

of his or her decease to be published in some one of the newspapers printed in the territory, for eight weeks successively, notifying all persons, having claims or demands against such estate, to exhibit the same, together with the evidence in support thereof, before the court of probate of the proper county within six months after the date of such notice, or that the same will be forever barred; and if no such claim be presented for payment or distribution within the said time of six months, such balance shall be paid into the county treasury, and the county shall be answerable for the same, without interest to such person or persons as shall thereafter appear to be legally entitled to the same if any such shall ever appear.

When public administrator to prevent waste.

SECTION 7. Upon the death of any person intestate, not leaving a widow, or next of kin, or creditor or creditors within any county of this territory, it shall and may be lawful for the public administrator of the county, wherein such person may have died as aforesaid, or wherein the goods and chattels, rights and credits of such descendant shall be, in case such person shall have been a non-resident, to take such measures, as he may deem proper for the protection and securing the property and effects of such intestate, from waste and embezzlement until administration thereon shall be granted to the person entitled thereto as aforesaid, the expenses whereof shall be paid to such public administrator upon the allowances of the court of probate, in preference to all other demands against such estate, funeral expenses, excepted.

Approved January 19, 1888.

[No. 84.]

AN ACT to incorporate the city of Burlington.

Boundaries of the city.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That all that part of the territory, included in the following defined limits, to wit: beginning on the west bank of the Mississippi river in the county of Des Moines, at a point where the southern boundary line of the official

survey of the town of Burlington, made by authority of the United States, strikes said river; thence with the said southern boundary line to the south-western corner of said survey; thence with the western boundary of said survey to the north-western corner of said survey; thence with the northern boundary line of said survey, to where the same strikes the Mississippi river; thence due east to the middle of the main channel of said river; thence down the middle of the main channel thereof, to a point in said main channel due east of the place of beginning; and thence due west of the place of beginning; shall be and the same is hereby erected into a corporate city forever, and shall henceforth be called, and known by the name of the city of Burlington.

SECTION 2. *Be it further enacted*, That for the preservation of the peace and good order, and the promoting of the prosperity and quiet of the said city, there shall be elected by the free white citizens of said city, over the age of twenty-one years, on the first Monday of February in each year, the following named officers of said city, to wit: a mayor and eight aldermen, [a marshal,] a recorder, treasurer and engineer of the streets, each of whom shall be commissioned by the governor of the territory, and shall hold their offices for the term of one year, and until their successors shall be elected and duly qualified; and the duties of said marshal, recorder, and engineer of the streets shall be defined by the mayor and aldermen in common council; and no person shall be eligible to the office of mayor, who shall not be qualified to vote as aforesaid, and who shall not have attained to the age of twenty-five years, and no person shall be eligible to either of the other of the said offices who shall not be qualified to vote as aforesaid.

City officers
and when to be
elected.

Duties and
qualifications.

SECTION 3. *And be it further enacted*, That the mayor and aldermen, elected as aforesaid, shall be one body politic in deed, fact, and name, with perpetual succession, to be known and called by the name of the mayor and aldermen of the city of Burlington; and that they and their successors in office at all times hereafter, by the name aforesaid, shall be able and capable in law to have, purchase, take and receive, possess and enjoy lands, tenements and hereditaments, goods, chattels, and effects; and the same to grant,

Powers of the
corporation.

bargain and sell, alien, convey, demise and dispose of, to sue and be sued, to plead and be impleaded, in any court of justice whatever, and to make and use one common seal, and the same to alter and renew at pleasure; and that the said mayor and aldermen, or a majority of them, of whom the mayor shall always be one, and in whose deliberations the said mayor shall always preside, shall have full and complete power and authority, from time to time, and at all times hereafter, to hold a common council in said city, at such place as the mayor and aldermen shall from time to time appoint, and to make such by-laws, ordinances, and regulations in writing, not repugnant to the laws of the territory and the constitution and laws of the United States, and the same to alter, revoke or annul, as to them shall appear necessary for the good order, government and public improvement of said city; to restrain and prohibit gaming, and other disorderly conduct; define and remove nuisances, and to make, impose and tax reasonable fines, penalties and ameracements against all persons who shall offend against the laws, ordinances and regulations of said city, made as aforesaid in all matters less than felony at common law; to regulate and provide for the licensing retailers of spirituous liquors, merchants, grocers, pedlars, exhibitions of shows, draymen; and also, to erect market houses and regulate the markets; to use all needful means to prevent the introduction of infectious diseases into said city; to erect such public buildings as the wants of the city may require; and to provide against the destruction of property by fire: *provided*, that all trials for the violation of the by-laws, ordinances and regulation of said city, shall be had before a justice of the peace of said city in a summary manner, and that no person shall for any offense be deprived of his or her liberty, or fined in a sum greater than twenty dollars, unless convicted of such offense by a jury of twelve citizens of said city, qualified to vote as aforesaid: *provided*, that nothing herein contained shall be so construed as to prevent any of the citizens of said city from paying their county or territorial tax, as required by the laws of this territory.

Proceedings to
be summary.

Judicial power
vested in jus-
tices' courts.

SECTION 4. *And be it enacted*, that the justices of the peace, resident in said city for the time being, or either or any of them, shall at all times have the full

power and authority, and it is hereby made their duty at such times as the same, by the city authority, shall be required of them, or any of them, to issue all needful process for the apprehension of offenders against the laws, ordinances and regulations of said city, and a court to hold for the trial of all such offenders within the said city, and the same to fine, imprison or discharge, as the laws and ordinances of said city and the facts of the case may require; and for that purpose they and each of them are authorized and required to cause to come before them, when necessary, a jury as required in the preceding section of this act; and all such offenders, on conviction, shall be liable for the costs of prosecution, and judgment shall go accordingly, and, in case of acquittal, the same shall be paid by the corporation, having first been allowed by the common council, who shall by ordinance fix and establish as well the fees of jurors in such cases as the fees of said justice of the peace, marshal and other officers, in cases arising under the corporation; and all process in behalf of the said city, shall be executed, served, and returned by the said marshal, shall run in the name of the United States, and shall otherwise conform to the requisitions and provisions as may be made and provided by the mayor and aldermen in common council, and until other provisions be made by said city authority, it shall be lawful for said justice, or either or any of them, to commit all offenders against said by-laws, ordinances and regulations, on conviction, to the jail of Des Moines county, in cases where a portion or all the punishment shall be imprisonment, and the keeper of said jail is hereby required to receive such persons on the proper warrant of such justice or justices of the peace into his custody in said jail in the same manner as in ordinary cases; and all expenses of such imprisonment in cases where the same shall not be made out of the person so convicted and imprisoned, shall be paid out of the treasury of the corporation.

SECTION 5. *And be it enacted*, That no money shall be paid out of the city, except as previously provided by law, and then only in requisition in writing of the common council, showing that the same has been duly allowed by them. Disbursements.

SECTION 6. *And be it enacted*, That the city recorder

Other officers' compensation.

shall be ex-officio assessor for said city, and that the city marshal be ex-officio collector for said city; and that the said city officers, except the mayor and aldermen, shall receive such compensation for their services as the common council shall prescribe by law, and the common council shall appoint a city solicitor, whose duty it shall be to prosecute in behalf of said city, and who shall from time to time be allowed such compensation for his services as the common council shall deem just and proper.

Who to give bond.

SECTION 7. *And be it enacted*, That the city marshal and treasurer shall each give bond with security to the mayor and aldermen, and their successors in office, conditioned for the faithful performance of their duties of their respective offices, in such sum and in such manner as the common council shall by ordinance direct; and in case of vacancy in either of said offices of treasurer, recorder, or aldermen, it shall be the duty of the mayor, if in office, to order a special election to be holden to fill the same; and in case of vacancy in the office of mayor, it shall be the duty of the eldest of the aldermen of said city to take upon himself the discharge of the duties of the mayor until said office of mayor shall be filled, and to order an election as aforesaid, and in all special elections to fill vacancies, three days' notice, by public advertisement of the time and place of holding the same, shall be given by the person ordering said election.

Vacancies, how filled.

First elections.

SECTION 8. *And be it enacted*, That the first election under this act, shall be holden and conducted by the president and clerk of the present board of trustees of the town of Burlington, at the Wisconsin hotel in said city, the polls shall be opened at nine of the clock in the forenoon, and kept open until four of the clock in the afternoon of the day of the election. The votes shall be given by ballot, and a fair and duplicate statement of the result of said election shall be made out and signed by the said president and clerk, one of which duplicates shall be without delay transmitted to the governor under the seal of the now existing corporation, and the other shall be by the said president delivered to the mayor elected at said election, who shall file the same in his office; and all elections thereafter shall be holden in such manner and at such place as prescribed by the common council.

SECTION 9. *And be it enacted*, That until the recorder chosen under this act shall have been qualified in accordance with the requisitions of law to enter upon the discharge of his duties, the present clerk of the existing board of trustees of said town shall act as recorder of said city, and that it shall be his duty to deliver over to the mayor and aldermen of said city at their first meeting the journal and record of the proceedings of the board of trustees, as also the record of the ordinances of said president and trustees, and all other books, papers and documents in relation to the now existing corporation; and it shall be the duty of the mayor and aldermen to cause the same to be filed in their records and preserved; and all by-laws, ordinances, now in force in the town of Burlington, of a general nature, shall continue and remain in force in said city until repealed, or otherwise provided for by the common council; and all debts due from the present corporation shall be liquidated and discharged by the authority of said city; and from and after the delivering over by the clerk as aforesaid the books, papers and documents of the existing corporation, all further power and authority of the said president and trustees, and of those holding appointments under them shall cease.

Laws of the former corporation continued.

SECTION 10. *And be it enacted*, That each of the officers aforesaid to be elected or appointed under this act, shall take an oath to support the constitution of the United States, and to discharge the duties of their offices to the best of their skill and abilities.

Oath of office.

SECTION 11. *And be it enacted*, That it shall be the duty of the present treasurer of the town of Burlington to deliver to the mayor and aldermen all books, papers and documents on file in his office, and he shall account to and settle with the mayor and aldermen aforesaid for all sums remaining in his hands, if any there be.

SECTION 12. *And be it enacted*, That the mayor and aldermen of said city shall have power to levy and cause to be collected a tax annually in said city on all property, real and personal: *provided*, that all poll tax shall be applied to the repairs of streets, and to no other purpose, provided no tax on property, other than an ad valorem tax, shall ever be so assessed and collected, and that the same shall not exceed in any one year

Power of taxation.

Limited.

the sum of twenty-five cents on each hundred dollars worth of property taxed, unless upon petition of a majority of the property holders of said city.

Mayor's duties.

SECTION 13. *And be it enacted*, That the mayor of said city shall be the keeper of the common council seal, and of all the records, papers and official documents of said city, and that all the by-laws and ordinances aforesaid shall be signed by the said mayor and published in some newspaper in said city six days at least before the same shall take effect; and the laws and ordinances of the town of Burlington now in force, defining the manner of executing and approving the official bonds of the officers of said town shall be applicable to the executing and approval of the official bonds of the said marshal, recorder and treasurer respectively, until repealed or otherwise provided for, and all acts in relation thereto required thereby to be performed by the president of the board of trustees shall henceforth be done and performed by the mayor of said city.

SECTION 14. *And be it enacted*, That said mayor shall be the executive of the said city, and conservator of the peace therein.

Elector's oath.

SECTION 15. *And be it enacted*, That whenever a person's vote shall be challenged, it shall be received only in case he shall take the following oath or affirmation administered by one of the inspectors of elections: "I do solemnly swear, or affirm, that I am a citizen of Burlington." False swearing in such case shall be deemed perjury.

Suits, how brought.

SECTION 16. *And be it enacted*, That suits against the corporation shall be commenced by summons served upon the mayor. Suits by the corporation shall be brought by the city solicitor at the direction of the common council of the city.

Publication of laws.

SECTION 17. *And be it enacted*, That the common council shall publish annually, in each newspaper printed in said city, a statement of all the moneys received and expended by said city.

SECTION 18. *And be it enacted*, That the proceedings of the city council shall be public.

When to borrow money.

SECTION 19. *And be it enacted*, That whenever, in the opinion of the city council, it is expedient to borrow money for any public purpose, the question shall be submitted to the citizens of Burlington. The na-

ture and object of the loan shall be stated and a day fixed for the electors of the city to express their wishes. The like notice shall be given as in cases of an election. The loan shall not be made, unless a majority of the votes given shall be in the affirmative.

SECTION 20. *And be it enacted*, That before any of the provisions of this act shall take effect, the inhabitants of the town of Burlington shall meet at some public place, in said town, ten days previous notice of such meeting having been given by advertisement in the Burlington Gazette, and posting up notices thereof in at least five public places of said town, of the time and place of such meeting, at which time and place the polls shall be opened, and a vote taken for or against a city charter, by the inhabitants aforesaid, and if the majority of the votes polled shall be in favor of a charter, then this act shall take effect and be in force, otherwise be void and of no effect: *provided, however*, that nothing in this act contained shall be so construed as to allow the corporation aforesaid to have any cognizance of the rights of ferriage within the limits aforesaid.

SECTION 21. *And be it enacted*, That any future legislature may alter, amend, or repeal this act.

Approved January 19, 1838.

No. 85.

AN ACT to amend an act concerning judgments and executions.

SECTION 1. *Be it enacted by the council and house of representatives of Wisconsin territory*, That a stay of execution can be had upon all judgments hereafter to be obtained, against any defendant in suit, in any court of record in this territory, for the space of one year, counting from the time of the issuing of the original process, upon the defendant giving security to the satisfaction of the court, for the payment of the amount of the judgment, with interest and costs at the expiration of the time for which the stay may be limited; and at that time execution may issue, as well against the defendant or defendants in the suit, as

Electors to determine whether to accept this charter.

Stay of execution, how obtained.