in a well-considered case in the Supreme Court of the United States,[1] it was held that the acts of a corporation might be proved otherwise

(1855); Gearhart *v.* Dixon, 1 Pa. St. 224 (1845); Bridgford *v.* Tuscumbia, 4 Woods, 611; s. c. 16 Fed. R. 910. Where the law or charter *requires* the clerk to keep a *journal* of all of the acts and proceedings of the city council, that, or a copy, is the proper evidence of the official doings of the body. Lowell *v.* Wheelock, 11 Cush. (Mass.) 391 (1853); Harris *v.* Whitcomb, 4 Gray (Mass.), 433; Morrison *v.* Lawrence, 98 Mass. 219; Louisville *v.* McKegney, 7 Bush (Ky.), 651 (1870); *post*, sec. 310.

The Supreme Court of *Kansas*, adverting to the distinction in the text, sustained under the circumstances stated below the introduction of *parol testimony as a means of establishing in part the passage of an ordinance.* Troy *v.* Atchison, &c. Railroad Co., 13 Kan. 70 (1874); s. c. 11 Kan. 519. The exact point decided appears from the syllabus settled by the judges, which is as follows: Where a city fails to provide any book for the record of its ordinances, but its ordinances, after their passage and approval, are placed and kept on file in the office of the city clerk, and a third party obtains a duly certified copy of an ordinance so placed and kept on file, and acts in good faith upon such ordinance, and is induced partly thereby to make large expenditure of money, in a subsequent controversy between the city and such third parties or their assigns the rule of equitable estoppel will apply to the city, and the due passage and existence of said ordinance may be shown by parol testimony. Troy *v.* Atchison, &c. Railroad Co. *et al.*, 13 Kan. 70 (1874); *post*, secs. 310, 422. In a case where the authority for grading a street was in question, parol testimony was held properly admitted to show that a clause in an ordinance granting the authority had been struck out before its passage, and had been reinstated by a clerk, by whose direction it was printed, and a printed copy thus altered placed by him in the record book. Dyer *v.* Brogan, 70 Cal. 136. *Proof of establishment and change of grade of streets*, see *post*, chap. xxiii.

[1] Bank, &c. *v.* Dandridge, 12 Wheat. 64. Delivering the opinion of the court, Mr. Justice *Story, arguendo*, makes these important observations: "Would *the omission of the corporation to record its own doings* have prejudiced the rights of the party relying upon the good faith of an actual vote of the corporation? If such omission would not be fatal to the plaintiff in suits against the corporation (as, in our opinion, it would not be), it establishes the fact that acts of the corporation, not recorded, may be established by parol proofs, and, of course, by presumptive proofs. In reason and justice, there does not seem any solid ground why a corporation may not, in case of the omission of its officers to preserve a written record, give such proofs to support its rights as would be admissible in suits against it to support adverse rights. The true question in such case would seem to be, not which party was plaintiff or defendant, but whether the evidence was the best the nature of the case admitted of, and left nothing behind in the possession or control of the party higher than secondary evidence. . . . We do not admit, as a general proposition, that the acts of a corporation are invalid merely from an omission to have them reduced to writing, unless the statute creating it makes such writing indispensable as evidence, or gives to them an obligatory force. If the statute imposes such restriction, it must be obeyed." (12 Wheat. 69, 74.) This was the case of a private corporation. The same principle was applied, in the case of the United States *v.* Fillebrown, 7 Pet. 28, *to the acts of boards of public agents or officers*, and it was in that case accordingly held that the board of commissioners of the navy hospital fund, not being required by law to reduce its proceedings to writing in order to make them binding, oral evidence of such proceedings (no record having been made) was competent. See Langsdale *v.* Bonton, 12 Ind. 467. In a case in *Vermont* in respect of a town which is required to keep a record, it is said that it "appears to us that *in the absence of all record*, it might be competent for the defendants (trustees and collector of the corporation justifying under its proceedings) to show, by parol, the proceedings of the meeting. Where there is a record, it cannot be added to or varied by parol. Taylor *v.* Henry, 2 Pick. (Mass.) 403. But where there is an omission to make records, the rights of other persons, acting under or upon the faith of a vote not recorded, ought not to be prejudiced. And it would seem that the right in such a case is reciprocal in the corporation and in those who claim adversely to it." *Per Williams*, C. J., Hutchinson *v.* Pratt, 11 Vt. 402, 421. But compare Stevens *v.* Eden, &c. Society, 12 Vt. 688; 16 Vt. 439; 17 Vt. 337.

The rights of *creditors or of third persons* cannot be prejudiced by the *neglect* of the council to keep proper minutes; against the corporation, what the council in fact did may be shown by evidence *aliunde* the record kept by it. Bigelow *v.* Perth Amboy, 1 Dutch. (N. J.) 297 (1855); San Antonio *v.* Lewis, 9 Tex. 69 (1852).

Proof of the action and orders of a municipal *board of health*, see chapter on Ordinances, *post*, sec. 371, note.

[1] Ross *v.* Madison, 1 Ind. (Carter) 281 (1848); Langsdale *v.* Bonton, 12 Ind. 467; Indianapolis *v.* Imberry, 17 Ind. 175, 179; Delphi *v.* Evans (reviewing previous cases), 36 Ind. 90 (1871). In the same State, however, county commissioners and township trustees are required by law to keep a true record of their proceedings, and it was held under the circumstances appearing in the cases below cited, that they "can only speak by their record" when legally assembled. County Comm'rs *v.* Chitwood, 8 Ind. 504, 507 (1851); Trustees *v.* Osborne, 9 Ind. 458. So, in *Maine*, "school districts are required by law to keep an account of their proceedings by a sworn clerk, and such proceedings can be proved only by the record or a copy thereof duly authenticated." Jordan *v.* School District, 38 Me. 164 (1854). The records of public or *quasi* corporations are not, in *Ohio*, considered to be "of that absolute verity that any person shall be estopped to show the truth, in consequence of any matter which they contain" or omit to contain; and it was accordingly adjudged that the fact whether an official bond was received or refused and rejected may be shown by *parol* evidence, on which point the record was silent. Westerhaven *v.* Clive, 5 Ohio, 136 (1821), as to records of township trustees. See Green *v.* State, 8 Ohio, 310 (1838), in which it was queried whether the county commissioners could appoint an agent by *parol* or only by record. In *Iowa*, it has been held that where no record entry is made, such an appointment may be shown by parol testimony, and that the agent acted accord-

than by its records or some written document, even although it was its duty "to keep a fair and regular record of its proceedings." The statute did not prescribe that nothing but a recorded vote or written document should bind the corporation or be received as evidence. Such written evidence was not deemed indispensable unless positively required. The direction to keep a record was regarded as directory.

§ 301 (238). **Same subject.** — Where the *records of a municipal corporation have been so carelessly and imperfectly kept* as not to show the adoption of a resolution or other acts of the city council, and there is no written evidence in existence, *parol testimony* may be admitted, *e. g.*, to show that certain work was done by authority of the city, by proving the passage of a resolution of the council, the appointment of a committee to make the expenditure, their report after the work was done, and its adoption by the council.[1]

§ 302 (239). **Mandamus to enforce Delivery of Corporate Books and Records; Replevin.** — *Mandamus* is an appropriate remedy for the duly elected and authorized officer of a public or municipal corporation to compel the *delivery to him* by his predecessor, or by an usurper, *of the books, papers, records, and seal* pertaining to the office.[1] And such a corporation, it has been held (though the cases are conflicting), *may maintain replevin* in its name for the possession of its record; and this action is maintainable against a stranger or any officer or person not legally entitled to the custody of the records.[2]

ingly. Powesheik County *v.* Ross, 9 Iowa, 511; Athearn *v.* District, 33 Iowa, 105 (1871); and see acc. Ross *v.* Madison, 1 Ind. (Carter) 281; compare Meeker *v.* Van Rensselaer, 15 Wend. 397. Where recording is not required by charter or law, resolutions of a council are admissible in evidence, although not recorded. Darlington *v.* Commonwealth, 41 Pa. St. 68. See *post*, sec. 310; Louisville *v.* McKegney, 7 Bush (Ky.), 651, construing charter as to requisites of the journal required to be kept by each board of the council.

[1] Proprietors of Church *v.* Slack, 7 Cush. (Mass.) 226, 239 (1851); Commonwealth *v.* Athearn, 3 Mass. 285; Rex *v.* Wildman, 2 Strange, 879; King *v.* Ingram, 1 W. Bl. 50; King *v.* Round, 4 Ad. & El. 139; Cranford *v.* Powell, 2 Burr. 1013; Rex *v.* Clapham, 1 Wils. 305; 3 Bl. Com. 310; Kimball *v.* Lamprey, 19 N. H. 215 (1848), where the above authorities are cited and digested by *Gilchrist*, C. J.; Taylor *v.* Henry, 2 Pick. (Mass.) 397; Parish, &c. *v.* Stearns, 21 Pick. (Mass.) 148, 156; Bates *v.* Plymouth, 14 Gray (Mass.), 163; Perkins *v.* Weston, 3 Cush. (Mass.) 549.

The following points have been ruled in respect to corporations in England: If the custody of their documents belong to one of their officers in virtue of his office, the corporation cannot compel him to deliver them up, but may require that he submit them to their inspection whenever they think proper. Reg. *v.* Ipswich, 2 Ld. Raym. 1238; Rex *v.* Pigram, 2 Burr. 767; Willc. 345; Glover, 260. Sometimes the custody of these documents is entrusted to the town-clerk or other officer, merely as the servant of the corporation, in which case they may appoint another to receive them; and if they are not delivered over after demand, the corporation may obtain possession of them by an action of *detinue*, or the court will compel a delivery by *mandamus*. *Ib.* If the predecessor in office, or, he being dead, his personal representative, or another person having possession of corporate documents under him, refuse to deliver them over to the successor or the corporation, on a proper application, the court will grant a *mandamus* to compel him to do so. Rex *v.* Nottingham, 1 Sid. 31; Anonymous, 1 Barnard. 402; Willc. 345; Glover, 260. This writ is said, indeed, to lie to any person, whether stranger or corporator, who happens to be in possession of the books of a corporation, and who refuses to deliver them up. Proprietors of Church *v.* Slack, 7 Cush. (Mass.) 226 (1851) *per Fletcher*, J.; Rex *v.* Ingram, 1 W. Bl. 50; Willc. 246; Glover, 231; *post*, chap. xx.

[2] Parish, &c. *v.* Stearns, 21 Pick. (Mass.) 148; School District *v.* Lord, 44 Me. 374 (replevin for records of district). The court, holding that *replevin* would lie, say: "The action is, therefore, rightfully brought, and may be maintained if the defendant was not the legal clerk of the district." *Per Rice*, J., 44 Me. 374, 384. The *right or title of an office* cannot be determined by a civil action between the respective claimants, as by an action of replevin for the official books and papers, and until the issue as to the right is determined, by *quo warranto* or other proper proceeding, no suit in replevin can be maintained by one claimant against the other for the possession of the appurtenances of the office. Desmond *v.* McCarty, 17 Iowa, 525. In La Grange *v.* State Treasurer, 24 Mich. 466,

§ 303 (240). **Inspection of Records and Papers.** — Concerning the right *to inspect corporate documents and papers*, the following points have been ruled as stated by Mr. Willcock: Every *corporator has a right to inspect* all the records, books, and other documents of the corporation, upon all proper occasions; and if, upon application for that purpose, the officer who has the custody refuse to show them, the court will grant a *mandamus* to enforce his right.[1] One who has a *prima facie title to a corporate office* has a right to inspect such documents as relate to that title, and may obtain a *mandamus* for this purpose before any suit has been instituted.[2] A corporator has a *right* to inspect these documents, to obtain information as to his rights, whether in dispute with a stranger or the corporation itself, or any of its members.[3] When the corporator's application to inspect is founded on his general right, he has a *mandamus*, but when it is founded on a suit pending, he obtains a rule.[4] In an action by one corporation against another, rules were made absolute for each corporation to inspect so much of the books and records as related to the subject in dispute.[5] The *motion for the rule to inspect* and to have copies should be supported by affidavits showing the foundation of the claim, the application, the proper officer, and his

the court decided that replevin does not lie for papers filed in a public office. *Post*, sec. 848.

[1] Rex *v.* Shelley, 3 Term R. 142; Rex *v.* Babb, *Ib.* 580; Harrison *v.* Williams, 3 Barn. & Cress. 162; Rogers *v.* Jones, 5 D. & R. 484; Willc. 347; Glover, 262. *Any person* sufficiently interested is entitled to inspect entries in books of public corporations relating to public matters of the corporation, where the evidence is required in a civil action. Grant, Corp. 311. In People *v.* Cornell, 47 Barb. (N. Y.) 329, it is held that a corporator without any special or private interest has the right to inspect and take copies of all public documents and records, under reasonable restrictions to secure the safety of the originals.

[2] Rex *v.* Newcastle, 2 Stra. 1223; Rex *v.* Lucas, 10 East, 235; Rex *v.* Purnell, 1 Wils. 242; Rex *v.* Bridgeman, 2 Str. 1203; People *v.* Mott, 1 How. Pr. (N. Y.) 247; Cockburn *v.* Bank, 13 La. An. 289; People *v.* Walker, 9 Mich. 328; People *v.* Cornell, 47 Barb. (N. Y.) 329; *post*, chap. xx.

[3] Edwards *v.* Vesey, Cas. temp. Hardw. 128; Rex *v.* Babb, 3 Term R. 580; Rex *v.* Bridgeman, 2 Stra. 1203; Grant on Corp. 312.

In England the right to inspect the auditor's report extended o "any inhabitant *or* ratepayer." The difference between an inhabitant and a ratepayer is that "inhabitant" means a resident, whether a ratepayer or not, and that a "ratepayer" is a person who pays taxes, whether a resident or not. The King *v.* North Curry, 4 Barn. & Cress. 961. Mere colorable residence is insufficient to constitute a person an inhabitant. The King *v.* Sargent, 5 Term R. 466; The King *v.* Duke of Richmond, 6 Term R. 560; Bruce *v.* Bruce, 2 B. & P. 229, note; The King *v.* Mitchell, 10 East, 511; Whithorn *v.* Thomas, 7 M. & G. 1. The English Municipal Corporations Act 1882, sec. 233, provides that any burgess may inspect the proceedings of the council on payment of a fee of one shilling, and may make copy thereof; may also inspect the treasurer's accounts and Freemen's Roll.

[4] Rex *v.* Shelley, 3 Term R. 142.

[5] Mayor of London *v.* Lynn Regis, 1 H. Bl. 206; Mayor, &c. of Southampton *v.* Graves, 8 Term R. 592.

refusal. The rule will require the expense attending obedience to be borne by the applicant, and will, in proper cases, allow the officer a remuneration for his trouble. If the officer disobey, without sufficient reason, the rule to allow an inspection or to give copy of, or to produce corporate documents, the court will grant an attachment against him.[1]

§ 304 (241). **Records as Evidence for the Corporation.** — A public or municipal corporation, required by law to keep a record of its public, or official proceedings, *may itself use such records as evidence* in suits to which it is a party; but the records must first be properly authenticated.[2] Indeed, in actions generally, including actions against agents or officers of the corporation, as individuals, the *original minutes* or *records* of the corporation are competent evidence of the acts and proceedings of the corporation. Duly *authenticated copies* have often been received in evidence where the original document or proceeding was of a public nature.[1]

[1] Willc. 352, 353; Grant, 311 *et seq.* See, also, People *v.* Mott, 1 How. Pr. (N. Y.) 247; Cockburn *v.* Bank, 13 La. An. 289; People *v.* Walker, 9 Mich. 328.

[2] School District *v.* Blakeslee, 13 Conn. 227 (1839); Denning *v.* Roome, 6 Wend. (N. Y.) 651; Wood *v.* Jefferson County Bank, 9 Cow. (N. Y.) 205; State *v.* Van Winkle, 1 Dutch. (N. J.) 73; McFarlan *v.* Triton Ins. Co., 4 Denio (N. Y.), 392; Highland Turnp. Co. *v.* McKean, 11 Johns. (N. Y.) 154. Denning *v.* Roome, above cited, holds that the *original minutes* or records of the corporation of a city were competent evidence of corporate acts, without further proof of their verity. Records of corporation held admissible, though not required by law to be kept, and, where defective, explainable by parol evidence. Gearhart *v.* Dixon, 1 Pa. St. 224 (1845); Adams *v.* Mack, 3 N. H. 493, 499, *per Richardson*, C. J.

The following points have been decided respecting English corporations: Where charters or corporation books are to be given in evidence, being records or instruments of a *public nature*, they may themselves be produced; and examined copies of their contents may also be given in evidence. The Court of King's Bench will not make a rule to produce the originals, unless it be shown by affidavit that a new entry, rasure, or some other circumstance, renders an inspection necessary. To give books this public character, it must appear, if they be questioned, that they have been publicly kept, and that entries have been made by the proper officer; not but that entries made by other persons may be good, if the town-clerk be sick or refuses to attend — which, however, must be proved, and the reason why they were not made by the proper officer shown. Rex *v.* Mothersell, 1 Stra. 93; Brocas *v.* Mayor, &c. of London, 1 Stra. 307; Rex *v.* Gwyn, Mayor, &c., 1 Stra. 401; Willc. 343; Glover, 258; Rex *v.* Smith, 1 Stra. 126; Grant, 318. Whoever produces the book must establish its authority before he delivers it in, and may be required to show where it has been kept, and how it came into his possession. Rex *v.* Mothersell, 1 Stra. 93; Rex *v.* Thetford, 12 Vin. Abr, 90, p. 16; Willc. 344; Glover, 258. A book containing minutes of some corporate acts which occurred ten years ago, entirely written by the relator's clerk, who was not an officer of the corporation, and appearing never to have been kept among, or esteemed as, one of the corporate documents, or even seen before the present application for an information, is not admissible as a corporate document. Rex *v.* Mothersell, 1 Stra. 93. Nor is the copy of a letter made fifty years ago and found in the corporation chest; but the original must be first accounted for, as though it had been found in the possession of a private person. Rex *v.* Gwyn, 1 Stra. 401. Nor are entries of a *private nature*, in the public books of a corporation, evidence for the corporation in support of a right which they claim, for this were allowing the party to fabricate evidence for themselves. Rex *v.* Debenham, 2 B. & Ald. 187; Marriage *v.* Lawrence, 3 B. & Ald. 144; Grant on Corp. 318, 319, and cases; 2 Phil. Ev. 122; Angell &

§ 305 (242). **Evidential Force of Committee's Report.** — An admission by a corporation of a fact or of a liability, duly and properly made, is, of course, evidence against it. But a municipal corporation, by *accepting*, that is, *receiving the report of a committee*

Ames Corp. sec. 679; Willc. 344. The *English Municipal Corporations Act* 1882, sec. 22, provides that "a minute of the proceedings at a meeting of the council," duly signed as specified in the act, "shall be received in evidence without further proof;" and are presumed to be regular and valid, "until the contrary is proved." How such proof must be made, see Reg. *v.* Thomas, 8 A. & E. 183.

[1] Denning *v.* Roome, 6 Wend. (N. Y.) 651 (1831); citing Owings *v.* Speed, 5 Wheat. 424; Rex *v.* Mothersell, 1 Stra. 93; 12 Vin. Abr. 90, pl. 16. See also, People *v.* Adams, 9 Wend. (N. Y.) 333; Wood *v.* Jefferson County Bank, 9 Cow. (N. Y.) 194, 205; Angell & Ames on Corp. sec. 679; Turnpike Co. *v.* McKean, 11 Johns. (N. Y.) 154; People *v.* Murray, 57 Mich. 396; O'Mally *v.* McGinn, 53 Wis. 353. In Denning *v.* Roome, *supra*, the defendant was sued in his *individual capacity* for removing, by order of the city council, a certain fence erected by the plaintiff. The defendant (although it was argued that, being the agent of the corporation, the latter should be considered as the *party* and its own records as incompetent in its own favor to justify its acts) was allowed to show by the records of the corporation that the fence was on a portion of the public street.

The clerk of a city or town is, by law, the proper certifying officer to authenticate copies of the votes and ordinances thereof. Such copies are admissible in evidence without preliminary proof, as in ordinary instruments, of the genuineness of the clerk's signature, but are, of course, only *prima facie* evidence; and they may be shown to be inaccurate, false, or forged. Commonwealth *v.* Chase, 6 Cush. (Mass.) 248 (1850). Where the original document is of a public nature, and would be evidence if produced, it is not necessary to show the document itself, for it may be required at many places at the same time; for that reason an immediate sworn copy, made by the proper officer, will be admitted. Rex *v.* Lord George Gordon, Doug. 593; 1 Phil. Ev. 405; Willc. 344; Glover, 259. Grant, 318, lays down the rule generally, that sworn copies of public entries in books of public corporations are admissible wherever the originals would be, and the corporation will not be compelled to produce their books in court except for reasons shown. It has, however, been held that the by-laws of a corporation, in the absence of special provision, must be proved by the production of the by-laws themselves, as these are the primary evidence. Lumbard *v.* Aldrich, 8 N. H. 31; Moor *v.* Newfield, 4 Greenl. (Me.) 44; Hallowell Bank *v.* Hamlin, 14 Mass. 178. So, of the votes of a corporation, the record is the best evidence. Haven *v.* Asylum, 13 N. H. 532. See also Manning *v.* Parish, 6 Pick. (Mass.) 6; Taylor *v.* Henry, 2 Pick. (Mass.) 403; Green *v.* Indianapolis, 25 Ind. 490. It may be remarked that there are statutes in various States under which certified copies would be receivable in evidence instead of the originals. Licenses from a city or town authorizing persons to pursue particular employments, &c., need not be in writing. Boston *v.* Shaffer, 9 Pick. (Mass.) 415 (1830). An ordinance of a city of *another State* may be proved by producing the book in which it is recorded, or by a sworn copy. Louisville, N. A., & Chic. Ry. Co. *v.* Shires, 108 Ill. 617.

of inquiry, does not admit the truth of the facts stated therein; and such a report, though accepted by a vote of the corporation, is not admissible in evidence against it.[1] In an action of *assumpsit* against a town corporation, to support his cause of action, the plaintiff produced the books of the corporation, by which it appeared that the sum demanded in the declaration had been allowed by the council to the plaintiff on the 5th of September, on final settlement, at which time the plaintiff was present and assented to the settlement. The defendant contended that the resolution had been passed by mistake, and offered to show, by the same books, the passage, *three days afterwards*, in the plaintiff's absence, of a resolution rescinding the amount of the plaintiff's account. It was held that the subsequent resolution was not competent evidence, the court basing this opinion on the proposition that the books of a corporation are evidence against it, but not in its favor, in an action against the corporation by a stranger.[2]

[1] Dudley *v.* Weston, 1 Met. (Mass.) 477 (1846); followed by Collins *v.* Dorchester, 6 Cush. (Mass.) 396 (1850); and both relating to defective highways. In The King *v.* Hardwick, 11 East, 578, a rated parishioner made a confession, which was admitted in evidence against the parish, on the ground that the parish was an aggregate corporation or company, of which he was a member; compare Mayor, &c. *v.* Long, 1 Camp. 22. But this is not the law in this country, and it may be safely laid down that the admission of a corporator cannot be received against the body. Hartford Bank *v.* Hart, 3 Day (Conn.), 493, denying The King *v.* Hardwick, *supra;* Osgood *v.* Manhattan Co., 3 Cow. (N. Y.) 612, 623. But the *admission of an officer* when made in the ordinary course of his official duty, and within the scope of his powers, may be admissible against the corporation. Peyton *v.* Hospital, 3 C. & P. 363; Angell & Ames on Corp. sec. 309; *Ib.* sec. 659; *ante*, sec. 237, note, and cases.

Notice to corporator or member is not notice to the corporation; it should be formally given as such to the authorized head or proper officer. Powles *v.* Page, 3 Com. B. 31; Edwards *v.* Railroad Co., 1 Myl. & Cr. 659; Grant Corp. 315. Lancey brought an action for *libel* against the mayor and clerk of the city of Bangor for the following statement contained in their annual report: "Balance due from John Lancey, Collector, $6,004.50." The balance was shown to be less. It was held that there was no presumption of law that the officers of a city or town knew the contents of the city records, and no rule of law obliging them to be acquainted therewith; and unless the defendants made the publication maliciously they were entitled to a verdict. Lancey *v.* Bryant, 30 Me. (10 Shep.) 466 (1849); *ante*, sec. 237, note, and cases.

[2] Mayor *v.* Wright, 2 Port. (Ala.) 230 (1835), citing 1 Stark Ev. 292; but is not the proposition too broadly stated?

CHAPTER XII.

MUNICIPAL ORDINANCES OR BY-LAWS.

§ 306 (243). **Subject outlined.** — This subject will be considered under the following heads: —

1. Definition, General Nature and Common-Law Requisites of Ordinances — secs. 307–330.
2. Of the Signing, Publication, and Recording — secs. 331–335.
3. Of the Power to impose Fines, Penalties, and Forfeitures — secs. 336–353.
4. On Whom Binding, and Notice thereof — secs. 354–356.
5. Ordinances relating to the Licensing, Taxing, and Regulation of Amusements and Occupations, including the Sale of Intoxicating Liquors — secs. 357–365.
6. Ordinances relating to Public Offences — secs. 366–368.
7. Ordinances relating to the Public Health, Safety, and Convenience: Herein of Hospitals, Cemeteries, and Burials; Nuisances; Markets and Inspection Regulations; Dangerous Occupations and Practices; and of the Police Power and General Welfare Clauses in Charters — secs. 369–407.
8. Mode of enforcing Ordinances: Herein of Actions and Prosecutions, and their Nature; Mode of pleading Ordinances; Requisites of Complaints to enforce Ordinances; Construction, Defences, Evidence, &c. — secs. 408–422.

Definition, General Nature, and Common-Law Requisites of Ordinances.

§ 307 (244). **Definition.** — Under the general term of "ordinances" have been sometimes included all the regulations by which a corporation is itself governed, including special charter or statute regulations, as well as by-laws. In this country, the term "ordinance" is not usually applied, if ever, to charters, or acts of the legislature respecting municipal corporations regulating their powers and mode of action, but is limited in its application to the acts or regulations, in the nature of local laws, passed by the proper assembly or governing body of the corporation. Indeed, in general and professional use the term "ordinance" is almost, if not quite, equivalent in meaning