4. Every ordinance providing for any specific improvement, the creation of any office, or the granting of any privilege, or involving the sale, lease, or other appropriation of public property, or the expenditure of public moneys (except for sums less than five hundred dollars), or laying any tax or assessment, and every ordinance imposing a new duty or penalty, shall, after its passage by either Board, and before being sent to the other, be published with the ayes and nays in some city newspaper, and no ordinance or resolution which shall have passed one Board shall be acted upon by the other on the same day, unless by unanimous consent. The like.

§ 5. The Common Council shall not create, nor permit to accrue, any debts or liabilities which, in the aggregate with all former debts or liabilities, shall exceed the sum of fifty thousand dollars over and above the annual revenue of the city, unless the same shall be authorized by ordinance for some specific object, which ordinance shall provide ways and means, exclusive of loans, for the payment of the interest thereon as it falls due, and also to pay and discharge the principal within twelve years; but no such ordinance shall take effect until it shall have been submitted to the people and receive a majority of all the votes cast at such election; and all money raised by authority of such ordinance shall be applied only to the object therein mentioned, or to the payment of the debt thereby created; *Provided*, that the present debt of the city, with the interest accruing thereon, shall make no part of the fifty thousand dollars aforesaid. Limiting power
of Common
Council.

§ 6. The Common Council shall have no power to borrow money on the credit of the city, unless they shall by ordinance direct the same in anticipation of the revenue for the current year, and shall provide in said ordinance for repaying the same out of such revenue, nor in such The like.

case shall they borrow a sum to exceed fifty thousand dollars ; but a larger sum may be raised by loan for the purpose of extinguishing the present liabilities of the city, whenever the ordinance providing for the same shall first be approved by the electors of the city at any general election : *Provided*, that said loan shall bear a yearly rate of interest not to exceed ten per cent. and shall be payable within twenty years.

The like.

§ 7. The Common Council shall have no power to emit bills of credit or to issue or put in circulation any paper or device as a representative of value or evidence of indebtedness, to award damages for the non-performance or failure on their part of any contract, to loan the credit of the city, to subscribe to the stock of any association or corporation, or to increase the funded debt of the city unless the ordinance for that purpose be first approved by the people at a general election ; but this section shall not be construed to prohibit the auditing and certifying of accounts by the proper officers to the creditors of the city, but no such audited or certified accounts shall draw interest.

Annual appropriations.

§ 8. Annual and occasional appropriations shall be made by ordinance for every branch and object of city expenditure, and no money shall be drawn from the treasury unless the same shall have been previously appropriated to the purpose for which it is drawn. Every warrant upon the treasury shall be signed by the comptroller and countersigned by the mayor, and shall specify the appropriation under which it is issued, and the date of the ordinance making the same. It shall also state from what fund and for what purpose the amount specified is to be paid.

Joint Committee of accounts.

§ 9. There shall be elected annually by ballot a joint committee of accounts to consist of three members from each board, who shall meet at least once a month and examine all accounts of the finance department, and report thereon in writing to both boards of the Common Council.

Members of Council not to be elected to charter offices.

§ 10. No member of the Common Council shall, during the period for which he was elected, be appointed to any office under this charter, nor be interested in any contract or business, or the sale of any article, the expense of which is borne by the city ; nor shall any member be interested in the purchase of any property belonging to the city, or which may be sold for city taxes ; nor shall any member sell or offer for sale to the city any property in which he may be interested.

Or vote, in certain cases.

§ 11. No member of the Common Council shall vote on any question in which he may be interested, either personally or as agent for another.

Taxes.

§ 12. The Common Council shall have power, *and it shall be their duty*, annually to raise by tax on the real and personal property in the city, whatever amount of money may be requisite for the support of free common schools, and to provide suitable buildings therefor.

Laws for government of City.

§ 13. They shall also have power within the city to pass all proper and necessary laws for the regulation, improvement, and sale of city property ; for the levy and collection of city taxes on all taxable pro-

perty, not to exceed one per cent. a year upon its assessed value ; for the laying out, making, opening, widening, regulating, and keeping in repair, all streets, roads, bridges, fences, public places and grounds, wharves, docks, piers, slips, sewers, wells, and alleys, and for making the assessments therefor ; for regulating and collecting wharfage, dockage, and cramage upon all water-craft and all goods landed ; for securing the protection, health, cleanliness, ornament, peace, and good order of the city ; for the prevention and extinguishment of fires ; for regulating firemen, watchmen, policemen, and such other officers as it may be necessary to appoint ; for the care and regulation of prisons, markets, houses of correction and industry ; for the support, regulation, and employment of all vagrants and paupers ; 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, and for making such licenses ; to prohibit and suppress dram-shops, gambling-houses, and houses of ill fame, gaming, hawking, pawnbroking, and all indecent or immoral practices, amusements, and exhibitions ; to regulate the location of slaughter-houses, markets, stables, and houses for the storage of gunpowder and other combustibles ; for the establishment of a chain-gang, and rules and regulations for the government of the same, and, in brief, to pass all such other laws and ordinances, for the management, good government, and general welfare of said city, as may not be inconsistent with this charter, or with the laws or constitution of this State or of the United States, and to affix penalties to the violation of any ordinance ; but such penalties shall not exceed imprisonment for sixty days and a fine of five hundred dollars.

§ 14. All money to be received from the following sources, shall continue to constitute a sinking fund for the payment of the existing city indebtedness with the interest accruing thereon, until the same shall be cancelled :

Appropriations
to Sinking Fund,

1st. The net proceeds of all sales of real estate belonging, or that may hereafter belong to the city :

2d. The net proceeds of all bonds and mortgages payable to the city :

3d. For occupation of private wharves, basins, and piers :

4th. For wharfage, rents, and tolls. Said fund or any part thereof shall not be loaned to any other fund, or expended for any other purposes whatever.

§ 15. The Common Council shall at an early day take steps to fund by ordinance the existing debts of the city. The funded debt shall consist of :

Funding
City debt.

1st. The liabilities for the payment of which the city revenue is already pledged.

2d. The creditors of the city may fund the debts respectively due them at the passage of this act, on such terms as the Common Council may prescribe, at a rate of interest not to exceed ten per cent. a

year, and payable within ten years; but no bond shall issue of a less denomination than one hundred dollars.

Depreciation
of City funds.

§ 16. The Common Council shall have no power to allow extra compensation to any creditor of the city, on account of any depreciation to which the city bonds, warrants, or other evidences of indebtedness may be liable.

Commissioners
of Sinking Fund.

§ 17. The Commissioners of the Sinking Fund created by ordinance of the Common Council are hereby prohibited from permanently disposing of any property belonging to the city by sale, lease, or otherwise, and also required to reconvey and deliver to the city, before the tenth day of May next, all property, titles, rights, and interests belonging to the city, and which are or may be in their possession.

Impeachment.

§ 18. The Board of Assistant Aldermen shall have the sole power of impeachment, and all impeachments shall be tried by the Board of Aldermen. No person shall be convicted unless by the concurrence of two thirds of all the members. Judgment, in case of conviction, shall extend no further than removal from office and disqualification from holding any office under the charter; but the party convicted may be indicted and punished according to law.

ARTICLE IV.

Of Executive Officers.

Executive
power, in
whom vested.

§ 1. The executive power of the Corporation shall be vested in the Mayor and such other executive officers as are or may be created by law, and neither the Common Council nor any committee or member thereof shall perform any executive or ministerial business unless especially directed by law.

Mayor to
report to
Common
Council.

§ 2. It shall be the duty of the Mayor,

1st. To communicate to the Common Council semi-annually, and oftener if he shall think proper, a general statement of the situation and condition of the city in relation to its government, finances, and improvements, with such recommendations in relation thereto as he may deem expedient.

2d. To be vigilant and active in causing the laws and ordinances of the city to be duly executed and enforced; to be the head of Police; to exercise a constant supervision and control over the conduct of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them for violation or neglect of duty, and to certify the same to the Common Council; to countersign all licenses and warrants on the Treasury, and generally to perform all such duties as may be prescribed for him by law or by the city ordinances.

Vacancy in
office of Mayor.

§ 3. Whenever there shall be a vacancy in the office of Mayor, or the Mayor shall be absent from the city, or be prevented from attending to the duties of his office, the President of the Board of Aldermen shall perform the duties, receive the compensation, and possess all the rights and powers of Mayor during such vacancy, absence, or disability.

§ 4. It shall be the duty of the Treasurer to receive and pay out all moneys belonging to the city, and to keep an account of all receipts and expenditures under such regulations as may be prescribed by ordinance. The Treasurer shall make monthly to the Common Council a full statement of the receipts and expenditures of the preceding month, and publish the same in some city newspaper. Duty of Treasurer.

§ 5. It shall be the duty of the Comptroller to report to the Common Council monthly a full and detailed statement of all the expenses and payments of the city government and the state of each appropriation made by ordinance, and he shall also, at the expiration of the fiscal year, publish a full and detailed statement of the receipts and expenditures of the city during said year, specifying the different sources of revenue and the amount received from each, the several appropriations made by the Common Council, the objects for which they were made, and the amount of money expended under each; the moneys borrowed on the credit of the city, the authority under which each loan was made and the terms on which it was obtained, the amount of the funded debt and of the interest accrued thereon; with a detailed statement of the sums owed and the property owned by the city. Duty of Comptroller.

§ 6. It shall be the duty of the Marshal to execute all process issued by the Recorder or directed to him by any legal authority; to attend upon the Recorder's Court; to arrest all persons guilty of a breach of the peace or violation of any ordinance, and take them before the Recorder; to supervise and control the city Police, to superintend the city prison, and to perform all such duties as may be prescribed by ordinance. Duty of Marshal.

§ 7. It shall be the duty of the City Attorney to attend to all suits, matters, and things in which the city may be legally interested, to give his advice or opinion in writing whenever required by the Mayor or Common Council, and to perform all such other services in connexion with his profession as may be required by the Common Council. Duty of City Attorney.

§ 8. It shall be the duty of the Collector to issue all licenses that may be granted by city authority, and to register the same in a suitable book which shall at all times be open for public inspection; to collect all license taxes, and all taxes and assessments that may be due according to the assessment books, and to pay over the same to the Treasury in the specific funds received. Duty of Collector.

§ 9. It shall be the duty of the Assessors to prepare, within such time as the Common Council may direct, a correct list of all the taxable property within the city, with the true valuation thereof, and to present the same, certified by them, to the Common Council. The mode of making out said list and of ascertaining the value of property and of collecting all taxes, shall be the same as is or may be prescribed by law for assessing and collecting the State revenue. Should the owner of any property assessed as aforesaid not be satisfied with the valuation thereof, he may apply, under oath, to the Board of Assessors for the reduction of the Duty of Assessors.

assessment. If said Board refuse he may appeal to the Board of Aldermen, and their decision shall be final.

Duty of Recorder.

§ 10. The Recorder, as to offences committed within the city, shall have like jurisdiction as may be conferred upon Justices of the Peace. He shall also have final jurisdiction in all cases of assault, riot, breach of the peace, and petit larceny, and all crimes and misdemeanors punishable by fine not to exceed five hundred dollars, or imprisonment not to exceed three months, or both such fine and imprisonment.

Duties of other Officers.

§ 11. The Common Council shall prescribe the duties of all officers whose duties are not defined in this Act, or in any other law of this State, and it shall be the duty of the officers of the city generally to perform all such services as may be required by law, or the ordinances of the Common Council.

Salaries.

§ 12. The several officers under this charter shall receive for their services out of the City Treasury a compensation to be fixed by ordinance, not to exceed four thousand dollars a year: *Provided*, that the Treasurer shall receive in lieu of salary not to exceed one half of one per cent. on all moneys received, paid out, and accounted for by him, and the Collector not to exceed one per cent. on all moneys collected and paid over.

Treasurer.

Clerks' salaries.

§ 13. The compensation of the Mayor's and Recorder's Clerks shall not exceed two thousand dollars each, per annum, nor shall that of the Clerk of either board of Aldermen exceed twelve hundred dollars. Each assessor shall receive not to exceed fifteen hundred dollars, and no officer shall be entitled to any Clerk or deputy unless as herein expressly provided.

Common Council.

§ 14. The members of the Common Council shall receive no compensation for their services.

When office deemed vacant.

§ 15. If any person elected to a city office shall remove from the city, absent himself therefrom for more than thirty days, or shall fail to qualify within ten days after his election, his office shall be deemed vacant.

Term of office.

§ 16. The officers elective under this charter shall continue in office for one year or until their successors are qualified; but any officer may be removed for misconduct by impeachment.

Officers to give security.

§ 17. All officers or persons to whom the receipt or expenditure of the moneys or funds of the City shall be intrusted shall give security, in such amount as the Common Council may require, payable to the city, and subject to the approval of the Mayor. Such bond shall be subject to the provisions of law concerning bonds of officers.

Fees, &c., to be paid into Treasury.

§ 18. All fees, costs, fines, perquisites, or emoluments for any services to be performed by any officer or person under this charter, or collected under any ordinance of the Common Council, shall be paid over every week by such officer or person into the City Treasury under oath; and no officer shall be entitled to receive his salary till he shall

file his affidavit with the Comptroller, that he has faithfully accounted for and paid over all moneys for which he is bound to account.

§ 19. For any violation of the tenth, eleventh, or seventeenth sections of article third, or of the eighth or eighteenth sections of article fourth, or of the seventh section of article sixth of this chapter, the party so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, may be punished by fine not to exceed five thousand dollars and imprisonment not to exceed one year. Violating this act.

§ 20. The officers of the present city government shall continue in office under this charter with such powers and duties as are herein prescribed until their successors are qualified; and nothing herein contained shall be construed to release any persons heretofore holding office in said city from any personal liabilities which they may have incurred by their official acts. Present officers to continue.

ARTICLE V.

Streets and Improvements.

§ 1. The Mayor, Street Commissioner, and Assessors shall constitute a Board of Commissioners of Assessment. When private property is taken for public purposes and the valuation by said Commissioners is not satisfactory to the owner thereof, he may require that the matter be submitted to the jury before the Superior Court, and the value found by the jury, when confirmed by the Court, shall be the amount which the owner shall be bound to accept and entitled to receive before the property is taken. Commissioners of assessments.

§ 2. Whenever the Common Council shall think it expedient to open, alter, or improve any street, or alley, or to improve any public grounds, notice thereof shall be given by publication for ten days in some daily paper. Should one third of all the owners of the adjacent property protest against the proposed improvement it shall not then be made. If no such protest be made the Common Council shall proceed with such improvement, at least two thirds of the expenses of which shall be borne by the property adjacent. Notice of improvements.

§ 3. The assessment for said improvement shall be made by the Commissioners named in section first, and shall be proportionate to the advantages respectively derived from such improvement. Assessment for improvements.

§ 4. Should any person be dissatisfied with the assessment by said Commissioners he may appeal to the board of Aldermen, whose decision shall be final. Appeal from assessment.

§ 5. Whenever two thirds of all the persons owning property on any street or land shall apply to the Common Council for any improvement thereof, the same shall be made on such conditions as the Common Council may determine, said persons paying at least two thirds of the expenses of such improvement. Improvements, on application of owners.

ARTICLE VI.

Miscellaneous Provisions.

Fiscal year.	§ 1. The fiscal year of the city shall begin on the first day of July.
Ordinances.	§ 2. Every ordinance of the Common Council shall embrace but one subject and that shall be expressed in its title.
The like.	§ 3. The ordaining clause of the city ordinances shall be, "The People of the City of San Francisco do ordain as follows."
Taxation.	§ 4. Taxation shall be uniform throughout the city.
Licenses.	§ 5. Licenses shall be discriminating and proportionate to the amount of business.
Sales.	§ 6. All sales or leases of property belonging to the city shall be by public auction.
Contracts.	§ 7. All contracts for work or supplies shall be let to the lowest bidder after notice given through the public newspapers, and no officer shall be interested in any contract connected with his department.
Privileges.	§ 8. The Common Council shall have no power to grant exclusive privileges.
No inspectors of produce, &c.	§ 9. The Common Council shall appoint no officers for weighing, measuring, gauging, culling, or inspecting any merchandise, produce, manufacture, or commodity; but nothing in this section shall prevent their passing any ordinance necessary for protecting the public health.
Amount of taxes.	§ 10. The Common Council shall have power to raise by tax any amount of money that they may deem expedient, whenever the ordinance for that purpose shall have been approved by the people.
Amendment to charter.	§ 11. When any amendment to this charter shall have been agreed to by three fourths of all the members elected to each board, it may be submitted to the people at any general election; and if approved by them it shall become a part of the charter. Said amendment shall be published at least sixty days before said election. It shall also be the duty of the Common Council to call a convention of delegates for the revision of this charter. Said convention shall meet on the first Monday of March, one thousand eight hundred and fifty-three, and shall consist of three members for each ward. Should the charter as amended and adopted by said convention be approved by the people at any general election, it shall become the charter of the City of San Francisco—subject, however, to the approval of the Legislature.
Act repealed.	§ 12. The Act entitled "An Act to incorporate the City of San Francisco," passed April fifteenth, one thousand eight hundred and fifty, is hereby repealed.