THE
BALTIMORE CITY CODE:

COMPRISING THE

LAWS OF MARYLAND

RELATING TO THE CITY OF BALTIMORE,

AND THE

ORDINANCES OF THE MAYOR AND CITY COUNCIL,

WITH AN APPENDIX,

TO THE END OF THE SESSION OF 1877-78.

COMPILED BY

LEWIS MAYER,

ATTORNEY AT LAW.

PUBLISHED BY AUTHORITY.

BALTIMORE:
JOHN COX, CITY PRINTER.

1879.

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AN ORDINANCE

TO PROVIDE FOR THE PRINTING OF THE CITY CODE, AS REVISED BY LEWIS MAYER.

SECTION 1.—*Be it enacted and ordained by the Mayor and City Council of Baltimore,* That John Cox, City Printer, be, and he is hereby authorized and directed to print one thousand copies of the Laws of Maryland relative to the City of Baltimore, together with the Ordinances and Resolutions of the Mayor and City Council of Baltimore, as codified by Lewis Mayer, under Ordinance No. 15, approved April 2d, 1878, and properly bind the same; and when completed deliver the same to the City Librarian, who is hereby authorized to furnish each member of the Council with a copy, and such other officers of the City and State, and Public and Law Libraries, as the Mayor may direct, for the use of their respective offices; the said printing and binding to be done under the supervision of Lewis Mayer, as per Ordinance No. 15, approved April 2d, 1878.

SEC. 2.—*And be it further enacted and ordained,* That this ordinance shall take effect from and after the date of its passage.

Approved June 28th, 1878.

AN ORDINANCE

ADOPTING THE REVISED ORDINANCES COMPILED UNDER ORDINANCE No. 15, APPROVED APRIL 2, 1878.

SECTION 1.—*Be it enacted and ordained by the Mayor and City Council of Baltimore*, That all the ordinances and parts of ordinances and resolutions printed and contained in the City Code, prepared by Lewis Mayer, under Ordinance No. 15, approved April 2d, 1878, be, and the same are hereby declared to be the Ordinances of the Mayor and City Council of Baltimore; and that they shall have the force thereof; except, however, so far as the same may have been or may be amended or repealed by ordinances or resolutions passed at the present session of the Mayor and City Council of Baltimore.

SEC. 2.—*And be it enacted and ordained*, That all other ordinances and parts of ordinances and resolutions passed before the commencement of the present session of the Mayor and City Council of Baltimore be, and the same are hereby repealed.

SEC. 3.—*And be it enacted and ordained*, That the repeal in the preceding section shall not affect any act done or any right accruing or accrued, established or vested, or any suit or proceeding had or commenced in any case before the time when such repeal shall take effect, nor any offence committed, nor any penalty or forfeiture incurred, nor any suit or prosecution pending at the time of such repeal, for any offence committed, or for the recovery of any penalty or forfeiture incurred under any of the provisions so repealed; and no ordinance or part of an ordinance or resolution which has been heretofore repealed, shall be revived by the repeal, in the preceding section, of any of the ordinances, parts of ordinances or resolutions therein referred to.

SEC. 4.—*And be it enacted and ordained*, That this ordinance shall take effect on and from the first day of February, in the year eighteen hundred and seventy-nine.

Approved February 7th, 1879.

MD. STATE LIBRARY.

BALTIMORE CITY CODE.

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1870, c. 116.

Mayor.

SECTION 1. The inhabitants of the City of Baltimore, qualified by law to vote in said city for members of the House of Delegates, shall on the fourth Wednesday of October, eighteen hundred and sixty-seven, and on the same day in every second year thereafter, elect a person to be Mayor of the City of Baltimore,* who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now, or may hereafter be pre-

*The following are the Mayors of the City of Baltimore from its incorporation as a city to the present time, and when elected:

1797. James Calhoun.
1804. Thorowgood Smith.
1808. Edward Johnson.
1816. George Stiles.
1819. Edward Johnson, elected for unexpired term of Geo. Stiles, deceased.
1820. John Montgomery.
1823. Edward Johnson.
1825. John Montgomery.
1826. Jacob Small, resigned.
1830. William Stewart.
1832. Jesse Hunt.
1835. Samuel Smith, in place of Jesse Hunt, resigned: re-elected, 1836.
1838. Sheppard C. Leakin.
1840. Samuel Brady, resigned.
1842. Solomon Hillen, Jr.
1843. James O. Law.
1844. Jacob G. Davies.
1848. Elijah Stansbury.
1850. J. Hanson Thomas Jerome.
1852. J. Smith Hollins.
1854. Samuel Hinks.
1856. Thomas Swann.
1860. Geo. Wm. Brown, arrested and imprisoned by U. S. Sept. 12, 1861.
1861. John Lee Chapman, mayor *ex-officio*, during remainder of Mayor Brown's term: in 1862, elected.
1867. Robert T. Banks, four years' term under Constitution.
1871. Joshua Vansant.
1875. Ferdinand C. Latrobe.
1877. George P. Kane.

scribed by law; and the term of whose office shall commence on the first Monday of November succeeding his election, and shall continue for two years, and until his successor shall have qualified. Term of office.

2. The City Council of Baltimore shall consist of two branches, one of which shall be called the First Branch, and the other the Second Branch; and each shall consist of such number of members, having such qualification, receiving such compensation, performing such duties, possessing such powers, holding such terms of office, and elected in such manner, as are now, or may hereafter be prescribed by law. City Council. Two branches.

3. An election for members of the First and Second Branch of the City Council of Baltimore shall be held in the City of Baltimore on the fourth Wednesday of October, eighteen hundred and sixty-seven; and for members of the First Branch on the same day in every year thereafter; and for members of the Second Branch on the same day in every second year thereafter; and the qualification for electors of the members of the City Council shall be the same as those prescribed for the electors of Mayor. Time of election of members of Council.

4. The City Council shall meet on the first Monday of November of each and every year, and may continue in session for one hundred and twenty days and no longer; provided, that they may by ordinance or resolution so arrange their sittings that the same may be held continuously, or otherwise; and provided further, that the Mayor may convene the City Council in extra session whenever, and as often as it may appear to him that the public good may require; but no called, or extra session shall last longer than twenty days, exclusive of Sundays. 1868, c. 451. Annual session. Sittings. Called or extra sessions.

5. No person, elected and qualified as Mayor, or as a member of the City Council, shall, during the term for which he was elected, hold any other office of profit or trust, created, Members not to hold any other office.

or to be created, by the Mayor and City Council of Baltimore, or by any law relating to the corporation of Baltimore, or hold any employment, or position, the compensation of which shall be paid, directly or indirectly, out of the city treasury; nor shall any such person be interested, directly or indirectly, in any contract, to which the city is a party; nor shall it be lawful for any person, holding any office under the city, to be interested, while holding such office, in any contract, to which the city is a party.

Nor be interested in contracts.

When Mayor may be removed.

6. The Mayor shall, on conviction in a court of law, of wilful neglect of duty, or misbehavior in office, be removed from office by the Governor of the State, and a successor shall thereafter be elected, as in a case of vacancy.

No debt to be created nor credit given without authority of Legislature and approval of voters.

7. From and after the adoption of this Constitution, no debt, (except as hereinafter excepted,) shall be created by the Mayor and City Council of Baltimore; nor shall the credit of the Mayor and City Council of Baltimore be given, or loaned to, or in aid of any individual, association, or corporation; nor shall the Mayor and City Council of Baltimore have the power to involve the City of Baltimore in the construction of works of Internal Improvement, nor in granting any aid thereto, which shall involve the faith and credit of the city, nor make any appropriation therefor, unless such debt or credit be authorized by an Act of the General Assembly of Maryland, and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place; but the Mayor and City Council may, temporarily, borrow any amount of money to meet any deficiency in the city treasury, or to provide for any emergency arising from the necessity of maintaining the Police, or preserving the safety and sanitary condition of the city, and may make due and proper arrangements and agreements for

Police.

Safety and health of city.

the removal and extension, in whole or in part, of any and all debts and obligations, created according to law before the adoption of this Constitution. Debts before Constitution.

8. All laws and ordinances, now in force, applicable to the City of Baltimore, not inconsistent with this Article, shall be, and they are hereby continued until changed in due course of law. Laws now in force continued.

9. The General Assembly may make such changes in this Article, except in section seventh thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political corporation of Baltimore independent of, or free from the control, which the General Assembly of Maryland has over all such corporations in this State.* General Assembly may make changes. City corporation under its control.

* POWERS OF THE CORPORATION DEFINED BY THE COURT OF APPEALS.—The City of Baltimore and the counties are public territorial divisions of the State, established for public political purposes connected with the administration of the government—possessing the character, and endowed with the powers of corporations, according to the laws severally applicable to each. They are mere instruments of government and parts of the State: as public corporations, they are subject to the control of the Legislature. *Mayor, &c. Balt.* v. *State*, 15 Md. 376; *Mayor, &c. Balt.* v. *Howard*, 20 Md. 335. The Mayor and City Council are but trustees of the public. *State* v. *Graves*, 19 Md. 351. *Groff* v. *Mayor, &c. Frederick city*, 44 Md. 67.

The tenure of their office impresses the ordinances of the Mayor and City Council with liability to change. They could not, if they would, pass an irrevocable ordinance. The corporation cannot abridge nor exceed its own legislative powers. *State* v. *Graves*, 19 Md. 351. *Mayor, &c.* v. *Clunet*, 23 Md. 450. *Mayor, &c.* v. *Hughes*, 1 G. & J. 480. A repealing ordinance of the Mayor, &c., cannot destroy or affect any right which was acquired under a previous ordinance before its repeal. *McMechen* v. *Mayor, &c.*, 2 H. & J. 41. See *State* v. *Graves*, 19 Md. 371. A valid ordinance may be passed, to take effect on the happening of a future contingent event, even where that event involves the assent to its provisions by other parties. Every intendment and presumption ought to be made in support of the acts of corporations where exclusive jurisdiction and power to legislate upon a given subject has been conferred by law. *Mayor, &c. Balt.* v. *Clunet*, 23 Md. 450. *Mayor, &c.* v. *Hughes*, 1 G. & J. 480. The Mayor and City Council have power to pass all ordinances necessary to carry into effect any given power.

STATUTES.

INCORPORATION.

P. L. L., Art. 4, sec. 1.

1. The inhabitants of the City of Baltimore are a Corporation, by the name of the "Mayor and City Council of Baltimore," and by that name shall have perpetual succession, may sue and be sued, may purchase and hold real, personal and mixed property, or dispose of the same for the

Corporate powers.

Glenn v. *Mayor, &c.*, 5 G. & J. 424. *Mayor, &c. Balt.* v. *Marriott*, 9 Md. 160. *Harrison* v. *Mayor, &c.*, 1 Gill, 264. *Methodist Prot. Church* v. *Mayor, &c.*, 6 Gill, 391. *Rittenhouse* v. *Mayor, &c.*, 25 Md. 336. *Horn* v. *Mayor, &c.*, 30 Md. 218. *Mayor, &c.* v. *Moore*, 6 H. & J. 381. *Mayor, &c.* v. *Howard, ibid*, 389.

The Mayor and City Council of Baltimore are the agents and representatives of the inhabitants, or corporators of the city of Baltimore, entrusted with powers specially defined and limited, which can be exercised in the manner and form only prescribed by law. When they transcend these powers their acts, although done *colore officii*, and upon pretence of law, are no more binding upon the corporators than would be the acts of an agent in any other case upon his principal when done beyond the scope of the authority conferred. Where the Mayor and City Council of Baltimore have no power to authorize an act to be done, it being *ultra vires*, they have no power to adopt it after it is done. *Horn* v. *Mayor, &c.*, 30 Md. 218. *Mayor, &c.* v. *Reynolds*, 20 Md. 1.

The same general rules of construction which govern the interpretation of acts of the Legislature are equally applicable to the legislative acts of a municipal corporation. A municipal corporation may pass an ordinance within the limits of its delegated powers, contingent as to its operation and effect on the existence or occurrence of facts german to its subject matter. A law which by its own terms is to have no effect until the happening of a future contingent event, cannot be made effective before the event happens, by any acts or series of supplements passed upon the assumption that the event has happened and that the law is in force. All such acts instead of possessing any curative powers, merely multiply errors. Parties dealing with the agents or officers of a municipal corporation, must at their peril take notice of the limits of the powers both of the municipality and of those who assume to act as its agents or officers. *State ex rela. Mayor, &c.* v. *Kirkley et al.*, 29 Md. 85. *Tome* v. *Parkersburg Branch R. R. Co.*, 39 Md. 75.

benefit of said city, and may have and use a common seal, which may be altered at pleasure.*

PROPERTY.

2. All the property and funds of every kind belonging to or in possession of the city of Baltimore are vested in the said corporation; and the said corporation may receive in trust, and may control for the purpose of such trusts, all money or other property which may have been or shall be bestowed upon such corporation by will, deed, or in any

Ibid, sec. 2.

Power to take and hold property.

Trusts for the poor for municipal, educational and charitable purposes.

* ORIGIN AND BOUNDARIES.—Baltimore town in Baltimore county was laid out under the provisions of the Act of Assembly of 1729, c. 13. The town was extended under the Acts of 1732, c. 14, 1745, c. 9, 1747, c. 21, and 1773, c. 4. Baltimore city was incorporated by the Act of 1796, c. 68. It was separated from Baltimore county by the Constitution of 1851 and the Acts of 1852, cs. 17, 18, 86, 357, 1853, c. 253, and 1858, c. 248.

The present city boundaries were established by virtue of the Act of 1816, c. 209.

The Boundaries of the City, as laid out by the commissioners appointed under this Act, are as follows: Bounded on the north by a line drawn parallel with Baltimore street in the said city, through a point one mile and a half due north from the centre of Baltimore and Calvert streets in the said city, and extending eastwardly seven hundred perches from the said point to a public road passing from the Philadelphia post road, by the dwellings of Amos Loney, Thomas Worthington and others, and westwardly six hundred and forty perches from the same point; on the east, by a line binding on the east side of said road, to the Philadelphia post road, and from the Philadelphia post road, by a straight line, to the northeast corner of Lazaretto lot, including said lot, and thence with the lines of said lot to the Patapsco river; on the south by a line drawn from the Patapsco river, at the termination of the last mentioned line, to the most southern part of Whetstone Point, on the main branch of Patapsco river, and running with and bounding on the said main branch, including the land ceded to the United States on Whetstone Point, for the use of a fort, to the place called the Ferry Point, being the junction of the said main branch with the middle branch aforesaid, and thence due west to the western side of the middle branch aforesaid, and on the west by a line running from the termination of the last mentioned line on the western shore of the middle branch, and binding on the said shore, to the north of Gwynn's Falls, thence up and with the southwest side of Gwynn's Falls to a point opposite to the mouth of Gwynn's Run, thence with a straight course to the mouth of Gwynn's Run, and

other form of gift or conveyance in trust for any general corporation purpose, or in aid of the indigent and poor, or for the general purposes of education, or for charitable purposes of any description within the said city; and the said corporation may lease or otherwise dispose of any property belonging to the city, having first given public notice of such proposed lease or sale in one or more of the public newspapers of said city, at least once a week for three successive weeks before such lease or sale.

Sales and leases by city.

Notice.

WARDS.

Ibid, sec. 3. How divided.

3. The city of Baltimore is divided into twenty wards, according to their present bounds and limits, and it shall be the duty of the corporation to correct the divisions from time to time, so as to preserve as accurately as may be an equal number of inhabitants in each ward.

Re-division.

THE MAYOR.

Ibid, sec. 4. 1870, c. 116.

4. The inhabitants of the city of Baltimore, qualified to vote for members of the House of Delegates shall, on the fourth Wednesday in October in every second year, elect by

Election.

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thence with a straight line to the end of the aforementioned six hundred and forty perch line. As to the Act, 1816, c. 209, and the boundaries of the counties, see *Raab* v. *The State*, 7 Md. 494. *Hammond's lessee* v. *Inloes*, 4 Md. 144, and Public General Laws, Art. I, sec. 10.

Baltimore county had been formed by proclamation as early as 1659. This county included at first all land lying to the north of Anne Arundel county on both sides of the Chesapeake Bay, thus comprising the larger portion, if not the whole of the present counties of Cecil and Kent. The County court was held at Joppa, on the Gunpowder river, from an early period till 1768, when by Act of 1768, c. 14, a court house and prison in Baltimore town were erected (see *Levy Court* v. *Gwynn*, 4 H. & J. 227,) "on the uppermost part of Calvert street next Jones' Falls," where the Battle monument now stands,—and on their completion, the records were removed from Joppa, which has now ceased to be. By the vote of the county, November, 1853, the county seat of Baltimore county was located at Towsontown, under the Act of 1853, c. 452.

ballot a person of known integrity, experience, and sound judgment, twenty-five years of age, ten years a citizen of the United States and five years a resident of said city next preceding the election and assessed on the books of the assessor with property in said city to the amount of five hundred dollars, to be Mayor of the City of Baltimore. Qualifications.

5. In case of a vacancy in the office of Mayor, the president of the first branch City Council, or if no president of the first branch, or in his absence from the city, the president of the second branch, shall, within five days after such vacancy, order a new election, giving at least fifteen days' notice of the same by advertisement in all the newspapers in said city; and the president of the first branch of the City Council shall be *ex-officio* Mayor until a new election.* Ibid, sec. 5. Vacancy in office; how filled.

6. In case of the sickness or necessary absence of the Mayor, the president of the first branch, or if no president of the first branch, or in his absence from the city or sickness, the president of the second branch, shall *ex officio* be Mayor of the city during the continuance of such sickness or necessary absence of the Mayor. P. L. L., art. 4, sec. 6. Who to act in case of sickness or absence.

7. The term of office of the Mayor shall commence on the first Monday of November succeeding his election, and he shall receive such salary as shall have been provided by ordinance previous to his election. Ibid, sec. 7. Term of office.

8. The Mayor shall in virtue of his office have all the jurisdiction and powers of a justice of the peace, except as to the recovery of debts, and may call upon any officer of the city entrusted with the receipt and expenditure of public money for a statement of his accounts as often as he or the corporation may conceive necessary. Ibid, sec. 8. May act as justice of the peace. May call officers to account.

* See sec. 21, and the Act of 1878, c. 427, under Elections, Art. XVII.

Ibid, sec. 9.

To see ordinances executed.

Message to Council.

9. He shall see that the ordinances are duly and faithfully executed, and shall report annually to the corporation during the first five days of their session the general state of the city with an accurate account of the money received and expended, to be published for the information of the citizens.

Ibid, sec. 10.

Ordinances to be approved.

May return ordinance with reasons for not approving.

How passed by Council over veto.

10. All ordinances passed by the City Council shall be sent to the Mayor for his approbation, and when approved by him shall become a law; but if the Mayor shall not approve of any ordinance, he shall return the same within five days, with his reasons in writing therefor, and if three-fourths of both branches of the City Council, on consideration thereof, approve of the ordinance, it shall then be an ordinance to all intents and purposes.

Ibid, sec. 11.

When ordinance not returned.

11. If any ordinance shall not be returned by the Mayor within five days after it shall have been presented to him, the same shall be a law in the same manner as if he had approved it, unless the City Council by their adjournment prevent its return.

P. G. L., art. 37, sec. 48.

Ordinances, evidence.

12. The ordinances and resolutions of the Mayor and City Council of Baltimore may be read in evidence from the printed volumes thereof published by the authority of said corporation.

CITY COUNCIL.

P. L. L., art. 4, sec. 12.

Two branches.

13. The Council of the City of Baltimore shall consist of two branches, one of which shall be denominated the first branch and the other the second branch.

Ibid, sec. 13.

First branch.

14. The first branch shall consist of one member from each ward of the city, who shall be a citizen of the United States, above the age of twenty-one years, a resident of the city three years preceding his election, and at the time thereof a resident of the ward for which he is elected, and assessed on the books of the assessor to the amount of three hundred dollars, and shall hold his office for one year.

15. The second branch shall consist of one member from every two contiguous wards, who shall be a citizen of the United States, of the age of twenty-five years, and a resident of the city four years previous to his election, and assessed on the books of the assessor to the amount of five hundred dollars, and shall be elected every second year and hold his office for two years, and shall be a resident at the time of his election of one of the wards from which he is elected. Ibid, sec. 14. Second branch.

16. The election for members of the first branch shall be held on the fourth Wednesday of October in each year, and shall be held by wards, and no person shall be entitled to vote for any but the member for the ward of which he is resident. Ibid, sec. 15. Election for First branch.

17. The election for the members of the second branch shall be held on the fourth Wednesday of October in every second year. Ibid, sec. 16. For Second branch.

18. The qualification of electors of members of the City Council shall be the same as those of electors of Mayor. Ibid, sec 17. Qualifications of electors.

19. All vacancies in the City Council shall be filled without delay from the ward or wards in which such vacancy occurs, in such manner as has been or may be directed by ordinance. Ibid, sec. 18. Vacancies.

20. The judges of election shall, within three days after an election of members of the first branch, notify to the persons having the greatest number of legal votes in their respective wards that they are duly elected; and the said judges shall make the return of all elections for Mayor and members of the City Council and deposit their polls as directed by ordinance of the corporation. Ibid, sec. 19. Duty of judges of elections.

21. The City Council shall meet on the first Monday of November of each and every year, and may continue in session for one hundred and twenty days, and no longer; pro- Ibid, sec. 20. 1868, c. 451, 1865, c. 176. Time of meeting.

Provisos. vided, that they may by ordinance or resolution so arrange their sittings that the same may be held continuously or otherwise; provided further, that the Mayor may convene the said City Council in extra session, as he may now do by virtue of the 4th section of the 11th article of the Constitution.

Quorum. Two-thirds of each branch shall be a quorum to do business, but a smaller number may adjourn from day to day.

P. L. L., art. 4, sec. 21. 22. They may compel the attendance of absent members, in such manner and under such penalties as they may by ordinance provide; they shall appoint their respective presidents, who shall preside at all their sessions and shall vote on all questions.

Ab-ent members.

Presidents of branches.

Ibid, sec. 22. 23. They shall judge of the elections, returns and qualifications of their own members, and may, with the concurrence of three-fourths of the whole, expel any member for disorderly behavior or malconduct in office, but not a second time for the same cause.

Qualifications, elections, returns, &c., of members.

Expelling.

Ibid, sec. 23. 24. They shall settle their rules of procedure, appoint their own officers, regulate their respective fees, and remove them at pleasure; they shall keep a journal of their proceedings, and enter the yeas and nays on any question, resolve or ordinance, at the request of any member; and their deliberations shall be public.

Rules; officers; fees.

Journal.

Yeas and nays.

Deliberations public.

Ibid, sec. 24. 25. They shall ascertain by ordinance the compensation for their services, which shall not be increased during their continuance in office.

Compensation to members.

POWERS OF MAYOR AND COUNCIL.

Ibid, sec. 33. 26. The Mayor and City Council shall have power to pass all ordinances necessary to give effect and operation to all the powers vested in the corporation of the city of Baltimore, but the ordinances of the said corporation shall be in no wise obligatory upon the persons of non-residents of said

Ordinances.

Non-residents of city.

city, unless in cases of intentional violation of ordinances previously promulgated.*

CITY OFFICERS.

27. The Mayor and City Council may pass ordinances regulating the manner of appointing persons to office under the corporation, which they are or may be authorized by law to appoint, but unless such ordinances be passed, the Mayor shall nominate, and, by and with the advice and consent of a convention of the two branches of the City Council, shall appoint all officers under the corporation, except the Register of the City and the clerks employed by the city or under their authority; the Register shall be appointed by a convention of the two branches of the City Council biennially, and shall be commissioned by the Mayor, but shall be removable at pleasure by a convention of the said two branches; all vacancies happening during the recess of the City Council shall be filled by the Mayor, until the ensuing session of the City Council.

Ibid, sec. 25.

Appointment of officers to be regulated by ordinances.

When Mayor to appoint with consent of Council.

Appointment and removal of Register.

Vacancies; how filled.

28. All persons holding office under the corporation of the city shall, unless a different term of holding be provided by law or ordinance, hold such office at the pleasure of the Mayor, and the issuing of a commission by the Mayor to any person as an officer of said corporation shall be evidence *prima facie* in any court in this State of the regularity and sufficiency of the appointment and qualifications of such person as such officer.

Ibid, sec. 26. 1868, c. 2.

What officers to hold at pleasure of Mayor.

Commission, evidence.

* The Act of 1876, c. 367, enacts that, any municipal corporation, in this State, against which there is a judgment in any court of law in this State, shall have power to levy a sum of money upon the assessable property of such municipality sufficient to pay such judgments. See *Watts* v. *President, &c. Port Deposit*, 46 Md. 500.

ORDINANCES.

THE MAYOR.

No. 60, Ap. 12, '71.
Salary.

1. The compensation of the Mayor of the City of Baltimore is hereby fixed at five thousand dollars per annum.

No. 20, R. O.
Salary of Mayor *ex-officio*.

2. The president of either branch of the City Council, while acting as Mayor, shall be allowed the sum of seven dollars per day, for each and every day he shall act as such, and the Register of the City is hereby authorized and required to pay such sum out of any money in the treasury not otherwise appropriated.

No. 4, Dec. 3, '67.
Authority to execute appeal bonds, &c.
Indemnification.

3. In case of litigation in which the interests of the Mayor and City Council of Baltimore are concerned, the Mayor is authorized to execute in association with any other suitable person or persons he may procure, appeal bonds, injunction bonds, securityships for costs or other legal obligations, which may be necessary for the due prosecution of the interests of the municipal corporation in such cases before the courts; and the faith of the corporation is pledged for the due indemnification of the party or parties who may make such engagements or obligations on its behalf.*

MAYOR'S SECRETARY.

No. 92, May 15, '75.
Duties.
Salary.

4. There shall annually be appointed as other city officers are appointed, an officer who shall be styled the Mayor's Secretary, who shall perform such duties consistent with the character of the office as the Mayor may direct. He shall attend at the Mayor's office from 9 o'clock A. M. to 3 o'clock P. M., and at such other times as the Mayor may require his services. He shall receive as a salary for his services the sum of sixteen hundred dollars per annum.

* The Mayor could not execute appeal bonds, &c., before this ordinance. See *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md. 52.

MAYOR'S CLERK.

5. There shall annually be appointed as other city officers are appointed, a clerk to the Mayor, whose duty it shall be to attend at the office of the Mayor during office hours, and to perform such duties as the Mayor may prescribe; and the said clerk shall also act as secretary to the Mayor during the absence of the secretary, keep a record of all ordinances and resolutions presented to the Mayor and signed by him, and also of all permits for various purposes which may be issued from the Mayor's office. He shall receive as a salary for his services the sum of twelve hundred dollars per annum. Ibid, s. 2. Duties. Salary.

6. Neither of the aforegoing officers shall absent himself from duty without the permission of the Mayor. Ibid, s. 8. Not to be off duty without Mayor's permission.

CITY COUNCIL.

7. If any member of the City Council shall neglect to appear at the hour of meeting in the branch of which he is a member, or shall, after appearance, absent himself before the hour of adjournment, without leave first obtained of the president of the branch of which he is a member, such person shall forfeit and pay a sum not exceeding two dollars for each offence, unless he is excused by the branch of which he is a member. No. 3, s. 1, R. O. Penalty for absence.

8. The fines and forfeitures incurred under this ordinance shall be deducted out of any allowance due to the member incurring the same; and if such member shall not have due to him a sum sufficient to discharge and pay the fines and forfeitures incurred as aforesaid, the balance or sum remaining due shall and may be collected in the same manner as other fines and forfeitures are and may be collected. Ibid, s. 2. Fines, how collected.

9. If any member shall not attend during the session of the City Council, he shall transmit to the president of the Ibid, s. 3.

Absence during session.

branch of which he is a member a satisfactory excuse, in writing, during the session, or he may be fined in the discretion of his branch, not exceeding two dollars a day for each day he shall so absent himself.

Ibid, s. 4.

Adjournment.

10. Neither branch shall adjourn, without the consent of the other, for a longer time than one day during the session.

No. 59. s. 1, April 12, '71.

Compensation.

11. The members of the City Council shall each receive one thousand dollars per annum, as a compensation for their services.

No. 3, s. 6, R. O. No. 90, Oct. 5, '64. No. 32, Mar, 21, '59.

Not to hold any other office of emolument under corporation.

12. It shall not be lawful for any member of the City Council to be appointed or to accept appointment to any office or clerkship under the corporation during the term for which he was elected as a member of the City Council, the salary or emolument of which are fixed and determined by the Mayor and City Council, whether said appointment be made by the Mayor individually, or by the Mayor and City Council in convention, or by any other officer or officers of the city.

No. 3, s. 7, R. O.

Duty of chief clerks.

Journal, petitions, messages and reports to be delivered to Register.

When clerks to be paid by Register.

13. It shall be the duty of each of the chief clerks of the City Council, within thirty days after each and every session, to deliver, in person, to the Register of the City, the journal of his respective branch of the City Council; also all petitions, memorials, messages, reports and communications of every description, which may have been received during the session, and which may be in his possession at the close thereof; and the Register of the City is hereby directed to withhold from said clerk or clerks, one half of the amount or amounts which may be due him or them, until he or they shall have performed all the duties hereinbefore prescribed.

Ibid, s. 8.

Chief clerk to endorse papers.

14. The said clerks shall, before they deliver the papers aforesaid, endorse each and every one in a proper manner, and file them in separate bundles.

15. It shall be their duty to furnish to the Printer appointed by the Council to do the printing required by that body, the proceedings of each branch, together with all petitions, memorials, communications, messages, reports of committees, and such other documents as shall be directed to be printed. Ibid, s. 9., No. 6, Nov. 21, '71. To furnish proceedings to city printer.

16. A copy of the journal of each day's proceedings of the respective branches of the City Council shall be printed on writing paper corresponding in size and margins with that on which the daily proceedings of the respective branches of the City Council are now or may hereafter be printed. No. 30, Mar. 12, '59. Copy of journal to be printed on writing paper.

17. It shall be the duty of each of the chief clerks of the City Council to receive from the City Printer a copy of the journal of each day's proceedings of the branch of which he is clerk, printed on writing paper, as provided in the preceding section, which copy, when revised, shall be signed by the respective clerk and president of said branch, and shall be, by said clerks respectively, delivered to the Register of the City, by whom the same shall be bound in a substantial manner, and preserved in the City Library; which said certified journals shall be evidence of the proceedings of the respective branches of the City Council. No. 20, Feb. 18, '59. No. 30, Mar. 12, '59. No. 129, Nov. 5, '74. Clerks to receive from printer of journal copy of same on writing paper. To be delivered to Register. Preserved in city library. Evidence.

18. The clerks of each branch of the City Council, in engrossing the ordinances and resolutions passed by the City Council, shall cause the same to be done on paper of good quality and uniform size, each sheet with an inner margin of at least two inches in width, the better to permit the same to be bound as provided for in the next succeeding section. No. 3, s. 14 R. O. Engrossing.

19. The Register shall cause the original engrossed copies of the ordinances and resolutions, passed by the City Council, to be suitably bound in a volume, labelled with the year or years of the several sessions during which the same were No. 8, s. 7, R. O. Register to have bound engrossed ordinances.

passed, and properly paged and supplied with an index of the full title of each of said ordinances and resolutions.

No. 78, May 12, '59.

Register to send copies of ordinances to heads of departments.

20. It shall be the duty of the Register, immediately after the approval of any ordinance or resolution of the City Council, affecting any of the departments of the city government, either by ordering them to do certain work or otherwise, to send a copy of such ordinance or resolution to the head of department so alluded to.

No. 8, s. 16, R. O.

City Librarian to furnish ordinances, &c., to State library, &c

No. 34, Ap. 3, '72.

Ordinances, &c. to be sent to Peabody Institute.

21. The City Librarian shall annually furnish to the State Library two copies, and to the Library Company of the Baltimore Bar, two copies of the ordinances and journals for each year; and to the Peabody Institute of the city of Baltimore one copy of the ordinances, journals, reports and other publications of the city for each year.

Ibid, s. 9. Res. No. 450, Nov. 6, '73.

Publication of ordinances, &c., in newspapers.

22. It shall be the duty of the Register to cause all the ordinances and resolutions of the city, of a public or general nature, to be published in such and so many newspapers, [one of which shall be the German newspaper of the city having the largest circulation,] as he may deem best calculated to give general information to the citizens; provided that no higher rate or charge be allowed for publication in the German newspaper than shall be charged for printing the same ordinances and resolutions in the newspapers printed in the English language, and that the whole expense to be thereby incurred shall not exceed the annual appropriation for that object; and it shall be his duty carefully to examine the proof sheets of the ordinances and resolutions, as they are printed by the City Printer in book form, and to furnish an index to the same; which books shall be deposited in the City Library.

Register to examine proof sheets.

Index to ordinances.

No. 8, s. 12, R. O.

Newspaper publishers to be paid quarterly.

23. The Register is hereby directed, on the certificate of the Comptroller, with the approbation of the Mayor, to pay quarterly to the publishers of such papers as may be desig-

nated for that purpose, all bills for public or corporation printing which may be required by ordinance, or which shall be ordered by any of the corporate authorities of the city; provided, that the whole expense thereby incurred shall not exceed the amount annually appropriated for that purpose; and that all the bills aforesaid shall be certified by the several parties presenting them, to be charged at the usual customary prices charged for such work, from which the Resister shall deduct twenty-five per centum upon the payment thereof.

Proviso.

25 per cent. to be deducted.

24. It shall be the duty of the assistant clerk of the first branch of the City Council, under the direction of the chief clerk, with the approval of the president of the first branch, to engross all ordinances and resolutions passed by the Council which originate in the first branch; to have all petitions, memorials, messages, reports and communications, properly endorsed, ready for the signature of the chief clerk; to write all messages from the first to the second branch, and to prepare all communications rendered necessary by order or resolution of the branch, ready for the signature of the chief clerk; to convey all messages from the first to the second branch, and to perform all such other duties as may be required of him by the Council in connection with their business, except the preparation of the manuscript journal for the City Printer, and the recording of the approved proceedings in the regular journal of the session; provided, however, that in case of the absence from sickness or other cause of the chief clerk, he shall perform said duty also.

No. 3, s. 10, R. O.

Duty of assistant clerk of first branch.

Proviso.

25. The chief clerks of the City Council shall on the last day of every session, lay before their respective branches a per diem sheet with the name of every member, the number of days he has attended, as recorded on their journals for the said session, and the amount carried out to each name; and

Ibid, s. 11.

Per diem sheet.

shall, furthermore, deliver said sheet to the Register of the City within five days after each session.

Ibid, s. 12.

Clerk to the two branches in convention.

26. The clerk of the second branch is constituted the chief clerk of the two branches when in convention, and as such, shall immediately after the adjournment of a convention, notify the Mayor of the adoption or rejection of any nomination, and of all appointments made by said convention.

Ibid, s. 13.

Weekly statements of appropriations.

27. It shall be the duty of the clerks of the two branches of the City Council to prepare weekly statements of the appropriations of money passed by the two branches of the City Council, and on each Monday during the session, to place the same on the journals of the respective branches of the City Council, and such statements shall show the aggregate amount of appropriations up to the time of preparing them.

OATH.

No. 1, Nov. 31, '67.

Oath of members and corporation officers.

28. Every member of the branches of the City Council and every corporation officer, shall respectively before entering on his duty as such officer, take and subscribe the oath set forth in the sixth section of Article I of the Constitution, and no other oath.*

*This ordinance recites that sec. 6, Art. 1 of the Constitution requires, that "every person elected or appointed to any office of profit or trust under this Constitution, or under the laws made pursuant thereto, shall, before he enters on the duties of such office," take the oath set forth in said section, and that the 37th article of the Bill of Rights ordains, "nor shall the Legislature prescribe any other oath of office than the oath prescribed by the Constitution."—The oath is as follows: I, ———, do swear, (or affirm, as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ———, according to the Constitution and Laws of this State, (and, if a governor, senator, member of the House of Delegates, or judge,) that I will not directly or indirectly, receive the profits, or any part of the profits, of any other office during the term of my acting as ———.

CLAIMS BEFORE COUNCIL.

29. No claim shall be considered by the Council after the period of limitation has elapsed by which under the law of the State of Maryland such claim would be barred. No. 88, June, '71 Limitations on claims.

30. The Register shall pay no claim, order or demand made upon him for committee or other expenses of the City Council not authorized by ordinance or resolution, unless he shall have produced to him, together with the warrant of the City Comptroller, the account of such expenses, with the endorsement and approval thereon of a majority of the members of the joint standing committee on claims, existing at the time such expenses were incurred. No. 23, s. 1, Mar. 16, '71. Payments by Register.

31. It shall be the duty of the joint standing committee on claims of each Council to examine carefully all accounts presented to them, of committee or other expenses of the Council, not authorized by resolution or ordinance, and they shall require satisfactory evidence to be produced to them of the correctness of such accounts; and if for committee expenses, they shall require the endorsement of a majority of the committee interested, and a full statement of the charges made, and evidence of the propriety and reasonableness of such charges. They shall then endorse on such accounts their approval or rejection thereof, and certify the same to the Comptroller. Ibid, s. 2. Duty of Joint Standing Committee on Claims. A statement of charges.

FISCAL YEAR.

32. The fiscal year of the corporation shall begin on the first day of January, and end on the thirty-first day of December in every year. No. 57, June 29, '77. Fiscal year.

33. The Register of the City, and all other officers of the corporation, shall make to the Mayor and City Council their annual reports and returns of all matters, as required by law, connected with their respective offices, as soon after the said thirty-first day of December as practicable. Ibid s. 2. When officers to make reports and returns.

No. 29, May 2, '77.
Departments, &c., to report indebtedness.

34. The heads of the several departments of the city government, as well as the officers or commissions that are charged with the making of contracts, or the expenditure of the public money, shall, in making up their annual reports to the Mayor and City Council, or in submitting reports to the Comptroller, as the case may be, state the amount of their indebtedness respectively, and for what purposes or object such indebtedness was incurred.

Ibid, s. 3.
Comptroller to report indebtedness over appropriation.

35. The Comptroller shall, as soon after the termination of each fiscal year as may be practicable, report to the City Council the indebtedness of any department, commission, &c., whenever such indebtedness, added to the sum expended, will produce an excess over and above the sum appropriated for the use of the department, commission, &c., as the case may be.

No. 4, s. 4, R. O.
Not to exceed appropriation.
Penalty.

36. If any officer or officers of the corporation, shall, without authority, expend or contract for the expending any public money, or shall in any case exceed the appropriation, he or they shall be held liable in his or their individual capacity for the amount so improperly expended or contracted to be expended.

Res. No. 250, Oct. 5, '69.
Register to notify city officers as to expenditures.
When Comptroller to withhold his warrant.

37. It shall be the duty of the Register to notify all officers of the corporation that under and by virtue of the preceding section, they and each of them are liable in their individual capacities for any violation of the provisions of said section, and enjoin on them the necessity of regulating their expenditures to the amount appropriated by the Mayor and City Council. And it shall be the duty of the Comptroller to withhold his warrant from any officer or officers of the corporation for the payment of any moneys after the amount appropriated for the specific object shall have been expended.

WARDS.

38. The limits of the several wards and precincts are as follows:*

FIRST WARD.—Beginning at the intersection of Monument street and Wolfe street; thence east along the south side of Monument street to city limits; thence south along city limits to Lazaretto; thence around the water line of Northwest Branch to Fell street; thence along the east side of Fell street to Wolfe street; thence north along the east side of Wolfe street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of the city limits and the water line (at the Lazaretto); thence around the water line of the Northwest Branch to Luzerne street; thence along the east side of Luzerne street to Eastern avenue; thence along the south side of Eastern avenue to the city limits; thence south along the city limits to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Luzerne street and the water line; thence along the water line to Chester street; thence along the east side of Chester street to Canton avenue; thence along the south side of Canton avenue to Choptank street; thence along the east side of Choptank street to Eastern avenue; thence along the south side of Eastern avenue to Luzerne street; thence along the west side of Luzerne street, south to the place of beginning.

*These are the boundaries of the twenty wards of Baltimore city as established by the Mayor and City Council in 1860, under ordinance No. 79, Sept. 18, 1860, and of the several precincts of said wards as re-established by the Board of Police Commissioners under the Act of 1876, ch. 247.—(See Article XVII, "Elections.")

The city was divided into twelve wards by Act of 1817, ch. 148, and finally into twenty wards by the Acts of 1844, ch. 282; 1845, ch. 238 and 1847, ch. 175.

Precinct No. 3.—Beginning at the intersection of Chester street and the water line, thence along the water line to Fell street; thence along the northeast side of Fell street to Wolfe street; thence along the east side of Wolfe street to Bank street; thence along the south side of Bank street to Washington street; thence along the west side of Washington street to Eastern avenue; thence along the south side of Eastern avenue to Choptank street; thence along the west side of Choptank street to Canton avenue; thence along the north side of Canton avenue to Chester street; thence along the west side of Chester street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of the city limits and Eastern avenue; thence along the north side of Eastern avenue to Washington street; thence along the east side of Washington street to Bank street; thence along the north side of Bank street to Wolfe street; thence along the east side of Wolfe street to Gough street; thence along the south side of Gough street to Chester street; thence along the west side of Chester street to Bank street; thence along the north side of Bank street to the city limits; thence along the city limits, south, to the place of beginning.

Precinct No. 5.—Beginning at the intersection of the city limits and Bank street; thence along the north side of Bank street to Chester street; thence along the east side of Chester street to Gough street; thence along the north side of Gough street to Wolfe street; thence along the east side of Wolfe street to Pratt street; thence along the south side of Pratt street to the city limits; thence along the city limits, south, to the place of beginning.

Precinct No. 6.—Beginning at the intersection of the city limits and Pratt street; thence along the north side of Pratt street to Wolfe street; thence along the east side of Wolfe street to Baltimore street; thence along the south side of

Baltimore street to the city limits; thence along the city limits, south, to the place of beginning.

Precinct No. 7.—Beginning at the intersection of Chester street and Baltimore street; thence along the north side of Baltimore street to Wolfe street; thence along the east side of Wolfe street to Orleans street; thence along the south side of Orleans street to Chester street; thence along the west side of Chester street to the place of beginning.

Precinct No. 8.—Beginning at the intersection of the city limits and Baltimore street; thence along the north side of Baltimore street to Chester street; thence along the east side of Chester street to Orleans street; thence along the north side of Orleans street to Wolfe street; thence along the east side of Wolfe street to Monument street; thence along the south side of Monument street to the city limits; thence along the city limits, south, to the place of beginning.

SECOND WARD.—Beginning at the intersection of Bank street and Wolfe street; thence south along the west side of Wolfe street to Fell street; thence southeast along the southwest side of Fell street to water line; thence along the water line of Northwest Branch and Jones' Falls to Eastern avenue; thence east along the south side of Eastern avenue to Central avenue; thence north along the east side of Central avenue to Bank street; thence east along the south side of Bank street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of the water line and Fell street; thence along the southwest side of Fell street to Wolfe street; thence along the west side of Wolfe street to Canton avenue; thence along the south side of Canton avenue to Bond street; thence along the east side of Bond street to Alice Anna street; thence along the north side of Alice Anna street to Broadway; thence along

the east side of Broadway to the water line; thence along the water line to the place of beginning.

Precinct No. 2.—Beginning at the intersection of the water line and Broadway; thence along the west side of Broadway to Alice Anna street; thence along the south side of Alice Anna street to Caroline street; thence along the east side of Caroline street to Dock street; thence along the south side of Dock street to the water line; thence along the water line to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Wolfe street and Canton avenue; thence along the north side of Canton avenue to Bond street; thence along the east side of Bond street to Bank street; thence along the south side of Bank street to Wolfe street; thence along the west side of Wolfe street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Alice Anna street and Bond street; thence along the north side of Alice Anna street to Caroline street; thence along the west side of Caroline street to Lancaster street; thence along the north side of Lancaster street to Jones' Falls; thence along the east side of Jones' Falls to Eastern avenue; thence along the south side of Eastern avenue to Central avenue; thence along the east side of Central avenue to Bank street; thence along the south side of Bank street to Bond street; thence along the west side of Bond street to the place of beginning.

THIRD WARD.—Beginning at the intersection of Central avenue and Baltimore street; thence south along the east side of Central avenue to Bank street; thence east along the north side of Bank street to Wolfe street; thence north along the west side of Wolfe street to Baltimore street; thence west along the south side of Baltimore street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Bank street and Wolfe street; thence along the north side of Bank street to Broadway; thence along the east side of Broadway to Pratt street; thence along the south side of Pratt street to Wolfe street; thence along the west side of Wolfe street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Bank street and Broadway; thence along the north side of Bank street to Caroline street; thence along the east side of Caroline street to Pratt street; thence along the south side of Pratt street to Broadway; thence along the west side of Broadway to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Pratt street and Wolfe street; thence along the north side of Pratt street to Broadway; thence along the east side of Broadway to Baltimore street; thence along the south side of Baltimore street to Wolfe street; thence along the west side of Wolfe street to the place of beginning.

Precinct No. 4 —Beginning at the intersection of Pratt street and Broadway; thence along the north side of Pratt street to Caroline street; thence along the east side of Caroline street to Baltimore street; thence along the south side of Baltimore street to Broadway; thence along the west side of Broadway to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Bank street and Caroline street; thence along the north side of Bank street to Central avenue; thence along the east side of Central avenue to Baltimore street; thence along the south side of Baltimore street to Caroline street; thence along the west side of Caroline street to the place of beginning.

FOURTH WARD.—Beginning at the intersection of Central avenue and Fayette street; thence south along the west

side of Central avenue to Eastern avenue; thence west along the north side of Eastern avenue around to Jones' Falls; thence north along the line of Jones' Falls to Fayette street; thence east along the south side of Fayette street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Eastern avenue and Central avenue; thence along the west side of Central avenue to Stiles street; thence along the south side of Stiles street to Exeter street; thence along the west side of Exeter street to Pratt street; thence along the south side of Pratt street to East Falls avenue; thence along East Falls avenue to Eastern avenue; thence along the north side of Eastern avenue to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Pratt street and Exeter street; thence along the west side of Exeter street to Fayette street; thence along the south side of Fayette street to Jones' Falls; thence along the east side of Jones' Falls to Pratt street; thence along the north side of Pratt street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Stiles street and Central avenue; thence along the north side of Stiles street to Exeter street; thence along the east side of Exeter street to Fayette street; thence along the south side of Fayette street to Central avenue; thence along the west side of Central avenue to the place of beginning.

FIFTH WARD.—Beginning at the intersection of Fayette street and Central avenue; thence westward along the north side of Fayette street to Jones' Falls; thence north along the line of Jones' Falls to Hillen street; thence northeasterly along the southeasterly side of Hillen street to Monument street; thence east along the south side of Monument street to Central avenue; thence south along the west side of Central avenue to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Fayette street and Central avenue; thence along the west side of Central avenue to Orleans street; thence along the south side of Orleans street to Forrest street; thence along the west side of Forrest street to Low street; thence along the southeast side of Low street to Chestnut street; thence along the northeast side of Chestnut street to Douglas street; thence along the north side of Douglas street to East street; thence along the northeast side of East street to Fayette street; thence along the north side of Fayette street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Central avenue and Orleans street; thence along the west side of Central avenue to Monument street; thence along the south side of Monument street to Aisquith street; thence along the east side of Aisquith street to Low street; thence along the southeast side of Low street to Forrest street; thence along the northeast side of Forrest street to Orleans street; thence along the north side of Orleans street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Aisquith street and Monument street; thence along the south side of Monument street to Hillen street; thence along the southeast side of Hillen street to Chestnut street; thence along the northeast side of Chestnut street to Low street; thence along the northwest side of Low street to Aisquith street; thence along the west side of Aisquith street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Hillen street and Chestnut street; thence along the southeast side of Hillen street to Jones' Falls; thence along the northeast side of Jones' Falls to Low street; thence along the northwest side of Low street to Chestnut street; thence along the southwest side of Chestnut street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Fayette street and East street; thence along the west side of East street to Douglas street; thence along the south side of Douglas street to Chestnut street; thence along the southwest side of Chestnut street to Low street; thence along the southeast side of Low street to Jones' Falls; thence along the northeast side of Jones' Falls to Fayette street; thence along the north side of Fayette street to the place of beginning.

SIXTH WARD.—Beginning at the intersection of Monument street and Central avenue; thence east along the south side of Monument street to Wolfe street; thence south along the west side of Wolfe street to Baltimore street; thence west along north side of Baltimore street to Central avenue; thence north along the east side of Central avenue to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Baltimore street and Wolfe street; thence west along the north side of Baltimore street to Bond street; thence along the east side of Bond street to Fayette street; thence along the south side of Fayette street to Wolfe street; thence along the west side of Wolfe street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Wolfe street and Fayette street; thence north along the west side of Wolfe street to Monument street; thence along the south side of Monument street to Broadway; thence along the east side of Broadway to Fayette street; thence along the north side of Fayette street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Monument street and Broadway; thence west along the south side of Monument street to Caroline street; thence along the east side of Caroline street to Orleans street; thence along the

north side of Orleans street to Broadway; thence along the west side of Broadway to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Monument street and Caroline street; thence west along the south side of Monument street to Central avenue; thence along the east side of Central avenue to Orleans street; thence along the north side of Orleans street to Caroline street; thence along the west side of Caroline street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Central avenue and Orleans street; thence south along the east side of Central avenue to Holland street; thence along the north side of Holland street to Caroline street; thence along the east side of Caroline street to Fayette street; thence along the northwest side of Fayette street to Broadway; thence along the west side of Broadway to Orleans street; thence along the south side of Orleans street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Baltimore street and Central avenue; thence east along the north side of Baltimore street to Bond street; thence along the west side of Bond street to Fayette street; thence along the southeast side of Fayette street to Caroline street; thence along the west side of Caroline street to Holland street; thence along the south side of Holland street to Central avenue; thence along the east side of Central avenue to the place of beginning.

SEVENTH WARD.—Beginning at the intersection of Monument street and Ensor street; thence north along the east side of Ensor street to Harford avenue; thence north along the east side of Harford avenue to city limits; thence east and south along city limits to Monument street; thence

west along the north side of Monument street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Monument street and East Boundary avenue; thence westerly along the north side of Monument street to Broadway; thence along the east side of Broadway to Eager street; thence along the south side of Eager street to East Boundary avenue; thence along the west side of East Boundary avenue to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Monument street and Broadway; thence westerly along the north side of Monument street to Caroline street; thence along the east side of Caroline street to Madison street; thence along the south side of Madison street to Bond street; thence along the east side of Bond street to Eager street; thence along the south side of Eager street to Broadway; thence along the west side of Broadway to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Monument street and Gay street; thence easterly along the north side of Monument street to Caroline street; thence along the west side of Caroline street to Madison street; thence along the north side of Madison street to Bond street; thence along the west side of Bond street to Eager street; thence along the south side of Eager street to Gay street; thence along the southeast side of Gay street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Monument street and Ensor street; thence easterly along the north side of Monument street to Gay street; thence along the northwest side of Gay street to Chew street; thence along the south side of Chew street to Ensor street; thence along the east side of Ensor street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Ensor street and Chew street; thence easterly along the north side of Chew street to Gay street; thence along the northwest side of Gay street to Eager street; thence along the south side of Eager street to Aisquith street; thence along the west side of Aisquith street to Harford avenue; thence along the southeast side of Harford avenue to Ensor street; thence along the east side of Ensor street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Harford avenue and John street; thence easterly along the south side of John street to Caroline street; thence along the west side of Caroline street to Eager street; thence along the north side of Eager street to Aisquith street; thence along the east side of Aisquith street to Harford avenue; thence along the east side of Harford avenue to the place of beginning.

Precinct No. 7.—Beginning at the intersection of Harford avenue and John street; thence east along the north side of John street to Washington street; thence along the west side of Washington street to Gay street; thence along the northwest side of Gay street to North Boundary avenue; thence along the south side of North Boundary avenue to Harford avenue; thence along the east side of Harford avenue to the place of beginning.

Precinct No. 8.—Beginning at the intersection of Ann street and Eager street; thence westerly along the north side of Eager street to Caroline street; thence along the east side of Caroline street to John street; thence along the south side of John street to Ann street; thence along the west side of Ann street to the place of beginning.

Precinct No. 9.—Beginning at the intersection of Ann street and Eager street; thence northerly along the east side of Ann street to John street; thence along the south side of

John street to Washington street; thence along the east side of Washington street to Gay street; thence along the southeast side of Gay street to North Boundary avenue; thence along the south side of North Boundary avenue to East Boundary avenue; thence along the west side of East Boundary avenue to Eager street; thence along the north side of Eager street to the place of beginning.

EIGHTH WARD.—Beginning at the intersection of Hillen street and Jones' Falls; thence northeast along the northwest side of Hillen street to Ensor street; thence north along the west side of Ensor street to Harford avenue; thence north along the west side of Harford avenue to city limits; thence west along city limits to Jones' Falls; thence southwardly along Jones' Falls to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Jones' Falls and Hillen street; thence along the northwest side of Hillen street to Monument street; thence along the south side of Monument street to Forrest street; thence along the east side of Forrest street to Front street; thence along the southeast side of Front street to Centre street; thence along the southwest side of Centre street to Jones' Falls; thence along the east side of Jones' Falls to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Jones' Falls and Centre street; thence along the northeast side of Centre street to Front street; thence along the northwest side of Front street to Forrest street; thence northerly to the northeast corner of Greenmount avenue and Monument street; thence along the north side of Monument street to Ensor street; thence along the west side of Ensor street to Chew street; thence along the south side of Chew street to Harford avenue; thence along the southeast side of Harford avenue to Madison street; thence along the south side of

Madison street to Jones' Falls; thence along the east side of Jones' Falls to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Jones' Falls and Madison street; thence along the north side of Madison street to Harford avenue; thence along the northwest side of Harford avenue to Chew street; thence along the north side of Chew street to Ensor street; thence along the west side of Ensor street to Eager street; thence along the south side of Eager street to Jones' Falls; thence along the east side of Jones' Falls to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Jones' Falls and Eager street; thence along the north side of Eager street to Harford avenue; thence along the northwest side of Harford avenue to John street; thence along the south side of John street to Greenmount avenue; thence along the east side of Greenmount avenue to Chase street; thence along the south side of Chase street to Jones' Falls; thence along the east side of Jones' Falls to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Jones' Falls and Chase street; thence along the north side of Chase street to Greenmount avenue; thence along the west side of Greenmount avenue to John street; thence along the north side of John street to Harford avenue; thence along the northwest side of Harford avenue to North Boundary avenue; thence along the south side of North Boundary avenue to Jones' Falls; thence along the northeast side of Jones' Falls to the place of beginning.

NINTH WARD.—Beginning at the intersection of Charles street and Pratt street; thence easterly along the north side of Pratt street and around the Basin to Jones' Falls; thence northerly along the line of Jones' Falls to Franklin street; thence westerly along the south side of Franklin street to

Charles street; thence southerly along the east side of Charles street to the place of beginning.

Precinct No. 1.—Beginning at the mouth of Jones' Falls; thence along the west side thereof to Baltimore street; thence along the south side of Baltimore street to Charles street; thence along the east side of Charles street to Pratt street; thence along the north side of Pratt street to Bowly's wharf; thence along Bowly's wharf and the water front to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Baltimore street and the west side of Jones' Falls; thence along the north side of Baltimore street to Calvert street; thence along the east side of Calvert street to Franklin street; thence along the south side of Franklin street to Jones' Falls; thence along the west side of Jones' Falls to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Calvert street and Baltimore street; thence along the north side of Baltimore street to Charles street; thence along the east side of Charles street to Franklin street; thence along the south side of Franklin street to Calvert street; thence along the west side of Calvert street to the place of beginning.

TENTH WARD.—Beginning at the intersection of Franklin street and Paca street; thence easterly along the south side of Franklin street to Charles street; thence southerly along the west side of Charles street to Pratt street; thence westerly along the north side of Pratt street to Paca street; thence northerly along the east side of Paca street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Pratt street and Charles street; thence along the north side of Pratt street to Paca street; thence along the east side of Paca

street to Baltimore street; thence along the south side of Baltimore street to Howard street; thence along the east side of Howard street to Fayette street; thence along the south side of Fayette street to Charles street; thence along the west side of Charles street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Charles street and Fayette street; thence along the north side of Fayette street to Howard street; thence along the east side of Howard street to Saratoga street; thence along the south side of Saratoga street to Charles street; thence along the west side of Charles street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore street and Howard street; thence along the north side of Baltimore street to Paca street; thence along the east side of Paca street to Franklin street; thence along the south side of Franklin street to Eutaw street; thence along the west side of Eutaw street to Saratoga street; thence along the south side of Saratoga street to Howard street; thence along the west side of Howard street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Charles street and Saratoga street; thence along the north side of Saratoga street to Eutaw street; thence along the east side of Eutaw street to Franklin street; thence along the south side of Franklin street to Charles street; thence along the west side of Charles street to the place of beginning.

ELEVENTH WARD.—Beginning at the intersection of Franklin street and Paca street; thence northerly along the east side of Paca street to Druid Hill avenue; thence northwesterly along the northeast side of Druid Hill avenue to Biddle street; thence northeast and east along the southeast and south side of Biddle street to Jones' Falls; thence southerly along the line of Jones' Falls to Franklin street; thence

westerly along the north side of Franklin street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Franklin street and Park avenue; thence along the north side of Franklin street to Paca street; thence along the east side of Paca street to southwest side of Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Eutaw street; thence along the east side of Eutaw street to Madison street; thence along the south side of Madison street to Park avenue; thence along the west side of Park avenue to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Druid Hill avenue and Eutaw street; thence along the northeast side of Druid Hill avenue to Biddle street; thence along the southeast side of Biddle street to Richmond Market; thence along the south side of Richmond Market to Howard street; thence along the west side of Howard street to Madison street; thence along the north side of Madison street to the west side of Eutaw street; thence along the west side of Eutaw street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Howard street and Madison street; thence along the east side of Howard street to Richmond street; thence along the northeast side of Richmond street to Biddle street; thence along the southeast side of Biddle street to Cathedral street; thence along the southwest side of Cathedral street to Madison street; thence along the north side of Madison street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Franklin street and Park avenue; thence along the east side of Park avenue to Madison street; thence along the south side of Madison street to Jones' Falls; thence along the west side of Jones' Falls to Franklin street; thence along the north side of Franklin street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Madison street and Cathedral street; thence along the east side of Cathedral street to Biddle street; thence along the south side of Biddle street to the west side of Jones' Falls; thence along the west line of Jones' Falls to Madison street; thence along the north side of Madison street to the place of beginning.

TWELFTH WARD.—Beginning at the intersection of Druid Hill avenue and Biddle street; thence northeasterly and easterly along the northwest and north side of Biddle street to Jones' Falls; thence northerly along the line of Jones' Falls to city limits; thence westerly along the city limits to Druid Hill avenue; thence southeasterly along the northeast side of Druid Hill avenue to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Biddle street and Jones' Falls; thence along the west and southwest side of Jones' Falls to North avenue; thence along the south side of North avenue to Cathedral street; thence along the east side of Cathedral street to Dolphin street; thence along the southeast side of Dolphin street to Bolton street; thence along the northeast side of Bolton street to Hoffman street; thence along the southeast side of Hoffman street to Linden avenue; thence along the northeast side of Linden avenue to Biddle street; thence along the northwest and north sides of Biddle street to the place of beginning.

Precinct No. 2 —Beginning at the intersection of Biddle street and Linden avenue; thence along the northeast side of Biddle street to Druid Hill avenue; thence along the northeast side of Druid Hill avenue to Hoffman street; thence along the southeast side of Hoffman street to Linden avenue; thence along the southwest side of Linden avenue to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Bolton street and Hoffman street; thence along the northwest side of

Hoffman street to Druid Hill avenue; thence along the northeast side of Druid Hill avenue to Lanvale street; thence along the southeast side of Lanvale street to Park avenue; thence along the northeast side of Park avenue to North avenue; thence along the south side of North avenue to Cathedral street; thence along the west side of Cathedral street to Dolphin street; thence along the northwest side of Dolphin street to Bolton street; thence along the southwest side of Bolton street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Lanvale street and Park avenue; thence along the northwest side of Lanvale street to Druid Hill avenue; thence along the northeast side of Druid Hill avenue to North avenue; thence along the south side of North avenue to Park avenue; thence along the southwest side of Park avenue to the place of beginning.

THIRTEENTH WARD.—Beginning at the intersection of Lexington street and Paca street; thence westerly along the north side of Lexington street to Poppleton street; thence northerly along the east side of Poppleton street to Franklin street; thence easterly along the south side of Franklin street to Paca street; thence southerly along the west side of Paca street to the place of beginning.

Precinct No 1.—Beginning at the intersection of Lexington street and Paca street; thence along the west side of Paca street to Franklin street; thence along the south side of Franklin street to Pearl street; thence along the east side of Pearl street to Saratoga street; thence along the south side of Saratoga street to Pine street; thence along the east side of Pine street to Lexington street; thence along the north side of Lexington street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Pine street and Lexington street; thence along the west side of

Pine street to Saratoga street; thence along the north side of Saratoga street to Pearl street; thence along the west side of Pearl street to Franklin street; thence along the south side of Franklin street to Myrtle avenue; thence along the east side of Myrtle avenue to Lexington street; thence along the north side of Lexington street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Saratoga street and Myrtle avenue; thence along the west side of Myrtle avenue to Franklin street; thence along the south side of Franklin street to Fremont street; thence along the northeast side of Fremont street to Saratoga street; thence along the north side of Saratoga street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Lexington street and Myrtle avenue; thence along the west side of Myrtle avenue to Saratoga street; thence along the south side of Saratoga street to Fremont street; thence along the southwest side of Fremont street to Franklin street; thence along the south side of Franklin to Poppleton street; thence along the east side of Poppleton street to Lexington street; thence along the north side of Lexington street to the place of beginning.

FOURTEENTH WARD.—Beginning at the intersection of Pratt street and Paca street; thence westerly along the north side of Pratt street to Poppleton street; thence northerly along the east side of Poppleton street to Lexington street; thence easterly along the south side of Lexington street to Paca street; and thence southerly along the west side of Paca street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Pratt street and Paca street; thence along the west side of Paca street to Fayette street; thence along the south side of Fayette street to Pearl street; thence along the east side of

Pearl street to Baltimore street; thence along the south side of Baltimore street to Fremont street; thence along the northeast side of Fremont street to Pratt street; thence along the north side of Pratt street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Pratt street and Fremont street; thence along the southwest side of Fremont street to Baltimore street; thence along the south side of Baltimore street to Poppleton street; thence along the east side of Poppleton street to Pratt street; thence along the north side of Pratt street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Fayette street and Paca street; thence along the west side of Paca street to Lexington street; thence along the south side of Lexington street to Fremont street; thence along the northeast side of Fremont street to Fayette street; thence along the north side of Fayette street to Pine street; thence along the east side of Pine street to Baltimore street; thence along the north side of Baltimore street to Pearl street; thence along the west side of Pearl street to Fayette street; thence along the north side of Fayette street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Pine street and Baltimore street; thence along the west side of Pine street to Fayette street; thence along the south side of Fayette street to Fremont street; thence along the southwest side of Fremont street to Lexington street; thence along the south side of Lexington street to Poppleton street; thence along the east side of Poppleton street to Baltimore street; thence along the north side of Baltimore street to the place of beginning.

FIFTEENTH WARD.—Beginning at the intersection of Howard street and Pratt street; thence southerly along the east side of Howard street to Henrietta street; thence easterly along the north side of Henrietta and Warren streets to the water line of the Basin; thence along the water line of the Basin to Pratt street; thence westerly along the south side of Pratt street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Light street and Warren street; thence along the north side of Warren street to the water line of the Basin; thence along the said water line to the intersection of Light street and Lee street; thence along the east side of Light street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Henrietta street and Light street; thence along the north side of Henrietta street to Charles street; thence along the east side of Charles street to Pratt street; thence along the south side of Pratt street to Light street; thence along the west side of Light street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Charles street and Henrietta street; thence along the north and northeast side of Henrietta street to Howard street; thence along the southeast side of Howard street to Montgomery street; thence along the southwest side of Montgomery street to Sharp street; thence along the east side of Sharp street to Hill street; thence along the south side of Hill street to Hanover street; thence along the west side of Hanover street to Montgomery street; thence along the south side of Montgomery street to Charles street; thence along the west side of Charles street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Montgomery street and Charles street; thence along the north side of Montgomery street to Hanover street; thence along

the east side of Hanover street to Pratt street; thence along the south side of Pratt street to Charles street; thence along the west side of Charles street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Hill street and Hanover street; thence along the north side of Hill street to Sharp street; thence along the east side of Sharp street to Pratt street; thence along the south side of Pratt street to Hanover street; thence along the west side of Hanover street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Montgomery street and Sharp street; thence along the north side of Montgomery street to Howard street; thence along the east side of Howard street to Pratt street; thence along the south side of Pratt street to Sharp street; thence along the west side of Sharp street to the place of beginning.

SIXTEENTH WARD.—Beginning at the intersection of Pratt street and Howard street; thence southerly along the west side of Howard street to Hamburg street; thence northwesterly along the northeast side of Hamburg street and the northeast side of Cross street to Poppleton street; thence northerly along the east side of Poppleton street to Pratt street; thence easterly along the south side of Pratt street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Hamburg street and Howard street; thence along the northeast side of Hamburg street and Fremont street; thence along the northeast side of Fremont street to Lee street; thence along the southeast side of Lee street to Howard street; thence along the west side of Howard street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Lee street and Howard street; thence along the north side of

Lee street to Greene street; thence along the northeast and east side of Greene street to Pratt street; thence along the south side of Pratt street to Howard street; thence along the west side of Howard street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Lee street and Greene street; thence along the northwest side of Lee street to Fremont street; thence along the northeast side of Fremont street to South Paca street; thence along the southeast side of South Paca street to Greene street; thence along the southwest side of Greene street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Hamburg street and Fremont street; thence along the northeast side of Hamburg street and northeast side of Cross street to Parkin street; thence along the east side of Parkin street to St. Peter street; thence along the south side of St. Peter street to Fremont street; thence along the southwest side of Fremont street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Ramsay street and Fremont street; thence along the south side of Ramsay street to Poppleton street; thence along the east side of Poppleton street to Columbia street; thence along the south side of Columbia street to Cross street; thence along the northeast side of Cross street to Parkin street; thence along the west side of Parkin street to St. Peter street; thence along the north side of St. Peter street to Fremont street; thence along the southwest side of Fremont street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Ramsay street and Fremont street; thence along the north side of Ramsay street to Poppleton street; thence along the east side of Poppleton street to Pratt street; thence along the south side of Pratt street to Fremont street; thence along

the southwest side of Fremont street to the place of beginning.

Precinct No. 7.—Beginning at the intersection of South Paca street and Greene street; thence along the northwest side of South Paca street to Fremont street; thence along the northeast side of Fremont street to Pratt street; thence along the south side of Pratt street to Greene street; thence along the west side and southwest side of Greene street to the place of beginning.

SEVENTEENTH WARD.—Beginning at the intersection of Henrietta street and Hanover street; thence easterly along the south side of Henrietta street and Warren street to the water line of the Basin; thence along the water line of the Basin and the Northwest Branch to the Patapsco river; thence along the north and west sides of the Patapsco river to the water line of the Middle Branch; thence northerly along said water line to Clement street; thence easterly along the south side of Clement street to Hanover street; thence northerly along the east side of Hanover street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Johnson street and Clement street; thence along the east side of Johnson street to Randall street; thence along the south side of Randall street to Light street; thence along the east side of Light street and Ferry Bar road to the water line of the Patapsco river; thence along said water line, and the water line of the Northwest Branch, to Clement street; thence along the south side of Clement street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Johnson street and Clement street; thence along the west side of Johnson street to Randall street; thence along the north side of Randall street to Light street; thence along the east

side of Light street to Gittings street; thence along the south side of Gittings street and Clement street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Light street and West street; thence along the east side of Light street to Gittings street; thence along the north side of Gittings street and Clement street to the water line of the Basin; thence along the water line to Cross street; thence along the south side of Cross street to William street; thence along the east side of William street to West street; thence along the south side of West street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Light street and Warren street; thence along the east side of Light street to West street; thence along the north side of West street to William street; thence along the west side of William street to Cross street; thence along the north side of Cross street to the water line of the Basin; thence along the water line to Warren street; thence along the south side of Warren street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Light street and Henrietta street; thence along the west side of Light street to Cross street; thence along the north side of Cross street to Hanover street; thence along the east side of Hanover street to Henrietta street; thence along the south side of Henrietta street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Light street and Cross street; thence along the west side of Light street and Ferry Bar road, to the water line of the Middle Branch; thence along the water line to Clement street; thence along the south side of Clement street to Hanover street; thence along the east side of Hanover street to Cross street; thence along the south side of Cross street to the place of beginning.

EIGHTEENTH WARD.—Beginning at the intersection of Baltimore street and Poppleton street; thence southerly along the west side of Poppleton street to Cross street; thence southeasterly along the southwest side of Cross street and Hamburg street to Howard street; thence northerly along the east side of Howard street to Henrietta street; thence easterly along the south side of Henrietta street to Hanover street; thence southerly along the west side of Hanover street to Clement street; thence westerly along the north side of Clement street to the water line of the Middle Branch; thence along the water line of the Middle Branch and Gwynn's Falls to the city limits; thence northerly along the line of the city limits to Baltimore street; thence easterly along the south side of Baltimore street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Hanover street and Henrietta street; thence along the west side of Hanover street to Cross street; thence along the northeast side of Cross street to Leadenhall street; thence along the southeast side of Leadenhall street to Hamburg street; thence along the northeast side of Hamburg street to Howard street; thence along the southeast side of Howard street to Henrietta street; thence along the southwest side of Henrietta street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Hanover street and Cross street; thence along the west side of Hanover street to Clement street; thence along the north side of Clement street to Howard street; thence along the southeast side of Howard street to Cross street; thence along the southwest side of Cross street to Sharp street; thence along the southeast side of Sharp street to Hamburg street; thence along the southwest side of Hamburg street to Leadenhall street; thence along the northwest side of Leadenhall street

to Cross street; thence along the southwest side of Cross street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Sharp street and Hamburg street; thence along the northwest side of Sharp street to Cross street; thence along the northeast side of Cross street to Howard street; thence along the northwest side of Howard street to the water line of the Middle Branch; thence along the water line of the Middle Branch to Russell street; thence along the southeast side of Russell street to Hamburg street; thence along the southwest side of Hamburg street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Russell street and Hamburg street; thence along the northwest side of Russell street to the water line of the Middle Branch; thence along the water line of the Middle Branch and Gwynn's Falls to Washington avenue; thence along the southeast side of Washington avenue to Cross street; thence along the southwest side of Cross street to Hamburg street; thence along the southwest side of Hamburg street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Pratt street and Poppleton street; thence along the west side of Poppleton street to Columbia street; thence along the north side of Columbia street to Washington avenue; thence along the northwest side of Washington avenue to Gwynn's Falls; thence along the line of Gwynn's Falls to the track of the Baltimore and Ohio Railroad Company; thence along the southeast side of the track of the Baltimore and Ohio Railroad Company to Gilmor street; thence along the east side of Gilmor street to Pratt street; thence along the south side of Pratt street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Gilmor street and Pratt street; thence along the west side of Gilmor

street to the track of the Baltimore and Ohio Railroad Company; thence along the northwest side of the track of the Baltimore and Ohio Railroad Company to the city limits; thence along the city limits to Pratt street; thence along the south side of Pratt street to the place of beginning.

Precinct No. 7.—Beginning at the intersection of Poppleton street and Baltimore street; thence along the west side of Poppleton street to Pratt street; thence along the north side of Pratt street to Oregon street; thence along the east side of Oregon street to Baltimore street; thence along the south side of Baltimore street to the place of beginning.

Precinct No. 8.—Beginning at the intersection of Oregon street and Baltimore street; thence along the west side of Oregon street to Pratt street; thence along the north side of Pratt street to Carey street; thence along the east side of Carey street to Baltimore street; thence along the south side of Baltimore street to the place of beginning.

Precinct No. 9.—Beginning at the intersection of Carey street and Baltimore street; thence along the west side of Carey street to Pratt street; thence along the north side of Pratt street to Mount street; thence along the east side of Mount Street to Lombard street; thence along the north side of Lombard street to Fulton street; thence along the east side of Fulton street to Baltimore street; thence along the south side of Baltimore street to the place of beginning.

Precinct No. 10 —Beginning at the intersection of Fulton street and Baltimore street; thence along the west side of Fulton street to Lombard street; thence along the south side of Lombard street to Mount street; thence along the west side of Mount street to Pratt street; thence along the north side of Pratt street to the city limits; thence along the city limits to Baltimore street; thence along the south side of Baltimore street to the place of beginning.

NINETEENTH WARD.—Beginning at the intersection of Baltimore street and Poppleton street; thence northerly along the west side of Poppleton street to Franklin street; thence easterly along the north side of Franklin street to Fremont street; thence northwesterly along the southwest side of Fremont street and Pennsylvania avenue to the city limits; thence westerly and southwesterly along the city limits to Baltimore street; thence easterly along the north side of Baltimore street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Baltimore street and Poppleton street; thence along the north side of Baltimore street to Carrollton avenue; thence along the east side of Carrollton avenue to Lexington street; thence along the south side of Lexington street to Schroeder street; thence along the west side of Schroeder street to Fayette street; thence along the south side of Fayette street to Poppleton street; thence along the west side of Poppleton street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Fayette street and Poppleton street; thence along the north side of Fayette street to Schroeder street; thence along the east side of Schroeder street to Lexington street; thence along the north side of Lexington street to Carrollton avenue; thence along the east side of Carrollton avenue to Saratoga street; thence along the south side of Saratoga street to Poppleton street; thence along the west side of Poppleton street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore street and Carrollton avenue; thence along the north side of Baltimore street to Stricker street; thence along the east side of Stricker street to Franklin street; thence along the south side of Franklin street to Carrollton avenue; thence along the west side of Carrollton avenue to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Saratoga street and Poppleton street; thence along the north side of Saratoga street to Carrollton avenue; thence along the west side of Carrollton avenue to Franklin street; thence along the south side of Franklin street to Schroeder street; thence along the west side of Schroeder street to Edmondson avenue; thence along the south side of Edmondson avenue to Fremont street; thence along the southwest side of Fremont street to Franklin street; thence along the north side of Franklin street to Poppleton street; thence along the west side of Poppleton street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Edmondson avenue and Fremont street; thence along the north side of Edmondson avenue to Schroeder street; thence along the west side of Schroeder street to Franklin street; thence along the north side of Franklin street to Carey street; thence along the east side of Carey street to Lanvale street; thence along the south side of Lanvale street to Fremont street; thence along the southwest side of Fremont street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Baltimore street and Stricker street; thence along the north side of Baltimore street to the city limits; thence along the city limits to Lexington street; thence along the south side of Lexington street to Stricker street; thence along the west side of Stricker street to the place of beginning.

Precinct No. 7.—Beginning at the intersection of Lexton street and Stricker street; thence along the north side of Lexington street to the city limits; thence along the city limits to Edmondson avenue; thence along the south side of Edmondson avenue to Stricker street; thence along the west side of Stricker street to the place beginning.

Precinct No. 8.—Beginning at the intersection of Lanvale street and Fremont street; thence along the north side of Lanvale street to Carey street; thence along the west side of Carey street to Franklin street; thence along the north side of Franklin street to Stricker street; thence along the east side of Stricker street to Edmondson avenue; thence along the south side of Edmondson avenue to Calhoun street; thence along the west side of Calhoun street to Harlem avenue; thence along the north side of Harlem avenue to Stricker street; thence along the east side of Stricker street to Patterson avenue; thence along the south side of Patterson avenue to Fremont street; thence along the southwest side of Fremont street to the place of beginning.

Precinct No. 9.—Beginning at the intersection of Edmondson avenue and Gilmor street; thence along the north side of Edmondson avenue to the city limits; thence along the city limits to North avenue; thence along the south side of North avenue to Calhoun street; thence along the southwest side of Calhoun street to Patterson avenue; thence along the north side of Patterson avenue to Stricker street; thence along the west side of Stricker street to Harlem avenue; thence along the north side of Harlem avenue to Gilmor street; thence along the east side of Gilmor street to the place of beginning.

Precinct No. 10.—Beginning at the intersection of Patterson avenue and Fremont street; thence along the north side of Patterson avenue to Calhoun street; thence along the east and northeast sides of Calhoun street to North avenue; thence along the south side of North avenue to Pennsylvania avenue; thence along the southwest side of Pennsylvania avenue and the southwest side of Fremont street to the place of beginning.

TWENTIETH WARD.—Beginning at the intersection of Fremont street and Franklin street; thence northwesterly along

the northeast side of Fremont street and Pennsylvania avenue to the city limits; thence easterly along the city limits to Druid Hill avenue; thence southeasterly along the southwest side of Druid Hill avenue to Paca street; thence southerly along the west side of Paca street to Franklin street; thence westerly along the north side of Franklin street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Franklin street and Paca street; thence along the west side of Paca street to Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Union street; thence along the southeast side of Union street to Pennsylvania avenue; thence along the northeast side of Pennsylvania avenue to Franklin street; thence along the north side of Franklin street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Franklin street and Pennsylvania avenue; thence along the north side of Franklin street to Fremont street; thence along the northeast side of Fremont street to George street; thence along the south side of George street to Pennsylvania avenue; thence along the southwest side of Pennsylvania avenue to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Pennsylvania avenue and George street; thence along the southwest side of Pennsylvania avenue to Hoffman street; thence along the southeast side of Hoffman street to Myrtle avenue; thence along the northeast side of Myrtle avenue to Dolphin street; thence along the southeast side of Dolphin street to Fremont street; thence along the northeast side of Fremont street to George street; thence along the north side of George street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Pennsylvania avenue and Union street; thence along the northeast side of Pennsylvania avenue to Hoffman street; thence

along the southeast side of Hoffman street to Division street; thence along the northeast side of Division street to Dolphin street; thence along the southeast side of Dolphin street to Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Union street; thence along the northwest side of Union street to the place of beginning.

Precinct No. 5.—Beginning at the intersection of Fremont street and Dolphin street; thence along the northwest side of Dolphin street to Myrtle avenue; thence along the northeast side of Myrtle avenue to Hoffman street; thence along the northwest side of Hoffman street to Division street; thence along the southwest side of Division street to Dolphin street; thence along the northwest side of Dolphin street to Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Townsend street; thence along the southeast side of Townsend street to Pennsylvania avenue; thence along the northeast side of Pennsylvania avenue to Lanvale street; thence along the southeast side of Lanvale street to Fremont street; thence along the northeast side of Fremont street to the place of beginning.

Precinct No. 6.—Beginning at the intersection of Fremont street and Lanvale street; thence along the northeast side of Fremont street to Lafayette Market; thence along the southeast side of Lafayette Market to Argyle avenue; thence along the northeast side of Argyle avenue to Smith street; thence along the southeast side of Smith street to Pennsylvania avenue; thence along the southwest side of Pennsylvania avenue to Mosher street; thence along the southeast side of Mosher street to Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Townsend street; thence along the northwest side of Townsend street to Pennsylvania avenue; thence along the southwest side of Pennsylvania avenue to Lanvale street; thence along the northwest side of Lanvale street to the place of beginning.

Precinct No. 7.—Beginning at the intersection of Fremont street and Lafayette Market; thence along the northeast side of Fremont street to Pennsylvania avenue; thence along the northeast side of Pennsylvania avenue to the city limits; thence along the south side of the city limits to Druid Hill avenue; thence along the southwest side of Druid Hill avenue to Mosher street; thence along the northwest side of Mosher street to Pennsylvania avenue; thence along the northeast side of Pennsylvania avenue to Smith street; thence along the northwest side of Smith street to Argyle avenue; thence along the northeast side of Argyle avenue to Lafayette Market; thence along the southeast side of Lafayette Market to the place of beginning.

LEGISLATIVE DISTRICTS.

No. 2, Nov. 11, '64.

39. The City of Baltimore is divided into three several Legislative Districts, which shall be called First, Second and Third Legislative Districts of Baltimore City.

Of what wards composed.

The districts shall be composed of Wards as follows:

First District.—1st, 2d, 3d, 4th, 5th, 6th and 7th wards of Baltimore City.

Second District.—8th, 9th, 10th, 11th, 12th, 19th and 20th wards.

Third District.—13th, 14th, 15th, 16th, 17th and 18th wards.*

*LEGISLATIVE AND CONGRESSIONAL DISTRICTS.—The city was divided into three legislative districts under sec. 2 of Art. III of the Const. 1864, which is as follows: Immediately after the adoption of this Constitution, and before there shall have been held any general election under it, the Mayor and City Council of Baltimore shall proceed to lay off and divide said city into three several districts of equal population and contiguous territory, as near as may be, which said districts shall be called the first, second and third legislative districts of Baltimore city. The Const. 1867, Art. III, secs. 2 and 4, confirms this division. It provides, by sec. 4, that

CITY OFFICERS.

40. All officers of the city, except the Register and any other person holding any office for whom a different term may be prescribed in the ordinance creating such office, shall be appointed annually in the month of February, and shall enter into their respective offices on the first day of March, immediately following their respective appointments.

No. 4, s. 1, R. O.

What officers to be appointed annually.

41. A term of holding shall not be deemed to be created by any resolution or ordinance, so as to effect the power of removal given to the Mayor by Article IV, section 26 of the Public Local Laws, (Statutes, sec. 28, p. 15,) because such resolution or ordinance may prescribe that such officer or officers may or shall be appointed annually, or in the month of February, or as other city officers are appointed, or by any

No. 19, Mar. 16, '68.

Power of removal by Mayor.

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each of the three legislative districts of the city of Baltimore shall, after the next national census or enumeration of the population of this State, be entitled to the number of delegates in the Legislature to which the largest county shall or may be entitled under the apportionment set forth in said section; and that the General Assembly shall have power to provide by law, from time to time, for altering and changing the boundaries of the three existing legislative districts of the city of Baltimore, so as to make them, as near as may be, of equal population; but said districts shall always consist of contiguous territory. By sec. 2 each legislative district is entitled to one senator.

By the Act of 1872, ch. 418, the third congressional district is composed of the wards of Baltimore city, from the first to the ninth ward, both inclusive, and entitled to choose one representative. The fourth congressional district is composed of the tenth ward, eleventh ward, twelfth ward, thirteenth ward, fourteenth ward, fifteenth ward, sixteenth ward, eighteenth ward, nineteenth and twentieth wards of Baltimore city, and is entitled to choose one representative. The fifth congressional district is composed of St. Mary's county, Charles county, Calvert county, Prince George's county, Anne Arundel county, with the city of Annapolis, Howard county, the first and thirteenth election districts of Baltimore county and the seventeenth ward of Baltimore city, and is entitled to choose one representative. The return judges of the seventeenth ward of the city of Baltimore make a return separate from the return made by the judges of the wards constituting the fourth congressional district.

other like expression indicating a periodical duty of appointment, and such words shall not be deemed and taken as otherwise providing by law or ordinance, so as to annul the power of removal intended to be given by said section.

Ibid, s. 2. No. 4 s. 2, R. O. New appointments.

42. Whenever the City Council is in session, any new appointment by the Mayor shall be subject immediately thereafter to the confirmation of the Council, and when confirmed, the officers so appointed shall enter upon the discharge of the duties of their office on the day succeeding their confirmation.

No. 4, s. 3, R. O.; No. 50, July 19, '62.

43. It shall not be lawful for any officer of this corporation, whether appointed by the Mayor and City Council, by the City Council in convention, by the Mayor alone, or by any board of commissioners, trustees, visitors or building committee, acting under the authority of the Mayor and City Council, to be engaged or concerned directly or indirectly in any contract for work done, or to be done, on account of the city, or in which the city is or may be in any way concerned, in the purchase of any debt due from the corporation or claim upon the same for any work done, or to be done, by or under any ordinance of the city, or to be engaged in any contract, directly or indirectly, or concerned in any manner in doing work of any kind, or furnishing of supplies for any institution or office, or receive any per centage on any purchases or contracts in the office with which he may be connected, and any officer offending herein shall be fined in a sum not exceeding five hundred dollars, and it shall be obligatory on the Mayor, upon being apprised of any violation of this section, to dismiss forthwith from office any officer who may be guilty of such violation.

Officers not to be concerned in contracts.

Penalty.

No, 4, s. 5, R. O. What officers to give bond.

44. The several officers, except in such cases as are provided for in the two succeeding sections, shall give bond with security to the Mayor and City Council of Baltimore,

for the faithful performance of their respective duties, in such penal sums as the Mayor may direct, except where particular sums are specified by ordinance.

45. The several officers who are not entitled to compensation for their services shall not be required to give bond for the faithful performance of their duties, unless the Mayor shall think it expedient to require the same. No. 57, May 30, '61. Officers without compensation. No bond required.

46. The several officers whose compensation shall not exceed two hundred dollars per annum, shall not be required to give bond for the faithful performance of their duties, unless the Mayor shall think it expedient to require it. Ibid, s. 2. Officers of two hundred dollars pay not required to bond.

47. No extra compensation shall be granted or allowed by the Mayor and City Council to any officer, agent or servant of the corporation, or of any other corporation the expenses of which are borne in whole or in part by the city, after the services have been rendered, nor shall the salary or compensation of any of said officers, agents or servants be increased or diminished during the term for which they may be or may have been elected, appointed or employed; provided, that should an increase of duties be required by any subsequent ordinance or resolution of the Mayor and City Council, an extra compensation in proportion for the increase of labor, to the original compensation, may be allowed, in the discretion of the said Mayor and City Council.* No. 58, July 29, '63. Extra compensation not to be allowed. Salary, &c., not to be increased or diminished. Increase of duties. Increase of compensation.

48. No extra compensation shall be granted or allowed by the Mayor and City Council to any contractor or contractors with the city, or with any corporation the expenses of which are in whole or in part borne by the city, after the Ibid, s. 2. Extra compensation not to be allowed to any contractor.

* This ordinance recites the provision, sec. 23 of Art. III of Const. 1864, (now sec. 35 of Art. III of Const. 1867,) that no extra compensation shall be granted or allowed by the General Assembly to any public officer, agent, servant or contractor after the services have been rendered or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

Proviso. contract has been entered into; provided, that in case a contractor or contractors shall be prevented by an act of the Mayor and City Council, or any agent or servant thereof acting under their authority, from fulfilling his contract as agreed on, and loss is thereby sustained by him or them,

When may be allowed. such extra compensation may be allowed as will compensate him or them for said loss incurred as aforesaid.

No. 5, s. 3, R. O. 49. The salaries of all officers of the corporation, unless

When salaries paid. otherwise directed by law, shall be paid on the first Monday of each and every month.*

Res. No. 450, Nov. 6, '73. 50. All advertisements emanating from the different de-

City advertisements in German paper. partments of the city government shall be published in at least one German paper of the city, and in the selection of such paper they shall give preference to the paper having

Proviso. the largest circulation, provided the prices be the same as those charged by the other papers.

CITY CONTRACTS.†

No. 64, May 28, '73. 51. Whenever the city officers, or any of them, shall advertise for sealed proposals for any public work or contract,

* Funds in the hands of an official of the city of Baltimore due by the city for the salaries of city employees are not, on grounds of public policy and convenience, liable to be attached by the creditors of such employees. Municipal corporations are parts of the State government, exercising delegated political powers for public purposes, and the rule exempting funds in the hands of one State officer due another, from attachment, applies equally to the officers of such corporations. *Mayor, &c.* v. *Root*, 8 Md. 95. *Anderson, garn.* v. *Graff*, 41 Md. 607.

Brown, C. J., in *Yeager* v. *Zimmerman*, City Court, Nov. 12, 1875, held, that: the principle of law, that no attachment would lie against funds in the hands of one federal, state or municipal officer due another, was applicable to the case of a police officer who had salary due him in the hands of a captain of police, acting as disbursing agent; and that an attachment laid in the captain's hands on a judgment against said police officer, would not bind such salary.

† As to contracts by city, see *Rittenhouse* v. *Mayor, &c.*, 25 Md. 336. *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md. 52.

of any kind whatsoever, pursuant to existing ordinances or resolutions, or to such as may hereafter be passed, it shall be the duty (unless it is otherwise provided by special ordinance) of such officers so advertising to lay the sealed proposals received by him or them, according to the advertisement, before the Mayor, who, with the Comptroller and Register, shall proceed to open them, and award in all cases to the lowest bidder of known capacity, responsibility and integrity, whose security for the execution of the work according to the contract, as the case may be, in the judgment of the Mayor, Comptroller and Register, or a majority of them, shall be sufficiently responsible to insure the performance of the work or contracts, according to the stipulations thereof respectively; provided, however, that no bid shall be opened from any person who has heretofore failed in the performance, or due execution, of any contract he may have been engaged in with the corporation of Baltimore.*

Proposals to be laid before the Mayor.

Mayor, Comptroller and Register to award contracts.

Proviso.

52. All such proposals shall be opened at such time and place as may be publicly designated by advertisement, in the presence of such persons as may choose to attend.

Ibid, s. 2.

Proposals—time and place of opening.

53. For all contracts made under the provisions of the two preceding sections, the Register is hereby required to take bonds of the contractors, certified by the Comptroller, to be with good and sufficient security, and to be approved by the Mayor, for such sum as, in his judgment, may be adequate to secure their fulfilment.

No. 8, s. 11, R. O.

Bond from contractor.

54. The Comptroller shall examine all contracts made by the city officers, and he shall report within thirty days after the meeting of the Council in an annual session, all contracts made by the corporation as directed or authorized by the Council, and not performed or completed or upon which any

No. 9, s. 4, R. O.

Duty of Comptroller.

* See ordinance for stationery and printing for departments, under Librarian, Art. XXXII.

money remains unpaid, with the amount of money remaining unpaid on each.*

RECORDS OF THE CITY.

No. 56, R. O. No. 8, s, 5, R. O. Papers to be filed and recorded.

55. It shall be the duty of all city officers carefully to file and keep, having first recorded the same, all public papers whatever, belonging to the city, which are now in or may hereafter come into their respective offices, and which appertain to the same; and it shall not be lawful for any Register or clerk to permit any paper or record in his office to be taken therefrom, by any person or persons whatever, unless the same be demanded by a court of justice of this State, or of the United States, or by either branch of the City Council, but every person wanting the information contained in such papers or record, shall be entitled to a copy of the same; and it shall be the duty of the Register or clerk to furnish such copies when applied for, and the Register or clerk shall charge and receive therefor the sum of fifteen cents for every sheet of copy containing one hundred words, and so *pro rata* for every search, and for every certificate to a copy, twenty-five cents, which fees or charges shall be paid into the treasury of the city.

Not to be taken out of office except in certain cases.

Copies to be furnished.

Fees for same.

No. 8, s. 6, R. O. No. 129, Nov. 5, '74. City Librarian keeper of records, &c.

56. The City Librarian shall, under the supervision and direction of the Register, take under his charge and keeping all the records, papers and proceedings of the corporation, except those relating to titles of city property; and all the ordinances, resolutions, votes and proceedings of the City Council, after each and every session.

* Under the above section, contracts can be made by certain city officers, and it may be in certain cases by the Mayor, yet if they are to be regarded as "contracts made by the corporation," they must be made "as directed or authorized by the Council," otherwise they will not have obligatory force to bind the corporation. *Mayor, &c. Balt.* v. *B. & O. R. R. Co.*, 21 Md. 52.

57. The Comptroller shall keep a well bound record book, and have therein recorded all deeds and leases made to the city, or sufficient extracts from such deeds and leases as will fully explain the same; and also all contracts and agreements made in relation to the property of the city; the records in said record book to be written on every other page, so that the page opposite the record may be left blank for any remarks that may be necessary to be made in regard to the disposition of said property. The said record book shall also have an alphabetical index made for more easy reference to said deeds, leases, contracts and agreements.* No. 9, s. 6, R. O. Comptroller keeper of title deeds, &c. Record books.

SEAL.

58. The seal heretofore provided and used, the impression on which is a representation of the Battle Monument, is hereby established and declared to have been and now to be the seal of the Mayor and City Council of Baltimore. No. 1, R. O. Battle monument.

59. The Register shall take under his charge and keeping the corporate seal of the city, and use it in all cases which now are or may hereafter be required, either by the laws of the United States, the several States, the ordinances of this corporation, or the usage and customs of nations, whenever applied to for that purpose; and for each and every seal which he shall affix to an instrument or instruments of writing, he shall be entitled to receive for the use of the city, the sum of two dollars; except that in cases where the certificate of the Register under seal shall be required to be used as evidence in the claims of soldiers and seamen in the United States service, or in the claims of the widows or heirs of such as may have died, or may hereafter die in the service, he shall furnish such certificate without any charge whatever. No. 8, s. 5, R. O.; No. 28, May 6, '65. Keeper of the seal. Fees. Exception.

* See Examiner of Titles, under Art. XIII.

ARTICLE II.

ALMS-HOUSE.

STATUTES.

TRUSTEES OF THE POOR.

1. Appointment of Trustees of the Poor.
2. Title to property: powers and privileges.
3. Oath of Trustees: when qualified.
4. What sections in force.
5. Book of minutes.
6. Appointment of officers, clerks, &c.
7. Their duties: compensation.
8. Mode of admitting inmates.
9. Support and employment of inmates.
10. Machinery and implements.
11. By-laws.
12. Purveyor of provisions.
13. His bond.
14. Salary.
15. Overseer.
16. His bond.
17. List of inmates: accounts of expenditures and receipts.
18. Inmates to work.
19. Accounts with inmates: inmates to be retained till accounts balanced: penalty for leaving without permission: certificate, evidence.
20. Dismissal of inmates.
21. Admission.
22. Times of meeting of trustees.
23. Punishment of paupers.
24. Per diem of Trustees.
25. Penalty for selling liquor, &c.
26. Badges to be worn by inmates: penalty for refusing to wear.
27. Penalties and forfeitures: how recoverable.
28. What Officers to assist Trustees.
29. Suits: costs.

WARD MANAGERS OF THE POOR.

30. Ward Managers of the Poor.
31. Term of office.
32. Powers and duties of Managers.
33. Persons sent to alms-house by Ward Managers.

ORDINANCE.

Payments to Trustees.

STATUTES.

TRUSTEES OF THE POOR.

P. L. L., art. 4, sec. 34. 1868, c. 1.

1. The Mayor and City Council have power to provide by ordinance for the appointment, as other city officers are ap-

pointed, of the Trustees of the Poor of Baltimore City, and to prescribe the powers and duties of such Trustees.* Trustees of the poor; how appointed.

2. All titles to property of any and every kind (on Jan. 22, 1868,) held by the Trustees of the Poor of Baltimore City are hereby transferred to and invested in the Mayor and City Council of Baltimore to all intents and purposes, and all powers and privileges heretofore conferred upon the said Trustees of the Poor of Baltimore City are hereby transferred to and conferred upon the Mayor and City Council of Baltimore. 1868, c. 1; Ibid, sec. 35. Title to property. Powers and privileges.

3. Each trustee so appointed shall, before he proceeds to act, take and subscribe before the Mayor the oath of office prescribed in the sixth section of the first article of the constitution; and he shall then be qualified and competent to perform all the duties of trustee.† 1868, c. 1; 1862, c. 279; art. 4, P. L. L., c. 37. Oath.

*1868, c. 1, is entitled "an act to repeal sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight of the fourth article of the Code of Public Local Laws, relating to the city of Baltimore, and to substitute in lieu of sections thirty-four, thirty-five and thirty-seven the following." It then repeals sections 34, 35, 36 and 37 of the article, and enacts that the above be substituted for sections 34, 35 and 37. The act of 1862, c. 279, had previously repealed sections 34, 35, 37, 39, 58 and 61 of the Code, and enacted substitutes therefor. 1868, c. 1, further provided that it should take effect upon its passage, (from January 22, 1868,) and that the said Mayor should immediately appoint Trustees of the Poor of Baltimore City as in case of a vacancy under the existing laws and ordinances, and that when the Mayor and City Council should have passed ordinances prescribing the duties and powers of the Trustees of the Poor, the operation of sections 38 to 69 of Art. 4, P. L. L., should cease. [Sections 5 to 33 of this Article.]

†Const. 1867, Art. 1, sec. 6, is as follows: Every person elected or appointed to any office of profit or trust under this Constitution, or under the laws made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath or affirmation: I, ———, do swear, (or affirm, as the case may be,) that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the

Article II.—Statutes.

1853, c. 1. What sections in force.

4. Until the Mayor and City Council shall have exercised the powers vested in said corporation by the aforegoing section one of this article, the powers and duties of the Trustees of the Poor of Baltimore City shall be such as are prescribed in the sections following.

Ibid, sec. 38. Book of minutes.

5. They shall keep a book, in which shall be entered the minutes of their proceedings, and the certificate of each trustee having taken and subscribed the oath mentioned in the preceding section three hereof.

Ibid, sec. 40. Appointment of officers, clerks, &c.

6. They, or a majority of them, shall have power to appoint all such officers, clerks, agents and servants as they may think necessary, and at their pleasure to remove and discharge the same.

Ibid, sec. 41. Their duties; compensation.

7. They shall fix and prescribe the duties of all such officers, clerks, agents and servants, and fix and determine their compensation.

Ibid, sec. 42. Mode of admitting inmates.

8. They may admit into the almshouse and receive under their care, in addition to those paupers* which the laws of this State authorize or require, such indigent or distressed persons as in their opinion the dictates of humanity or particular circumstances render proper or necessary.

Ibid, sec. 43. Support and employment of inmates.

9. They shall prescribe, provide for, and direct all matters relating to the support, treatment and employment of all paupers, vagrants and other persons in the almshouse, or any other place under their care and charge.

Constitution and laws of this State, (and, if a Governor, Senator, member of the House of Delegates, or judge,) that I will not directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as ———.

*Art. 58 of the Public General Laws provides for the sending of lunatic or insane paupers to the almshouse of the county or city to which they belong.

10. They shall procure, or erect and use all such machinery, materials and implements as they shall think proper or necessary for any purpose connected with their duties or the exercise of the powers vested in them. Ibid, sec. 44. Machinery and implements.

11. They may make, amend, alter and repeal all such by-laws as shall be necessary to carry into full effect all the powers, authorities and duties vested in or required of them, provided such by-laws be not contrary to law. Ibid, sec. 45. By-laws.

12. They may appoint a purveyor of provisions to said almshouse, whose duty it shall be to provide and furnish provisions to said almshouse under the direction of said trustees, to whom he shall annually return a statement or account of his receipts and expenditures, to be examined and passed at their discretion. Ibid, sec. 46. Purveyor of provisions.

13. They shall require the said purveyor to give bond and security to be approved by them, and in such penalty as they shall direct, conditioned for the faithful performance of the trusts reposed in him, and upon failure to comply with the conditions thereof, they may direct said bond to be put in suit, and any sum or sums of money recovered in such suits shall be applied to the use of said almshouse. Ibid, sec. 47. His bond.

14. They may allow a salary to said purveyor not exceeding four per cent. upon the amount of money expended by him under their direction. Ibid, sec. 48. Salary.

15. They shall meet at the almshouse on the first Monday of May yearly, and appoint an overseer of said almshouse. Ibid, sec. 49. Overseer.

16. They shall require said overseer to enter into bond with sufficient securities, payable to said trustees, in the penalty of five hundred dollars for the faithful performance of the duties of his office. Ibid, sec. 51. His bond.

17. The overseer shall keep a regular list of all poor, beggars, vagrants, vagabonds and other offenders, who shall be committed to said almshouse, and also regular accounts in Ibid, sec. 52. List of inmates.

Accounts of expenditures and receipts.

writing of all materials and other things which may come to his hands, and of all expenses and charges attending their maintenance and support, and of all moneys received by him for the sale of the produce of their labor, and otherwise, as overseer, and shall lay the same before the trustees when required.

Ibid, sec. 53.

Inmates to work.

18. He may compel and oblige any of the poor, vagrants, vagabonds and other offenders in said almshouse to work and labor, and shall sell the produce of their labor and apply the money arising therefrom to their support and maintenance.

Ibid, sec. 54.

Accounts with inmates.

19. Every pauper who shall be under the care of said trustees, except females under the age of twelve years and males under the age of fifteen, shall be charged as a debtor for food, medicine and other necessaries furnished, at a rate not exceeding thirty cents per day; and every such pauper, when capable of performing labor or service, may, in the discretion of the trustees, be required and compelled to perform the same, and shall be allowed a reasonable compensation according to the value thereof, to be ascertained and fixed by the said trustees and credited to the account of the pauper performing such work, labor or services; and the trustees may retain such pauper under their care until the charges against them, and the compensation so allowed, shall balance; and if any pauper shall depart from the almshouse without the permission of the said trustees before he shall have compensated by work, labor or services as aforesaid, or otherwise, for the charges against him, he shall be guilty of a misdemeanor, and on conviction thereof in the Criminal Court of Baltimore, shall be sentenced to work and labor under the direction of the Trustees for the Poor of Baltimore City, for a period of time in the discretion of said court not exceeding twelve months; and a certificate

Inmates to be retained till accounts balanced.

Leaving without permission.

Penalty.

under the corporate seal of said trustees that any person has so departed indebted, and without permission, shall be sufficient evidence to authorize any judge or justice of the peace to issue a warrant for the arrest of such person, and to bind over or commit him for trial as in other cases of misdemeanor. Certificate, evidence.

20. Nothing contained in the last aforegoing section shall be construed to prevent or restrict the said trustees from dismissing any pauper or other person under their care, without requiring any compensation to be made, by labor or otherwise, for the expenses charged against such person. Ibid, sec. 55. Dismissal of inmates.

21. Any one trustee may, under his hand in writing, direct the admission of any pauper into said alms-house. Ibid, sec. 56. Admission.

22. The said trustees shall meet at the alms house four times in the year, to-wit: in the first week of February, May, August and November, or oftener if they shall deem it necessary; and make and ordain by a majority of votes of such as may be present, all such good and wholesome ordinances, rules and by-laws as they may think necessary and convenient for the maintenance and employment of the inmates of said alms-house. Ibid, sec. 57. Times of meetings of trustees.

23. Upon complaint made to said trustees, by the overseer of said alms-house, and due proof made thereof, that any pauper in said alms-house has behaved in a disorderly manner, or has neglected to obey and keep any of the ordinances, rules and by-laws of the said corporation, the said trustees may order and direct such moderate and proper correction for any such offence, as the nature of the case may require. 1862, c. 279. Ibid, sec. 58. Punishment of paupers.

24. The said trustees shall be entitled to receive the sum of two dollars per day for each day they shall meet together in the discharge of their duties. P. L. L., art. 4, sec. 59. Per diem of trustees.

Ibid, sec. 60.

Penalty for selling liquor, &c.

25. If any person shall sell or dispose of any strong liquor or other thing to any inmate of said alms-house, he shall forfeit and pay the sum of twenty-five dollars.

1862, c. 279. Ibid, sec. 61.

Badges to be worn by inmates.

Penalty for refusing to wear.

26. When deemed necessary, the trustees may require such badge as they may select, to be worn in an open and vissible manner, on the arm or shoulder of any inmate of the alms-house; and if any inmate shall neglect or refuse to wear such badge, he or she shall be subject to such moderate and proper punishment as the trustees may see proper to inflict.

P. L. L., art. 4, sec. 62.

Penalties and forfeitures; how recoverable.

27. All penalties and forfeitures imposed by this law shall be recovered in the Criminal Court of Baltimore, by action or by indictment.

Ibid, sec. 63.

What officers to assist trustees.

28. All sheriffs, bailiffs, constables, and other officers, shall aid and assist the said trustees and the officers by them appointed in the discharge of their respective duties.

Ibid, sec. 64.

Suits.

Costs.

29. If any person shall at any time be sued or prosecuted for any thing done in pursuance of this law, or any thing therein contained, he may plead the general issue and give the special matter in evidence; and if upon trial, verdict shall be found for the defendant, or if the plaintiff shall be non-suit or discontinue, the defendant shall recover treble costs, and if the plaintiff shall be unable to pay them, they shall be paid by the attorney who brought the suit, unless the plaintiff shall give security for the costs to be approved by the court.

WARD MANAGERS OF THE POOR.

Ibid, sec. 66.

Ward managers of the poor.

30. The Mayor and City Council shall, at their annual session, appoint one sensible and discreet inhabitant residing in each ward of the city to be a Manager of the Poor in the ward in which he shall reside, who shall take an oath before some justice of the peace for said city that he will well and

faithfully perform the duties of a manager of his ward according to the best of his knowledge and judgment.

31. Every such manager shall hold his office during the term of one year, and until his successor is duly appointed and qualified, and shall perform the duties of his office gratuitously. Ibid, sec. 67. Term of office.

32. Each manager shall have power to direct in writing any indigent, sick or disabled person, infant or idiot of his ward, and who may be entitled to public relief by law, to go or be taken to the said alms-house. Ibid, sec. 68. Powers and duties of managers.

33. The Trustees of the Poor shall cause the person sent or taken to the almshouse by order of the said managers to be received, maintained and employed therein so long as in the opinion of the said trustees such person may be entitled to relief and require it. Ibid, sec. 69. Persons sent to alms-house by ward managers.

ORDINANCE.

The Register is authorized and directed to pay to the Trustees of the Poor of Baltimore City, each and every year, all such sums of money as they may require, not exceeding the amount levied for the poor tax of each year, at such times as they may require, in anticipation of the collection of said tax, out of any money in the treasury not otherwise appropriated. No. 70, June 5, '58. How payments made to trustees of poor.

NOTE.—Art. 4, sec. 65, provided that the almshouse property, then jointly owned by Baltimore City and Baltimore County, until sold under the act of Assembly, 1853, c. 253, should continue to be jointly used and occupied by the said county and city, under such regulations as the said trustees should from time to time agree upon and prescribe, unless by the joint consent of the County Commissioners of said county and the Mayor and City Council of Baltimore, any change in the use and occupation should be made; power and authority to make which change was thereby vested in the County Commissioners and the Mayor and City Council.

Article II.—Ordinance.

The almshouse property referred to in this section, 65, of Article 4 of Public Local Laws City of Baltimore, and also in sections 38 to 40 of Article 3 of Public Local Laws Baltimore County, was sold by joint commissioners, July 19, 1858, and the sale ratified and confirmed by ordinances Nos. 46, Sept. 23, 1858, and 51, Jan. 29, 1859, under the acts of 1853, c. 253, and 1858, c. 258. It was, however, under lease by the city at the time of the adoption of the Code, February, 1860, (see ordinances Nos. 311, Sept. 14, 1860, and 335, Sept. 26, 1860.) It was finally disposed of under acts of Assembly of 1872, c. 286; 1872, c. 368, and 1874, c. 217; 1874, c. 350, and 1874, c. 430.

The present Baltimore City Almshouse, (named by Res. No. 81, May 6, '65, "Baltimore Bayview Asylum,") was erected under the provisions of ordinances No. 40, approved May 20, '62; No. 49, July 16, '62; No. 25, March 26, '64; No. 35, June 7, '65, and No. 3, February 16, '66; and Res. Nos. 5, Dec. 2, '58; 37, Dec. 16, '58; 146, June 9, '64, and 189, Oct. 23, '65. The site was purchased from the Canton Company of Baltimore, and the almshouse is situate near Eastern avenue and Shor's lane. Ordinance No. 21, April 28, 1860, providing for the purchase of property for an almshouse near the Philadelphia turnpike road was repealed by ordinance No. 10, April 5, '61. (See *Rittenhouse* v. *Mayor, &c.*, 25 Md. 336.)

ARTICLE III.

ARBITRATION.

STATUTES.

COURT OF ARBITRATION OF BOARD OF TRADE.

1. Organization and purposes.
2. Powers: proviso: judge: clerk: jurisdiction: compensation: right of appeal: costs: judgment.
3. Proceedings on judgment: process of execution: nature of writ: when writ issued.

ARBITRATION COMMITTEE OF CORN AND FLOUR EXCHANGE.

4. Duties.
5. Mode of proceeding: powers; process: award: copies.
6. Judgment or decree in court on award: execution: title to real estate: costs and expenses: stay: no appeal.

STATUTES.

COURT OF ARBITRATION OF BOARD OF TRADE.*

1878, c. 383, s. 4.

Organization of court of arbitration.

Purposes.

1. The Board of Trade shall have power and authority to create and organize within itself a court of arbitration for the adjudication and settlement, according to the principles of law, equity and commercial usage, or of either, applicable thereto, of any and all controversies concerning or growing out of contracts of sale, manufacturing, or letting on rent; of the making or negotiating or transfer of bills of exchange, promissory notes, bills of lading, railroad, warehouse or other similar receipts, and other such commercial paper; of guaranties of agency, of bailment, of partnership, of insurance, of affreightment, or of any other transactions, of whatever specific class, pertaining to trade, commerce,

*The Board of Trade was incorporated by act of 1852, c. 158.

navigation, manufactures or mechanic arts, or business connected with any of these, or contracts for personal work, labor and service done or rendered, or to be done or rendered, in and about the pursuit and transactions of trade, commerce, navigation, manufactures or mechanic arts, one or more of the parties to which controversies is or are members of the said corporation, in all cases wherein such controversy is by the consent of all the parties thereto signified by a submission in writing, referred for adjudication and settlement to said court.

Ibid, s. 5.

Powers.

2. In order to the due and effective execution of the power in the next preceding section granted, the said corporation shall have the further power, either directly in corporate meeting, whether the regular annual meeting or a special meeting called for the purpose by reasonable notice to all the members of the time, place and object thereof, by advertisement in one or more of the daily newspapers of the city of Baltimore, or else by delegation, in such meeting, by rule or otherwise, made through the officers and directors, constituting the board of directors or management of said corporation, in either case by the concurring votes of a majority of the members of said corporation or board of directors, as the case shall be, present at such meeting of the one or the other for the propose—provided there be then and there a quorum present, as constituted by the constitution, articles of association or by-laws of the said corporation or board of directors—from time to time to elect from among those persons who have been, or before any such election shall have been, admitted to practice law in this State, one learned in the law and possessing such other qualifications as the said corporation shall, by rule or regulation, as hereinafter empowered, prescribe, whether such person be a member of said corporation or not, unless otherwise provided by such rule or regulation, as judge of the said court of arbitration, and also to elect in like manner, or to provide for the election or appoint-

Proviso.

Judge.

ment of a clerk of the said court; and shall have power also, Clerk.
by rules and regulations duly adopted by the said corporation in such corporate meeting as aforesaid, or by the delegation of said corporation in such meeting made by its said board of directors, to define the duties, powers and functions of the said judge and of the said clerk, and of any other members or officers of the said court of arbitration provided for as hereinafter is authorized, and to determine the jurisdiction Jurisdiction.
of the said judge, original and appellate, whether sitting alone or with laymen, members of the said corporation associated with him, and to fix the term of time for which the said judge and the said clerk respectively shall be elected, and the terms and conditions upon which each shall hold or continue to hold his office, and the amount and mode of the compensation of each, not to be diminished, however, during Compensation.
the currency of a term of office; to provide for the appointment of temporary substitutes for the said judge and the said clerk, or either, when from any cause this shall be necessary for the prompt administration of the justice of the court, and also for the appointment of lay arbitrators as members of the said corporation, for the hearing and determination of a particular case, either in the first instance with right to the parties, or either of them, to appeal to the said judge, or as assessors associated with the said judge when parties so choose, and to define, in such cases, the powers, duties and authority of such lay arbitrators or assessors; and also prescribe the forms and modes of application, procedure, pleading, practice, trial and process in the said court, in all the necessary details thereof, and the effect of the awards and judgments or decisions of the said court, as to the finality or conclusiveness or otherwise thereof, and the methods and means of securing compliance therewith by the parties; and also to regulate the costs and fees to be paid by the parties Costs.
to any such controversy so submitted, and the amount and

time and manner of payment thereof, and the disposition of such costs and fees; provided, however, that no such rule or regulation shall be valid if it shall be contrary to the General Law of the State, or to natural right or sound reason, or be intended to provide for enforcing payment or other performance of the award, judgment or decision of the said court or board of arbitration by any final process of execution otherwise than is hereinafter directed.

Judgment.

Ibid, s. 6.

Proceedings on judgment.

3. When, in any such case so submitted as is hereinbefore provided, an award, judgment or decision shall have been rendered by the said court or board of arbitration, that is, according to the rules and regulations hereinbefore authorized, final and conclusive upon the parties, and shall have been recorded by the clerk of the said court in a book to be provided and kept for the purpose within a time limited therefor in the said rules and regulations, the successful party shall have the right to have the said original award, judgment or decision in writing, signed by those members of the said court or board concurring therein, and duly certified by the clerk to be the original award, judgment or decision, under his hand and the seal of the corporation; and if the said award, judgment or decision shall be for the recovery by the one party and payment to him by the other of a certain sum of money, the said successful party shall, upon his filing the said award, judgment or decision so certified with the clerk of the Superior Court of Baltimore City or, at his option with the clerk of the Court of Common Pleas of said city, have the right to have the same entered by its proper style, in the name of such successful party as plaintiff against the losing party as defendant, in its order of time, upon the court calendar or docket of causes to be called at the next succeeding term or rule day of said court, whichever shall first occur, and upon the call thereof in its course, to have judgment at once ordered and entered up, as upon a

verdict for the recovery of the same amount, according to the practice of said court, and to have process of execution for its enforcement and satisfaction in all respects as if the said amount had been recovered by a judgment of the said court in a regular suit between the same parties in the same relative position on the record, there instituted and prosecuted in the ordinary modes of proceeding therein; but, if the said award, judgment or decision shall be for the recovery by the one party, and the surrender or delivery by the other to him of the possession of specific property, the said successful party, upon filing such award, judgment or decision, so certified as aforesaid, with the clerk of the Circuit Court of Baltimore City, or such other court therein as shall at the time have jurisdiction there of causes in equity, shall have the right, on or at any time after the first day of the next succeeding term, or on or at any time after the next succeeding rule day of the said court, whichever shall first occur, to have, upon motion therefor, and order made by the said court, affirming the said award, judgment or decision, and making the same a decree of the said court, and to have the same enforced, if the recovery be of the possession of land, freehold or leasehold, by a writ in the nature of a writ of *habere facias possessionem*, such as the said court is authorized to issue for the purpose of putting a purchaser under its decree in possession of the land purchased by him, and to be executed in the same manner and by the same officer against such losing party to such award, judgment or decision, and any and all and every other person or persons in possession of said land, claiming the same by virtue of a title derived from, through or under such losing party, and acquired subsequently to the date of such award, judgment or decision, which said writ the said court is authorized and empowered to issue for this purpose upon application in writing of such successful party to the said award, judgment or decision, in

Process of execution.

Nature of writ.

When witnessed.

person or by attorney, verified by the affidavit of himself or his attorney, unless good cause to the contrary shall be shown by such party in possession within not less than fifteen nor more than thirty days after notice in writing of such application served upon such party in possession in person; and if the recovery be of the possession of personal chattels, by such process of execution and compulsion as in the chancery practice of this State is usual and proper for the enforcement of a decree for the specific delivery of personal chattels.

ARBITRATION COMMITTEE OF CORN AND FLOUR EXCHANGE.

1870, c. 136, s. 8.

4. The board of directors shall annually elect by ballot five members of the association, who are not members of the board, as a committee, to be known as the Arbitration Committee of the Baltimore Corn and Flour Exchange.* The board of directors may, at any time, fill any vacancy in said committee for the remainder of the term in which such vacancy may happen. The duty of the arbitration committee shall be to hear and decide any controversies which may arise in business between the members of said organization, or said members and other persons, as may be voluntarily submitted to the said committee for arbitration; and such members and persons may, by an instrument in writing, signed by them and attested by a subscribing witness, agree to submit to the decision of said committee, any such controversy so arising as might be the subject of an action at law or in equity, except claims of title to real estate.

Arbitration committee.

Duties.

Agreement to submit.

Real estate.

Ibid, s. 9.

5. The mode of proceeding of said arbitration committee shall be regulated by the by-laws of the corporation, which shall be substantially complied with in all cases, without prejudice, however, to any award from merely formal

Mode of proceeding.

* The Corn and Flour Exchange was incorporated by Act of 1865, c. 83.

irregularity. The said committee shall have power to apply to any justice of the peace for the City of Baltimore, to issue *subpœnas* and other compulsory process to procure the attendance of witnesses before it, and all justices so applied to in writing, signed by the chairman or acting chairman of said committee, shall issue such process forthwith, the cost of the same, and of the attendance of the witnesses so summoned, to be the same as in civil suits before such justices, and to be collectable from the parties on whose behalf the said witnesses shall be summoned and attend, in the same manner, and by the same means, as if adjudged to be paid by a judgment of the justice who shall act in the premises in a civil suit between the same parties depending before him. A majority of said committee may act in all cases, and a majority of such majority shall have power to render an award in the name of and as the act of the committee. No dissenting award or opinions shall be rendered or placed among the proceedings, or upon the records of the committee or the corporation; the award of the committee rendered in conformity herewith, and as prescribed by the by laws, shall be conclusive on all parties to the submission. It shall in all cases be in writing, signed by the members of the committee who agreed upon it, and filed among the proceedings of the committee, but copies shall be given by the secretary, with his attestation and the seal of the corporation attached, to the respective parties, as soon as may be after said award shall have been rendered.

Powers.

Process.

Award.

Copies.

6. If the parties to any submission shall agree to do so, they may stipulate as part of said submission, in writing, that the award of the committee rendered in conformity herewith and with the by-laws, shall stand and avail as against them to the same effect as a judgment or decree of a court of competent jurisdiction, in which case either party desiring and entitled to the enforcement of said award, may

Ibid, s. 10.

Judgment or decree in court on award.

file a copy of the same and of the submission, attested under seal by the secretary of the corporation, for record with the clerk of any court of this State having jurisdiction of the subject matter, and the person against whom said enforcement is sought; and thereupon it shall be the duty of said court, on motion or application, *ex parte*, at any time after ten days from the filing of the award, to enter judgment or decree thereupon, as upon a final award made by referees under rule of court; upon which judgment or decree, execution shall issue without stay. No matter affecting the title of real estate, however, shall be submitted to or be arbitrated by the said committee under this or the preceding section, but the committee may direct in its award the payment of the costs and expenses of the arbitration, and the amount thereof shall be embraced as a principal sum in the judgment or decree to be rendered; if awarded, to be paid by the party against whom such judgment or decree is sought. No judgment or decree rendered on any award under this act shall be liable to be stayed, except upon allegation, under oath of the defendant of manifest fraud in the procurement or rendition of the award, or of a material and substantial failure of the committee, specifically alleged and set forth, to comply with the by-laws, or this act, in the hearing and determination of the matters submitted; nor shall any such judgment or decree be quashed, modified or stricken out, except upon satisfactory proof of the matters so required to be so alleged; neither shall there be any appeal in any case from the original judgment, order or decree, whereby, after a hearing of the allegations and proofs as aforesaid, the said original judgment or decree shall be maintained.

Execution.

Title to real estate.

Costs and expenses.

Stay.

No appeal.

ARTICLE IV.

ASSAULT AND BATTERY.

STATUTES.

1. Assault and battery in streets, &c.: penalty.
2. Description of offence in recognizance or commitment.
3. Presentment or indictment.

STATUTES.

P. L. L., art. 4, sec. 155. Assault and battery in streets, &c.

1. Any person who shall, without any provocation, assault and beat any person in any of the streets, lanes, alleys or highways of the City of Baltimore, or at any place of public resort or amusement, between the hours of six o'clock in the evening and six o'clock on the following morning, or who shall counsel, aid or abet in such assault and battery, shall be fined in a sum not less than twenty-five dollars, and imprisoned not less than one month; or the judge of the Criminal Court of Baltimore City, or the judge having jurisdiction of the offence, may, in his discretion, sentence the person convicted of such offence to confinement in the penitentiary for a period not less than six months nor more than two years.

Penalty

Ibid, sec. 156. Description of offence in recognizance or commitment.

2. It shall not be necessary to state with more particularity than is now necessary in proceedings for assaults and batteries, the time or place of such assault and battery in the recognizance or commitment on which the said person is tried, but the said person may be tried on a recognizance or

Trial.

commitment on which the said person is tried, but the said person may be tried on a recognizance or commitment for a common assault and battery, and shall be sentenced by the court according to the facts proved at the trial.

Ibid, sec. 157.

Presentment or indictment.

3. In case the said person is tried upon a presentment or indictment, it shall only be necessary to allege in the presentment or indictment that the offence was committed between the hours aforesaid, and that it was committed on a highway in the City of Baltimore, or at a place of public resort or amusement, without setting forth said highway or place of public resort or amusement by name.

ARTICLE V.

ASSAYER OF SILVER PLATE.

STATUTES.

1. Mayor and Council to appoint assayer.
2. Oath of office.
3. Bond.
4. Not to be concerned in sale or manufacture of silver.
5. Stamp prescribed.
6. Mayor and Council to approve stamp: fine.
7. Forging or counterfeiting stamp or marks, &c.: penalty.
8. When manufacturer may sell without stamp: penalty.
9. Name of manufacturer to be stamped: purchaser may have ware assayed.
10. False mark or stamp.
11. When purchaser to pay costs to assayer.
12. When seller to pay: penalty.
13. How fines and penalties recoverable.
14. Not to extend to any but traders.

STATUTES.

1. The Mayor and City Council of Baltimore shall appoint an able and skilful man, experienced in assaying silver, as Assayer for said city. P. L. L., art. 4, sec. 70. Mayor and Council to appoint assayer.

2. The person so appointed shall, before entering upon the duties of his office, take the following oath: I, A. B., do swear that I will, so long as I continue assayer, well and faithfully behave myself in said office, and justly and impartially decide all matters which may be submitted to me as assayer, according to my best judgment and experience, and no undue profit to myself take to the hurting or hindrance of any person, either purchaser or seller, of any article of manufactured silver to be assayed, and will true account Ibid, sec. 71. Oath of office.

make of all acts done by me in virtue of my office of assayer, whenever I shall be required so to do by the Mayor and City Council of Baltimore, so help me God.

Ibid, sec. 72.

Bond.

3. He shall enter into bond to the Mayor and City Council in such sum and with such security as they shall require for the true and faithful performance of the duties imposed upon him by law.

Ibid, sec. 73.

Not to be concerned in sale or manufacture of silver.

4. No assayer shall be concerned or any wise interested in the manufacturing or sale of silver plate, or manufacture of silver within the City or precincts of Baltimore, under the penalty of the forfeiture of his office and of his official bond.

Ibid, sec. 74.

Stamp prescribed.

5. The stamp which shall be used by the assayer for the marking or stamping of silver vessels, plate, or manufacture of silver, shall be numbers corresponding with the number of ounces, pennyweights and grains of pure silver contained in such articles to every pound troy.

Ibid, sec. 75.

Mayor and Council to approve stamp.

6. The said stamp shall be approved by the Mayor and City Council, and it shall be the duty of the assayer, whenever required by the said Mayor and City Council, to produce for their inspection the stamp so used by him, and on failure his office shall be vacated or a fine imposed upon him, at their discretion.

Ibid, sec. 76.

Forging or counterfeiting stamp or marks, &c.

7. If any person shall cast, forge or counterfeit, or cause to be cast, forged or counterfeited, the stamps or marks of the assayer, or shall mark or stamp, or cause or procure to be marked or stamped, any wrought plate of silver, or any wares of brass or other base metal silvered over or resembling silver, with any stamp or mark which hath been or shall be forged or counterfeited, in imitation of or to resemble any stamp or mark of said assayer, or shall transpose or remove, or cause or procure to be transposed or removed, from one

piece of wrought plate to another, or to any plate of such base metal as aforesaid, any stamp, mark or impression which may be made by or with the said assayer's stamp or mark, or shall sell, exchange or expose, or offer for sale or exchange, any wrought plate of silver, or any vessel of such base metal as aforesaid, with any such forged or counterfeited stamp, mark or impression thereon, or any stamp, mark or impression which hath been transferred or removed from any other piece of plate, knowing such stamp, mark or impression to be forged, counterfeited or transposed, or removed as aforesaid, or shall wilfully or knowingly have or be possessed of any mark or stamp which hath been or shall be forged or counterfeited in imitation of and to resemble any mark or stamp of said assayer, he shall, upon conviction thereof, forfeit and pay the sum of five hundred dollars, to be recovered by action of debt in the Criminal Court of Baltimore, in the name of the Mayor and City Council of Baltimore, one-half thereof to the Mayor and City Council for the use of the city, and the other half to the use of the informer, and shall be committed by the court to the penitentiary of the State of Maryland, there to remain and to be kept at hard labor for any time not exceeding the space of five years, nor less than one year, and until payment be made of the said forfeiture. Penalty.

8. It shall be lawful for any manufacturer or manufacturers of silver ware in said city, to sell, exchange, expose or offer to sell or exchange, any silver vessel or plate, or other manufacture whatsoever, by himself or themselves, manufactured within the said city, without requiring the stamp or mark of the assayer thereupon; provided, that every vessel or plate or other manufacture of silver thus sold, exchanged or exposed, or offered for sale or exchange, which shall be over the weight of five pennyweights, shall be stamped with the name or names of the manufacturer or Ibid, sec. 77. When manufacturer may sell without stamp.

manufacturers, and also the numerical figure or figures corresponding with the fineness thereof, under the penalty of twenty dollars for each and every article which shall not be so stamped.

Penalty.

Ibid, sec. 78.

Name of manufacturer to be stamped.

9. It shall be lawful for any person or persons who may not be manufacturers of silver ware, to sell, exchange or expose, or offer to sell or exchange in said city, any silver vessel, plate or other manufacture of silver whatsoever not manufactured within the said city, and having thereon the name or names of the person or persons so selling, exchanging or offering to sell, or exchange the same, together with the numerical figures corresponding to the fineness thereof; but it shall be lawful for the purchaser or purchasers of such ware, plate or manufacture of silver, to apply to the assayer of said city to have the same assayed, and if on assaying the same it shall be found that the said plate, ware or manufacture is less in fineness than eleven ounces in any pound troy, or hath not thereon the numerical figures and the name or names as aforesaid, the person or persons so selling or exchanging, or offering to sell or exchange the same, shall forfeit and pay the sum of twenty dollars for each and every piece of article of such ware, plate or manufacture so sold or exchanged, or offered for sale or exchange.

Purchaser may have ware assayed.

Ibid, sec. 79.

False mark or stamp.

10. If any purchaser or purchasers of any vessel, plate or other manufacture of silver in said city shall believe that the stamp or mark designating by a numerical figure or figures the fineness thereof, is a false and deceptious mark or stamp, and does not truly designate the fineness thereof, he may apply and complain to the assayer, who shall assay the article and decide and declare the fineness thereof.

Ibid, sec. 80.

When purchaser to pay cost to assayer.

11. If the assayer, upon application and complaint as aforesaid, shall decide that the said mark or stamp designating by a numerical figure or figures the fineness of the sil-

ver article in question before him, is a just and true mark, fairly designating the fineness thereof, the purchaser making the complaint shall pay to the assayer ten cents for every ounce of silver plate or manufactured silver assayed.

12. If the assayer shall decide that the mark or stamp designating by a numerical figure or figures the fineness of such silver plate or manufactured silver is a false and deceptious mark or stamp, and does not truly designate the fineness of such article, the seller or manufacturer against whom the application is made shall be fined twenty dollars for each case in which such decision is made by the assayer, and pay to the assayer ten cents for every ounce of silver plate or other manufactured silver so assayed. Ibid, sec. 81. When seller to pay. Penalty

13. All fines and penalties incurred for violating the provisions of this article relating to the assaying of silver plate shall be recoverable before a justice of the peace, as small debts are recoverable, in the name of the Mayor and City Council of Baltimore, the one-half thereof to the said Mayor and City Council for the use of the city, and the other half for the use of the informer. Ibid, sec. 82. How fines and penalties recoverable.

14. Nothing herein contained shall be construed to extend to those who do not deal in silver ware, plate or manufacture thereof, in the way of trade. Ibid, sec. 83. Not to extend to any but traders.

ARTICLE VI.

AUCTIONS.

STATUTES.

1. What property subject to auction duties.
2. Rates of tax on sales by auction: special license not to pay duties.
3. Rates of duties: exceptions.
4. How calculated.
5. What property exempt from duties.
6. Duties on realty: a lien.
7. Purchaser may pay out of purchase money.
8. Property to be struck off to highest bidder.
9. Governor to appoint auctioneers.
10. Bond of auctioneer to sell under $150,000: license fee to treasurer.
11. When general auctioneers may sell: returns to City Comptroller: auctioneer under special license: penalty.
12. Bond to sell over $150,000: license fee.
13. To sell books, maps and prints: license fee.
14. To sell horses and carriages: license fee.
15. How license may be issued.
16. Partner or representative may act in case of death.
17. Bonds: how taken and recorded: fee to clerk of court.
18. When treasurer to issue license.
19. Unauthorized persons not to sell by auction: penalty.
20. Selling without bond or license: penalty.
21. Selling goods other than authorized: penalty.
22. Commission void without license.
23. Bond to be renewed.
24. When treasurer may require new security.
25. Appointment void, if auctioneer accept appointment from another State.
26. Auctioneer to designate partners, &c.: penalty.
27. Mayor to designate where horses and carriages may be sold, &c.: riding and driving such horses and carriages.
28. Auctioneer to keep registry of horses sold: where to be deposited.
29. Rates of commissions allowed for selling books, maps and prints.
30. Rates for selling under $150,000.
31. For selling over $150,000: exception.
32. Higher rates than authorized: penalty.
33. Not to permit others to sell under license except employees: places at which sales may be made.

Article VI.—Statutes.

34. Penalty for violating provisions of preceding section.
35. Auctioneers to render account to City Comptroller: each day sales: payments to City Comptroller.
36. Auctioneer's oath to account: certificate to be attached.
37. Penalty for failing to make returns: proviso: evidence: proviso: action against auctioneer or on bond.
38. Auctioneer making no sales to make affidavit.
39. Governor to appoint no auctioneer whose accounts are unsettled.
40. Fraud or deceit: penalty: dividing fee or commission with trustee, attorney, &c.: liability of trustee or attorney.
41. Prosecution: penalties recovered.
42. Perjury: penalty.
43. Disposition of proceeds of auction duties: improving channel and harbor.
44. Mayor and City Council to account to State Comptroller: Comptroller to report to General Assembly.
45. Excess over $20,000 to be paid to State Treasurer: City Comptroller to account to State Comptroller: when balance to be paid.
46. Proviso: wharfage.
47. Who may sell without license.

ORDINANCES.

1. Register to account to Comptroller of State.
2. Holding auctions without permission: penalty: when Mayor may grant permit.

STATUTES.

1. All real estate, and all goods, wares, merchandise, stock and every other species of personal property whatever, (except goods and other property belonging to this State or the United States, or which shall be seized by any public officer for or on account of any penalty or forfeiture, or taken in execution, and all goods distrained for rent, utensils of husbandry, and all articles of the growth or produce of this State,) which shall at any time be exposed to sale by public auction within the city of Baltimore, shall be subject, each and every time they or any of them shall be struck off, to duties, at the following rates:

P. L. L., art. 4, sec. 85.
What property subject to auction duties

2. All real estate and vessels, all wines and ardent spirits, foreign and domestic, all goods, wares, merchandise and effects imported from any place beyond the Cape of Good Hope, all stock of banks or other incorporated institutions, State or city

1872, c. 249, s. 86.
Rate of tax on sales by auction.

loans, goods and effects of deceased persons or insolvent debtors, or property sold under an order or decree of any court, at the rate of fifty cents on every hundred dollars; and raw cotton and provisions, coffee, tea, sugar and molasses, foreign and domestic, at the rate of ten cents on every hundred dollars, except in cases where an auctioneer shall have taken out a special license at the rate of seventy-five dollars per annum to sell at public auction stocks of banks or other incorporated institutions, State or city loans, when, and in which event, but not otherwise, no auction duties upon such securities shall be paid by the auctioneer who has taken out such special license.*

Special license not to pay duties.

1872, c. 249, s. 87. Rates of duties. Exception.

3. All other goods, wares, merchandise and effects which are the production of any foreign country, all domestic manufactures, and all goods, wares, merchandise and effects, and property of what kind soever not enumerated above, at the rate of seventy-five cents on every hundred dollars, save and excepting that class of goods known as groceries and dry goods, including carpets, boots and shoes, which shall only be subject to a duty of ten cents on every hundred dollars.

P. L. L., art. 4, sec. 88. How calculated.

4. The duties shall be calculated on the sums for which the property or goods so exposed to sale shall be respectively struck off, and shall in all cases be paid by the person making the sale.

Ibid, sec. 89. What property exempt from duties.

5. No duties shall be chargeable upon any goods, wares, merchandise or other property sold by any auctioneer at private sale on the days of his public auction, unless the same be sold at the place of his public auction, or unless the same be part of what was offered for sale at said public auction, or was advertised to be sold thereat.

* The Act of 1872, c. 263, also repeals and re-enacts sec. 86 [sec. 2] as above, except that instead of "raw cotton and provisions, coffee, tea, sugar and molasses," &c., it has: "coffee, tea, raw cotton, sugar and molasses," &c.

Article VI.—Statutes.

6. The duty imposed on all sales of lands, tenements and hereditaments, or of any interest therein, at public auction in the City of Baltimore, shall be a lien on the said property when sold as aforesaid. Ibid, sec. 90. Duties on realty; a lien.

7. Every purchaser of lands, tenements or hereditaments, or of any interest therein, purchased at public auction in the City of Baltimore, shall be entitled to pay the auction duty on such sale and to claim the said payment as a credit on his purchase as aforesaid. Ibid, sec. 91. Purchaser may pay out of purchase money.

8. All goods and property, of what kind soever, shall in all cases be struck off to the highest bidder; and where the auctioneer or owner, or any person employed by them or either of them, shall be such bidder, the goods or property shall be subject to the same duties as if struck off to any other person; but this section shall not be construed to render valid any sale that would otherwise be deemed fraudulent and void. Ibid, sec. 92. Property to be struck off to highest bidder.

9. The Governor, by and with the advice and consent of the Senate, shall biennially appoint as many auctioneers in the City of Baltimore as he may think proper; not exceeding twenty. Ibid, sec. 93. Governor to appoint auctioneers.

10. Each person so appointed, the amount of whose sales of goods, wares, merchandise and personal property of every kind, exclusive of his real estate sales and sales of houses, shall not exceed the sum of one hundred and fifty thousand dollars, shall, before entering upon the duties of his office, enter into a recognizance to the State, with two sufficient securities, in the sum of five thousand dollars, conditioned for the payment of the duties hereinbefore mentioned to the Treasurer of Maryland, and that he shall in all things well, truly and faithfully behave and conform himself according to the true intent and meaning of this law; and shall also Ibid, sec. 94. Bond of auctioneer to sell under $150,000.

License fee to treasurer.

pay to the Treasurer of Maryland the sum of four hundred and fifty dollars as a license fee *

1872, c. 249, s. 95.

When general auctioneers may sell.

11. Any auctioneer paying the license fee, and executing the bond prescribed in the last aforegoing section, may make sales of every description of goods, wares and merchandise of every kind, and real estate, and may exercise all the rights and privileges of a general auctioneer to the extent and amount of the sum prescribed in said section; and he shall

Return to City Comptroller.

make under oath quarterly returns to the Comptroller of the City of Baltimore, showing the full amount of his sales of every kind, distinguishing his sales of goods, wares and merchandise, and personal effects of every kind, from his sales of real estate and houses; but any auctioneer taking out

Auctioneers under special license.

a special license, as provided in article four, section eighty-six, of Public Local Laws, [section 2 *ante*], in regard to auctions in Baltimore City, to sell at public auction stocks of any banks or other incorporated institutions, State or city loans, shall not be required to make any returns of sales of

* As to the former power of the city to grant licenses to auctioneers, (re-vested in State by the Acts of 1827, c. 111; 1828, c. 148; 1835, c. 184; 1841, c. 186; 1853, c. 266; 1860, c. 279; 1868, c. 13; 1868, c. 171, and 1872, c. 249,) under the ordinance of Feb. 20, 1801, for licensing and regulating auctions within the City of Baltimore, and suits on bonds given thereunder to the Mayor and City Council, see *McMechen* v. *Mayor, &c.*, 2. H. & J. 41, and 3 H. & J. 534. These cases decide, that where a licensed auctioneer gave bond with security, as required by law, for the performance of his duties, and the bond recited that the auctioneer had obtained his license, the intendment of law is, that the bond and license were given on the same day, and that the execution of the bond preceded the granting of the license, because the nature of the transaction required it; and that if goods are sent to an auctioneer, with directions to sell them at public auction, and he sells them at private sale, without authority, and does not pay over the proceeds, his bond is liable.

As to the right of persons interested to sue on bonds taken in name of State, see *Ing* v. *State*, 8 Md. 295; *State* v. *Wyman*, 2 G. & J. 254; *State* v. *Bryan*, 3 Gill, 388; *State* v. *Norwood*, 12 Md. 193; *Logan* v. *the State*, 39 Md. 177; P. G. L. Art. XVI, sec. 108; Art. XVIII, sec. 34.

such securities; and if any auctioneer under said license shall sell any amount exceeding the sum named in the last preceding section, he shall be subject to all the penalties hereinafter imposed upon auctioneers who shall sell without license. Penalty.

12. Each auctioneer so appointed whose sales of goods, wares and merchandise, and personal effects of every kind, exclusive of his real estate sales and sales of houses, shall exceed the sum of one hundred and fifty thousand dollars, shall, before he enters upon the duties of his office, enter into a recognizance to the State, with two sufficient securities in the sum of ten thousand dollars, conditioned as hereinbefore prescribed, and shall pay to the treasurer the sum of seven hundred and fifty dollars as a license fee. P. L. L., art. 4, sec. 96. Bond to sell over $150,000. License fee.

13. If any person so appointed shall desire to pursue the business of an auctioneer for the sole purpose of selling books, maps or prints, by day or by night, he shall be entitled to do so by first entering into a recognizance to the State, with two sufficient securities in the penalty of five thousand dollars, conditioned as hereinbefore prescribed, and by paying to the treasurer the sum of one hundred and fifty dollars. Ibid, sec. 97. Bond to sell books, maps and prints. License fee.

14. If any person so appointed shall desire to pursue the business of an auctioneer for the sole purpose of vending horses and carriages, he shall be entitled to do so by first entering into a recognizance to the State, with two sufficient securities in the sum of one thousand dollars, and paying to the treasurer the sum of fifty dollars as a license fee. Ibid, sec. 98. Bond to sell horses and carriages. License fee.

15. A license may, on the request or with the consent of the party, be issued by the treasurer, *nunc pro tunc*, so as to avail him for a year from the day on which his license expired, or in such manner as to avail him for any part of the interval the applicant may desire, but no license issued under Ibid, sec. 99. How license may be issued.

this section shall acquit the party obtaining it of any penalty hereby imposed for selling without license, if prosecution therefor shall have commenced before such license was obtained.

Ibid, sec. 100.

Partner or representative may act in case of death.

16. In case of the death of any auctioner before the time limited in his license has expired, his copartner, or copartners, if he has any, or his personal representative, may continue to act under the license for the unexpired time.

Ibid, sec. 101.

Bonds, how taken and recorded.

Fee to clerk of court.

17. All recognizances directed to be taken by this law shall be taken by the clerk of the Court of Common Pleas, and duplicates shall be made of the record of every such recognizance by said clerk, one whereof shall be delivered, or be caused to be delivered, by such auctioneer to the treasurer within ten days after the date of such record, and the other shall be retained by said clerk, who shall be entitled to demand for the same from the auctioneer the sum of one dollar.

Ibid, sec. 102.

When treasurer to issue license.

18. The Treasurer, on his being satisfied that the recognizance herein required has been entered into by any of the persons appointed auctioneers by the Governor, and upon his receiving the license fee hereby required from such person, shall issue a general or special license to such person as the person may be entitled to, for the term of one year from the date of such license.

1872, c. 249, s. 103.

Unauthorized persons not to sell by auction.

19. If any person or persons, not appointed and authorized in the manner herein directed, nor by nor under some official authority under the laws of the United States, shall sell or attempt to sell any goods, wares, merchandise or effects of any kind, real estate, or vessels in the City of Baltimore by public auction, he shall be considered guilty of a misdemeanor, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and shall on

conviction be fined in a sum not exceeding five hundred dollars, nor less than one hundred dollars, or be imprisoned for a term not exceeding three months, or both, at the discretion of the court. Penalty.

20. If any auctioneer shall sell any goods, wares, merchandise or effects, or vessels, by way of public auction, without having entered into the recognizance and paid the license fee hereinbefore required, he shall be deemed guilty of a misdemeanor, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof, shall be fined in a sum not exceeding one hundred dollars, nor less than fifty dollars, for each and every article so exposed for sale. 1872, c. 249, s. 104. Selling without bond or license. Penalty.

21. If any auctioneer shall sell any goods or property other than such as he is authorized to sell by the terms of his license, he shall be deemed guilty of a misdemeanor, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof shall be fined in a sum not exceeding one hundred dollars, nor less than fifty dollars, for each and every article so sold. 1872, c. 249, s. 105. Selling goods other than authorized. Penalty.

22. If any person commissioned as auctioneer shall neglect to take out a license within twenty days after his commission shall have been forwarded to him by the Governor, such commission shall be deemed null and void, and the Governor shall appoint some other person to supply the vacancy in the number of auctioneers caused by such neglect. P. L. L., art. 4, sec. 106. Commission void without license.

23. The recognizance herein required shall be annually renewed. Ibid, sec. 107. Bond to be renewed.

24. If any security or securities entered into by any auctioneer shall remove from this State or become insolvent, the treasurer shall demand other security or securities in his or their place, and if the auctioneer shall neglect or refuse to Ibid, sec. 108. When treasurer may require new security.

give other security within three days after such demand is made, his license shall thenceforth be null and void to all intents and purposes as if the same had never been granted, and the treasurer shall immediately give public notice thereof in two or more public newspapers published in said city.

Ibid, sec. 109.

Appointment void if auctioneer accept appointment from another State.

25. If any auctioneer appointed under this law shall accept at any time during the continuance of his appointment an appointment as auctioneer from any other State, he shall be deemed to have forfeited his appointment under this law.

Ibid, sec. 110.

Auctioneer to designate partners, &c.

26. Every auctioneer in said city shall designate in writing his partner or partners, if any are engaged with him in his said business, and the houses or stores occupied by him for the transaction of auction business, and shall deposit such writing with the treasurer; and if any auctioneer in said city shall enter upon the duties of his office before so doing, he shall be deemed guilty of a misdemeanor, and on conviction

Penalty.

shall be fined in a sum not exceeding five hundred dollars, and it shall be the duty of the court before whom such conviction is had to transmit forthwith a particular report thereof to the Governor, who may in his discretion inhibit the person convicted from acting as auctioneer during his pleasure.

Ibid, sec. 111.

Mayor to designate where horses and carriages may be sold, &c.

Riding and driving.

27. The Mayor of the City may designate the place or places for the sale of horses and carriages, and make such regulations in respect to the time and manner of selling horses and carriages at auction, and the riding and driving such horses and carriages, as he shall deem best calculated to promote public convenience and protect the persons of individuals from danger.

Ibid, sec. 112.

Auctioneer to keep registry of horses sold.

28. Every auctioneer appointed and licensed for the sale of horses shall keep a registry of all horses sold by him, specifying a description of the horse sold, the sum for which

he sold, and the name and residence of the seller and buyer, and shall deposit such registry, with an oath of the truth thereof, at the end of each year, with the clerk of the Court of Common Pleas. Where to be deposited.

29. No auctioneer specially licensed for selling books, maps or prints shall be entitled to demand or receive, without a previous agreement to the contrary, from any person, directly or indirectly, a commission exceeding seven dollars and fifty cents for every one hundred dollars of the purchase money arising from such sales, exclusive of all duties. Ibid, sec. 113. Rates of commissions allowed for selling books, maps and prints.

30. No auctioneer licensed to sell to the amount of one hundred and fifty thousand dollars, without a previous agreement to the contrary, shall be entitled to demand or receive for his services, directly or indirectly, a commission exceeding four dollars, clear of all duties, for every hundred dollars of the purchase money arising from such sales. Ibid, sec. 114. Rates for selling under $150,000.

31. No auctioneer licensed generally for the sale of goods, wares and merchandise exceeding one hundred and fifty thousand dollars, without a previous agreement to the contrary, shall be entitled to demand or receive for his services, directly or indirectly, a commission exceeding two dollars, clear of all duties, for every hundred dollars of the purchase money arising from such sales, except upon sales of furniture and wearing apparel, upon which they shall be entitled to receive four dollars, clear of duties, for every hundred dollars arising from such sales; and except also upon sales of books, stationery, maps and prints, upon which they shall be entitled to receive seven dollars and fifty cents, clear of duties, for every hundred dollars arising from such sales, and upon these articles the auctioneer mentioned in the preceding section may charge a similar amount. Ibid, sec. 115. Rates for selling over $150,000. Exception.

32. Any auctioneer who shall receive or accept any greater or higher reward for his services than is authorized by this article, shall forfeit the sum of five hundred dollars Ibid, sec. 116. Higher rates than authorized.

Penalty.

for every offence, to be recovered in the name of the State by suit, or by indictment in the Criminal Court, one-half to the use of the State and the other half to the use of the party prosecuting for the same.

1872, c. 249, s. 117.
Not to permit others to sell under license except employee.

33. No auctioneer shall authorize or permit any person whatever to sell any property of any description whatever, under and by virtue of his license, except the person so authorized or permitted is actually and *bona fide* in the employment of such auctioneer, and is actually and *bona fide* a resident of Baltimore City at the time of such employment, and the commissions on such sales are actually and *bona fide* for the benefit of such auctioneer, and no license shall be construed to authorize the holder to sell at more than one regular establishment, but an auctioneer may sell public stocks, houses, lots and furniture, or ships or vessels on the premises *where* the same may be, or at the exchange, or goods in the original form and packages as imported, and bulky articles such as have been usually sold in warehouses or in the public streets or on the wharves, at such other places within the city as shall be desired by the owner or importer of such bulky articles or imported goods.

Places at which sales may be made.

1872, c. 249, s. 118.
Penalty for violating provisions of preceding section.

34. If any auctioneer shall violate any of the provisions of the last preceding section, he shall be deemed guilty of a misdemeanor for every such violation, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof, shall be fined in a sum not exceeding two hundred dollars, nor less than one hundred dollars.

1872, c. 249, s. 119.
Auctioneers to render account to City Comptroller.

35. Every auctioneer shall, within thirty days after the first days of January, April, July and October of the year for which he shall have been appointed, and in each and every year that he shall hold and continue in the office and duty of such auctioneer, render to the Comptroller of the City

of Baltimore a true and particular account in writing of the money or sums of money for which any goods, wares or merchandise, or other property of every kind, shall have been sold at every sale since entering on the duties of his office, or since the last account was rendered, of the amount of each day's sales and the days when sold, distinguishing the sales made by him personally or in his presence, and those made by his partner or partners or clerk in consequence of his absence; setting forth, also, the amount of all goods, wares, merchandise and other property sent or entrusted to him, his partner or partners, for sales, and [by] him or them sold at auction, and the days on which the same were sold, and particularizing the amount of the several duties chargeable on said sales, duplicate copies of which said accounts, properly sworn to as hereinafter required, shall be transmitted to the Comptroller of the State, by every such auctioneer, within the said thirty days after the said first days of January, April, July and October of the year or years as aforesaid; and every auctioneer shall, within thirty days after rendering such account, pay over to the said Comptroller of Baltimore City, for the use of the State, subject to provisions hereinafter contained, all such sum or sums of money as appear to be due from him to the State for duties, according to law.

Each day's sales.

Payment to City Comptroller.

36. The auctioneer making such returns shall, at the time of making the same, take before some justice of the peace, or judge of a court of record, the following oath: I, ———, do solemnly and sincerely swear that the account now exhibited by me, and to which I have subscribed my name, contains a just and true account of all the goods, wares and merchandise and property of every kind, sold or struck off by me at public sale, or sold at private sale, on the days of my public auctions, or sold or struck off as aforesaid by my co-partner or co-partners, (if any there be) or by

1872, c. 249, s. 120.

Auctioneer's oath to acconnt.

others in my name, or under my direction, and in my actual and *bona fide* employment, (as the case may be) and the days upon which the same were respectively sold; that I have examined the entries of all sales mentioned in said account, in the books kept by me for that purpose, and I fully believe this account to be correct; and further, that I have, during the time mentioned, conformed in all things to the provisions of the law relating to auctions in Baltimore City, according to the best of my knowledge and belief, so help me God.

Certificate to be attached.

And he shall cause a certificate of the fact that he has taken such oath, duly signed by said justice or said judge, and a certificate of the clerk of the Superior Court of Baltimore City, of the official character of said justice when signed by him, to be annexed to said return, and no account or return of sales as provided to be made and rendered in the last preceding section, shall be deemed or held to be "a true and particular account," within the meaning of said last preceding section, unless the oath herein provided is made and annexed to such account or return of sales, and the auctioneer refusing or neglecting to make and to annex such oath, shall be liable to be proceeded against as if he had not made and rendered any account or return of sales, as required by law.

1872, c. 249, s. 121.

Penalty for failing to make returns.

37. If any auctioneer shall refuse or neglect to transmit to the treasurer a duplicate of the record of his recognizance as before required, or shall neglect or refuse to render an account of sales to the Comptroller of the City of Baltimore quarterly, or shall refuse or neglect to transmit a duplicate copy of such account to the Comptroller of the State, within the time or times limited for rendering such accounts or transmitting such duplicates as provided in section one hundred and nineteen of this law, [sec. 35, *ante*,] or shall refuse or neglect to pay over to the Comptroller of the City as hereinbefore required the money or moneys due from him to the State for duties, according to law, within thirty days after rendering

such account, as hereinbefore directed, he shall, in and for each and every such case of refusal or neglect, be deemed guilty of a misdemeanor, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof shall be fined in a sum not exceeding seven hundred dollars, nor less than one hundred dollars, and on conviction shall further be deemed to have forfeited his appointment as auctioneer, and shall hereby be disqualified from acting as auctioneer under the same; provided, it shall be competent for such auctioneer at the trial of such suit to give in evidence every matter or thing going to show a satisfactory excuse on his part for such neglect or refusal, and if the jury before which such suit shall be tried shall think such excuse satisfactory, they shall return a verdict for the defendant, the defendant, however, in such case to pay the costs of the prosecution; and provided further, that no suit or indictment, or conviction, under this section, for the penalties herein contained, shall be held to bar or prevent the State from bringing such civil action or actions in any of the courts of this State against any auctioneer, or on his bond, for the recovery of any money or moneys that may be due the State, or for the non-performance or mis-performance of any duty imposed upon him by this law, and for which a civil action would lie against him or on his bonds.

Penalty.

Proviso.

Evidence.

Proviso.

Action against auctioneer or on bond.

38. Every auctioneer who, within the period limited for his accounting, shall have made no sales of goods or property of any kind liable to auction duties, shall make and subscribe an affidavit of those facts before the judge of the Court of Common Pleas, and shall transmit a copy of the said affidavit, certified by said judge, to the treasurer, within the same time that an account is required to be rendered, under the penalty prescribed in the last preceding section.

P. L. L., art. 4, sec. 122.

Auctioneer making no sales to make affidavit of fact.

Article VI.—Statutes.

Ibid, sec. 123.

Governor to appoint no auctioneer whose accounts are unsettled.

39. It shall not be lawful for the Governor to nominate to the Senate as auctioneer any person who shall not have settled in full at the treasury office for all amounts due from him on account of auction duties.

1872, c. 249, s. 124.

Fraud or deceit.

Penalty.

40. If any auctioneer shall be guilty of any fraud or deceit in the discharge of the duties of his office, or shall elude or defeat any provisions of this law, for a violation of which no penalties are therein specially prescribed, he shall be guilty of a misdemeanor, and subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof, shall be fined in a sum not exceeding one thousand dollars, nor less than one hundred dollars for every such offence; and if any auctioneer shall pay, or cause to be paid, directly or indirectly, to any trustee, attorney, executor or administrator, selling real estate or property of any kind under any order of any court, or under any power of attorney, any portion of the fee [or] commissions received or receivable by him, and charged by him, in his account for making any sale of such real estate or property for such trustee, attorney, executor or administrator, he shall be deemed guilty of a misdemeanor, and on conviction thereof in the Criminal Court of Baltimore, shall be fined in a sum not exceeding two hundred dollars, nor less than fifty dollars, for every such offence; and such trustee, attorney, executor or administrator receiving or retaining such portion of such fee or commissions, and not accounting for it to the proper parties, shall be liable in a suit on his bond for double the amount so received or retained by him, to the *cestui qui trust*, the principal, or to any person interested in the estate which he represents.

Dividing fee or commissions, with trustee, attorney, &c.

Liability of trustee or attorney.

P. L. L., art. 4, sec. 125.

Prosecution.

41. If no person shall, within seven days after any such offence shall be committed, prosecute for the penalties imposed by this law, the treasurer, upon information thereof

having come to his knowledge, shall direct the State's attorney for the city of Baltimore to prosecute for the same; and the penalties when recovered shall be paid into the treasury for the use of the State. Penalties recovered.

42. If any person shall wilfully swear falsely touching any matter hereinbefore required to be verified by oath, he shall suffer the pains and penalties which by law are prescribed for wilful and corrupt perjury, and if an auctioneer, shall forfeit his office. Ibid, sec. 126. Perjury. Penalty.

43. The proceeds of such auction duties to the amount of twenty thousand dollars shall be paid over by the Comptroller of Baltimore City, as the same shall be received by him, to the Mayor and City Council of Baltimore, to be by said Mayor and City Council annually appropriated to the purpose of deepening and improving a channel in the Chesapeake bay and Patapsco river, and the Harbor of the city of Baltimore.* 1872, c. 249, s. 127. Disposition of proceeds of auction duties. Deepening and improving channel and harbor.

44. It shall be the duty of the Mayor and City Council of Baltimore, on or before the fifteenth day of September in each year, to report to the Comptroller of the State a fair and a strict account of their disbursement of the fund arising from said auction duties, as, and to the amount the same are appropriated in the last preceding section, in relation to the deepening and improving said channel, Patapsco river and Baltimore City Harbor, and the said Comptroller shall report the same to the General Assembly. 1872, c. 249, s. 128. Mayor and City Council to account to State Comptroller; Comptroller to report to General Assembly.

45. If the net proceeds of said auction duties shall exceed the sum of twenty thousand dollars, the excess of said duties above that sum shall, for each and every year that they shall exceed that sum, be paid over by the Comptroller of the City of Baltimore to the Treasurer of the State; and in case of 1872, c. 249, s. 129. Excess over $20,000 to be paid to the State Treasurer.

* See section 2, ordinances of Art. XXII—Harbor, Docks and Wharves.

City Comptroller to account to the State Comptroller.

such excess as aforesaid, the Comptroller of the City of Baltimore shall also render to the Comptroller of the State a brief statement or account, showing the amounts received by him on account of auction duties, the amount paid the Mayor and City Council of Baltimore, under section one hundred twenty-seven of this law, (sec. 43 of this Article,) and the balance due the State and payable to the State Treasurer, which said balance, if any, and whenever the same shall arise from said auction duties, shall be paid to said treasurer on or before the twenty-fifth day of September in each and every year.

P. L. L., art. 4, sec 130.

Proviso.

46. The provisions of the three preceding sections shall not have any effect if the City of Baltimore, by ordinance or otherwise, make any charge on articles passing over or deposited on the wharves of said city for a less time than one day, for the purpose of delivery only, from or on board of any vessel trading within the limits of this State other than the regular wharfage chargeable on such vessel.

Wharfage.

Ibid, sec. 131.

Who may sell without license.

47. Nothing herein contained shall prohibit the sale of leather, iron or tobacco, by the person who manufactured the same, without the license herein required.

ORDINANCES.

No. 8, s. 14, R.O.

Register to account to Comptroller of State.

1. The Register shall, on or before the fifteenth day of September in each and every year, furnish to the Comptroller of the State a fair and distinct account of the disbursements in relation to the deepening and improvement of the channel in Chesapeake bay and Patapsco river and the harbor of the City of Baltimore.

No. 33, s. 36, R. O.

Holding auctions in street without permission.

2. It shall not be lawful to expose or offer for sale at public auction or otherwise, any goods, wares or merchandise on any of the public streets, lanes or alleys in the city,

unless permission be first obtained from the Mayor, under a penalty of twenty dollars for each and every offence; and the Mayor is hereby authorized to grant a permit to make sales of goods, wares and merchandise at public auction or otherwise on any of the streets, lanes or alleys in the city, when in his opinion and judgment such permission will not interfere with the free travel and use thereof, and will not be in any respect injurious to the city or inhabitants thereof.

Penalty.

When Mayor may grant permit.

NOTE.—Decisions by Brown, C. J., in City Court:

In the case of *Henry Linker* v. *Woodville & Norman*, auctioneers, March, 1874, goods had been sold and duly charged by the clerk of the auctioneers. The purchaser subsequently refused to take the goods, which were stored for him. The auctioneers paid the owner of the goods for them, and brought suit against the purchaser. The defendant objected that the auctioneers had no right to bring the action, and that the entry made by the clerk was not sufficient to bind the purchaser: Held, that the auctioneers had an interest in the goods for their commissions; that that interest was not lessened by the payment of the value of the goods to the owner, and that the clerk in an open sale by auction was acting for both the vendor and purchaser, and his entry was sufficient to bind the purchaser. *Ijams* v. *Hoffman*, 1 Md. 436.

Grotjan & Mitchell v. *Emerick*, February, 1874. The plaintiffs were auctioneers and sold by catalogues on which were printed the *terms;* among others that the catalogues were made from invoices and that plaintiffs were not responsible for the *correctness of the descriptions.* The defendant bought six dozen gloves, but plaintiffs had only received one dozen, which they delivered, and so of some other articles. The bill was made out according to the *sale*, but the goods were delivered as the plaintiffs had received them, and corrections in pencil were made on bill on day of sale, on delivery of goods and bill. Afterwards a correct bill was made out. Defendant claimed damages for articles not delivered. Held that: the printed conditions were part of the contract of sale; that defendant must pay for what he got, and could not claim damages for what he did not get.

ARTICLE VII.

BUILDINGS.

STATUTES.

1. Wooden buildings.
2. Party walls and partition fences.
3. Steps, porticos, bulk windows.
4. Bricks.

ORDINANCES.

1. Wooden or frame buildings prohibited.
2. Buildings regulated.
3. Wooden buildings not to be removed without permission.
4. Wooden sheds for carpenters regulated: proviso.
5. Frame privies and bath houses.
6. Wooden or frame buildings not to be enlarged.
7. Penalty.
8. Building of brick and stone houses regulated.
9. Ordinance, how to be construed.
10. Provision to apply when new roofed: penalty.
11. Lamps attached to wooden buildings regulated.
12. Penalty for injuring houses, &c.
13. For injuring places of worship, tombstones, &c.
14. Builder's privileges: penalty: more than one-third of streets not to be occupied without permission of Mayor.
15. May enclose the fronts of houses.
16. Slate and other roofs regulated: repairs to same regulated: snow and ice: penalty.
17. Steps, porches and porticos regulated: penalty: how to apply.
18. Destroying bills posted for advertisement.
19. Penalty: consent of owners of property: bills to be dated.

INSPECTOR OF BUILDINGS.

20. Appointment of Inspector of Public Buildings: salary: clerk to Inspector: duties: salary of clerk.
21. Dangerous wall or building to be taken down: Inspector to give notice in writing: expenses: report to Mayor: payment by Register.
22. Numbering of houses: proviso: expense of number plate to be paid by owner or occupant of premises: privilege.
23. When Inspector to contract for construction and repairs of city buildings: exception.
24. When Register to pay.
25. Advertising for proposals to construct or repair: record of proposals to be kept: access to record.

Article VII.—Statutes.

26. When Inspector to grant permits for steam boilers, steam engines, to erect frame sheds, bay windows, signs, &c.: proviso: permit from Mayor: penalties.
27. Written application to be made: notice of application: to consider application: when to be granted: cost of permits: exception.
28. Bay windows: how to be constructed.
29. Cost of permits to erect bay windows.
30. Permits may be revoked: removal on notice from Mayor: fine.
31. Penalty for erecting frame shed larger than permitted.
32. Spouting and gutters: notice: penalty: gutter and down spouts to awnings.
33. Notice: penalty.
34. Lettered flaps on awnings: lettering posts or tree boxes.
35. Pent houses and awnings regulated: penalty.
36. Sign posts, figures or devices: provisos: fines: when innkeeper exempted.
37. How hoistways to be enclosed: penalty.
38. Inspector of Buildings to give notice to owners or occupants of buildings.
39. Construction of hoistways.
40. City Commissioner and Inspector of Buildings to have lightning rods placed on public buildings.

PARTY WALLS AND PARTITION FENCES.

41. Use of party walls, &c.: provisos.
42. Inspector of Buildings to regulate party or partition walls or fences: return to Register: notice.
43. Evidence: to be certified to Register: fees.
44. Thickness of party or partition walls: proviso.
45. Duty of Inspector of Buildings: penalty.

STATUTES.

1. The Mayor and City Council may direct in what part of the city buildings of wood shall not be erected. P. L. L., art. 4, sec. 29. Wooden buildings.

2. They have power to regulate party walls and partition fences. Ibid, sec. 823. Party walls and partition fences.

3. They shall have power to pass ordinances regulating the limits within which it shall be lawful to erect steps, porticos, bulk windows, or other architectural ornaments to houses fronting on any of the streets, lanes or alleys of said city. Ibid, sec. 864. Steps, porticos, bulk windows, &c.

4. They may regulate and establish the size of bricks that are to be used in the houses to be built in said city. Ibid, sec. 943; Bricks.

Article VII.—Ordinances.

ORDINANCES.

No. 35, s. 1, R. O. Wooden or frame buildings prohibited.

1. It shall not be lawful for any person or persons to erect or build, or cause to be erected or built, any wooden or frame building within the limits of direct taxation, except such as shall be permitted to be erected under the provisions of this ordinance.

Ibid, s. 2. Buildings regulated.

2. No building shall be erected or put up having more wood on the outside of the building than is required for door and window frames, roof, eaves, cornices, doors, shutters, sash, porticos and wooden steps to the first floor above the ground, or which shall have frames or posts sunk in the earth, or placed upon any other material, for the purpose of covering the exterior thereof by lathing and plastering the same, and buildings so erected shall be deemed wooden or frame buildings.

Ibid, s. 3. Wooden buildings not to be removed without permission.

3. No person shall remove any wooden building from one place within said limits to another without the permission of the Mayor and City Council, and the consent of the owners of the adjoining lots first had and obtained.

Ibid, s. 4. Wooden sheds for carpenters regulated. Proviso.

4. Whenever any owner of any lot of ground is desirous of improving the same by the erection of a new building or buildings thereon, the Mayor may, in his discretion, permit the owner of such lot to put up a wooden shed on the same or a neighboring lot, for the use of the carpenters employed on said building while preparing their work; provided, however, that such permission shall not extend to a longer time than until the building proposed to be erected shall be roofed in and the floors laid, at which time the owner or owners of the lot on which such shed has been put up shall cause it to be taken down and removed.

Ibid, s. 5. Frame privies and bath houses.

5. Nothing contained in this ordinance shall be construed to prohibit the erection of frame privies, not more than one story in height, and not exceeding five feet square, nor shall

anything herein contained be construed to embrace or extend to any bath house that may be constructed in such manner as to project over the yard from the second or other upper story of the house to which it may be attached.

Ibid, s. 6.

6. It shall not be lawful for any person or persons to enlarge, or cause to be enlarged, any wooden or frame building of any kind whatever, within the limits of direct taxation, by elevating or causing to be elevated the height of the same or otherwise.

Wooden or frame buildings not to be enlarged.

Ibid, s. 7,

7. Any person or persons who shall violate any provision of any preceding section of this ordinance shall forfeit and pay a fine of ten dollars, and a further sum of five dollars for each and every day such violation shall continue.

Penalty.

Ibid, s. 8.

8. Every building which shall hereafter be erected within the city, as well as every building that shall be newly roofed or covered, of brick or stone, or of both, shall be constructed with side walls or party walls, of brick or stone, or of both, at least four inches thick; and such side walls or party walls shall extend from the foundation to the top of and through the roof of the said building, and be covered with slate or metal, and shall be so constructed as to separate all wood work thoroughly and completely of the interior and exterior of such building from all and every part of the interior and exterior of any adjoining building, and every such side wall or party wall shall moreover pass through the roof of the building to which it may appertain, in such manner as to break entirely any communication of wood whatever between such roof and any other, under a penalty of twenty dollars for each offence, and also the further sum of ten dollars for each and every month thereafter until the provisions of this section be complied with.

Building of brick and stone houses regulated.

Penalty.

Article VII.—Ordinances.

Ibid, s. 9.

Ordinance; how to be construed.

9. Every building within the city, of brick or stone, or of both, which shall be so far advanced towards completion that the roof shall have been put thereon, shall be deemed and taken to be a building erected within the meaning of this ordinance.

Ibid, s. 10.

Provisions to apply when newly roofed.

Penalty.

10. Whenever any building of brick or stone, or of both, already erected within the city, shall be newly roofed or covered, such building shall be made to conform to the provisions of this ordinance, under a penalty of twenty dollars for each offence, and also the further sum of ten dollars for each and every month thereafter, until the provisions of this ordinance shall be complied with.

Ibid, s. 11.

Lamps attached to wooden buildings regulated.

11. No person or persons shall be permitted to hang or place any lamp or light on the outside of any wooden building, unless such lamp be made of such materials as will prevent any liability to fire, and placed at the distance of two feet six inches from such wooden building; and any person or persons offending against the provisions of this section shall forfeit and pay a sum not exceeding five dollars for every such offence, and five dollars per day for every day they shall permit such lamp to remain.

No. 33, s. 20, R. O.

Penalty for injuring houses, &c.

12. If any person shall wilfully and maliciously injure or deface any house * or premises within the city, or any fence or enclosure, or any other appurtenances belonging thereto, such person shall, for each and every such offence, forfeit and pay not less than ten nor more than twenty dollars, and shall, moreover, be liable to pay all expenses of repairing the said injury or injuries.

* See acts of 1868, c. 56, and 1867, c. 135.

13. If any person shall injure or deface any house of public worship * or the appurtenances belonging to the same, or any tombstone or grave, or the enclosure or fencing around the same, within the city, such person shall, for each and every offence, forfeit and pay the sum of twenty dollars. Ibid. s. 49. Penalty for injuring places of worship, tombstones, &c.

14. It shall and may be lawful for any person employed in building or repairing any house to occupy one-third part of any street, lane or alley of the city, clear of the footways in front of any lot on which such buildings are being erected or repaired, with the materials necessarily used in erecting and repairing such buildings, until the same be covered or repaired, and sixty days thereafter, and no longer, under the penalty of forfeiting one dollar for each and every day the same shall be suffered to remain thereafter; also, to use and occupy one-third part of such street, lane or alley in front of such lot with plastering mortar and other materials necessary for plastering such house or building, for ninety days, and no longer, under a penalty of one dollar for each and every day the same shall be suffered to remain thereafter; and if any person or persons shall occupy more than one-third of the width of any street, lane or alley without permission of the Mayor, he, she, or they shall be subject to a fine of not less than one nor more than five dollars, for each and every day the same shall be suffered to remain. No. 33, s. 9, R. O. Builder's privileges. Penalty. More than one-third of street not to be occupied without permission of Mayor.

* 1867, c. 135, enacts that if any person unlawfully and maliciously shall disfigure, cut, injure or damage any church, house of worship, its pews, seats, walls, windows, shutters, trees, tombstones, fencing, inclosures, or other property in or belonging thereto, or any parsonage, its furniture, trees, fencing, or inclosures near and belonging to the same, he shall, on conviction before a justice of the peace or the circuit court of the county or city where the said property may be situate, be deemed guilty of a misdemeanor, and fined in the discretion of the said justice or court, in a sum of money not less than three dollars nor more than fifty dollars for any one offence, and shall stand committed to the public jail of the county or city till the fine and fees shall be paid.

Ibid, s. 10.

May enclose the fronts of houses

Proviso.

15. It shall and may be lawful for any person employed in building or repairing any house to enclose the front part thereof, provided, the said enclosure does not project more than four and a-half feet on the footway, or remain more than sixty days after the house is covered, without the permission of the City Commissioner; and any person offending against the provisions of this section shall be subject to a penalty of five dollars for each and every day the said enclosure shall remain.

Ibid, s. 33.

Slate and other roofs regulated.

Snow and ice.

Repairs to same regulated.

Penalty.

16. All buildings hereafter erected, fronting on any public street, lane or alley in the city, which shall be covered with tile, slate, zinc, tin or copper, shall have inserted in the rafters, near the eaves, iron pins, not more than twelve inches apart, and not less than four inches in length, above the top of the roof, with scantling or iron bars on the pins, so that the water may be permitted to run under, and the falling of snow or ice prevented; and all houses hereafter to be repaired, and which shall be covered with tile, slate, zinc, tin or copper, shall be finished in the same manner; every person or persons offending against the provisions of this section shall forfeit and pay a fine of twenty dollars, and the further sum of ten dollars for each and every month thereafter, until the provisions hereof shall be complied with.

No. 36, May 5, '74.
No. 74, June 15, '74

Steps, porches, and porticos regulated.

Penalty.

17. It shall not be lawful for any person or persons or body corporate to erect or build on any of the streets or alleys in the city of Baltimore any steps, porch or portico that shall encroach on or project over said streets or alleys to the extent of more than one-third the width of the foot pavement of said streets or alleys from the building line of said streets or alleys, and any person or persons or body corporate offending against this ordinance shall forfeit and pay the sum of ten dollars, and one dollar in addition for

each and every day the said obstruction shall remain thereafter, and if said steps or obstructions are not removed after thirty days' notice given by the City Commissioner, then the said commissioner shall proceed to remove the same at the cost and charge of the party or parties or body corporate so offending.

No. 22, May 12, '69. Destroying bills posted for advertisement.

18. It shall not be lawful for any person or persons to destroy, tear or otherwise deface any bill posted for advertisement which it may be lawful to post, either by posting other bills over the same or otherwise, at any time within one week from the time when such bill shall have been posted.

Ibid, s. 2. Penalty. Proviso. Consent of owners of property. Bills to be dated.

19. Any person or persons who shall violate any of the provisions of the aforegoing section shall forfeit and pay for each and every offence the sum of two dollars, provided, that nothing contained in the aforegoing section shall be construed to permit any person or persons to post bills of any kind, unless the same is done with the consent of the owners or occupants of property where said bills are proposed to be posted. All bills posted under the provisions of this and the preceding section, shall bear the date of the month in which said bill is posted.

INSPECTOR OF BUILDINGS.

No. 87, June 10, '71. Appointment of Inspector of Public Buildings. Salary of Inspector. Clerk to Inspector. Duties. Salary of clerk.

20. There shall be annually appointed, as other city officers are appointed, an Inspector of Public Buildings, who shall be an experienced builder or mechanic, who shall receive a salary of two thousand dollars per annum; and the said Inspector of Buildings shall appoint a clerk, whose duty it shall be to keep a record of the proceedings of the said Inspector, in a book to be provided for that purpose, and shall perform all such duties as may be required of him by the said Inspector, and shall receive a salary of one thousand dollars per annum.

Ibid, s. 2.

Dangerous walls or buildings.

Inspector to give notice in writing.

When taken down at the owner's expense.

Inspector to report to Mayor; expense to be paid by Register.

21. If any wall or building shall, from any cause whatever, be in a situation to be dangerous to persons or property, the Inspector of Buildings shall immediately give notice in writing to the owner or owners of such wall or building, or to his, her or their agents, if said owner or agent can be found, to cause the same to be taken down, and if the same shall not be taken down in twelve hours after such notice given, the Inspector of Buildings shall, with the approbation of the Mayor, cause the same to be properly taken down at the expense of the owner or owners; and shall report the amount and items of such expense to the Mayor, which shall be paid by the Register out of any unappropriated money in the treasury; and it shall be the duty of the Mayor to recover the same by all lawful ways and means in his power.

Ibid, s. 3.

Numbering of houses.

Proviso.

Expense of number plate to be paid by owner or occupant of premises.

Privilege.

22. It shall be the further duty of the Inspector of Buildings, when an error or irregularity exists in the numbering of houses, or when they are without numbers, in any street, lane or alley in the city of Baltimore, to have the same corrected or numbered without unnecessary delay, as soon as the facts are brought to his notice; provided, that the expense of each number plate required to be furnished as aforesaid shall not exceed the sum of twenty-five cents, the expense to be paid by the owner or occupier of the premises; and any owner or occupier shall have the privilege of replacing any number plate so furnished with another, provided the same number be retained.

Ibid, s. 4.

When Inspector to make contracts for construction and repairs of city buildings.

Exception.

23. The Inspector of Buildings, with the approbation of the Mayor, and except where by ordinance it shall be otherwise provided, shall make all contracts for the construction and repair of all city buildings, (except what appertains to the department of the Water Board and Harbor Board), and the repairs of all buildings belonging to the city shall be under the direction and control of the Inspector of Buildings; and

should any building require repairing, it shall be his duty, with the approval of the Mayor, to have the same done in such manner as he may deem best for the interest of the city.

24 The Register is hereby authorized and directed to pay, upon the order of the Inspector of Buildings, approved by the Mayor, for any work done by virtue of the preceding section. Ibid, s. 5. When Register to pay.

25. When the Inspector of Buildings shall advertise for proposals to construct new buildings or repair any old buildings, or other city property, he is hereby directed to have entered in a book, kept expressly for that purpose, all proposals received, the amount of each bid or offer made, together with the name of the bondsman in each case offered as security for the faithful performance of said contract, which record shall only be accessible to those persons who have submitted proposals as above provided, to members of the City Council and to the Mayor. Ibid, s. 6. Advertising for proposals to construct or repair. Record of proposals to be kept. Access to record.

26. The Inspector of Buildings, with the Mayor's approval, is hereby authorized and empowered to grant a permit to any person or persons applying to place a steam boiler or steam engine and boiler in his, her or their premises, or to erect any frame shed, bay-window, telegraph or other poles, signs, sign-post, awning flap, or other structures, the erection of which is prohibited by existing ordinances, or to place upon the canvas overhanging the sides and eaves of awning frames, such figures and devices as may indicate the particular business conducted by the applicants for said permission; provided, the person or persons applying for the same shall comply with the provisions of this ordinance; and any person or persons placing upon his, her or their premises any of the appliances enumerated in this section, except steam boilers, without having first obtained a permit for the same from the Mayor, shall forfeit and pay, for every Ibid, s. 7. When Inspector to grant permits for steam boilers or steam engines. To erect frame sheds, bay windows, signs, &c. Proviso. Permit from Mayor.

Penalties.

day the same shall remain thereon, the sum of five dollars; and in case of the violation of this section by the erection of a steam boiler, shall forfeit and pay a fine of ten dollars per day for each and every day the same shall remain without permit.

Ibid, s. 8. No. 63, June 18, '78.

Written application to be made.

27. Before any such permit shall be granted, a written application shall be made to the Inspector of Buildings by the person or persons desiring the same, with a statement of the privilege desired; if a frame shed, its desired location and dimensions, with the name of the street, lane or alley, and the number of the house within or in the rear of which it is to be erected; if either of the other privileges embraced in the preceding section of this ordinance, a full description of the premises in or on which it is to be placed, used or attached. And the Inspector of Buildings shall require the person or persons making said application to have inserted at his, her or their own expense, in one or two of the daily papers to be by him designated, for at least three days, a notice of said application, in which he shall name a day and hour on which he will be in his office, to hear and determine whether said applications should or should not be granted; and should it appear, from personal examination by the said Inspector of Buildings, that the same should be granted, and there being no serious objection filed against granting the privilege asked for, and the said person or persons applying shall pay to the Inspector of Buildings, for the use of the city, for each permit to place on his, her or their premises a steam boiler, or steam engine and boiler, the sum of ten dollars for each steam boiler, or steam engine and boiler, not exceeding ten-horse power, and the sum of fifteen dollars if exceeding ten-horse power; for frame sheds, one cent for each square foot of surface occupied by said shed; and for any other of the privileges enumerated in the preceding section of this ordinance, excepting bay-windows and awning

Notice of application.

To consider application.

When to be granted.

Cost of permits

Exception.

frames, the sum of two dollars each. No charge shall be made for permits granted to any one for the erection of awning frames.

28. No permit shall be granted to construct a bay-window, except on condition that the height of the lowest part thereof shall be at least eight feet above the footway, unless it is proposed to construct the same with the base beginning at the pavement; nor shall it project more than one-fifteenth part of the width of any street, nor in any case more than four feet four inches beyond the building line; nor shall any bay-window have a greater length than twelve feet; and if the same shall be erected at the side of a house, it shall not be less than ten feet from the building line of the street on which the house shall front. Ibid, s. 9. Bay windows. How to be constructed.

29. For each permit to erect a bay-window, when the same shall commence at the pavement, the applicant shall pay the sum of one hundred dollars; and for each permit to construct a bay-window, whose base shall be eight feet or more above the pavement, as hereinbefore provided, the applicant shall pay the sum of ten dollars for each story. Ibid, s. 10. Cost of permit to erect bay windows.

30. All permits granted for the erection of frame sheds, telegraph and other poles, sign-posts, signs, awning-flaps, figures, and other structures, except bay-windows, may be revoked, and the same shall be removed after sixty days' notice by the Mayor; and all permits granted for steam boilers and steam engines and boilers may be revoked, and the same shall be removed after six months'* notice by the Ibid, s. 11. Permits may be revoked. Removal on notice from Mayor.

*The appellee was tenant and occupant of premises situate on McClellan's alley in Baltimore, where he carried on the box-making business, and in 1866 he applied to the Mayor and City Council for permission, which was granted, to erect and use a steam engine on the premises, for the purposes of his business. The resolution provided that the engine was to be removed after six months' notice to that effect from the Mayor. In 1873 the Mayor gave the notice, which the appellee refused to obey. The City thereupon began legal proceedings to compel the removal of the engine; on these pro-

Mayor; and any person or persons receiving such notice, who shall refuse or neglect to conform to the requirements
Fine. of the same, shall pay a fine not exceeding one hundred dollars, and a further fine not exceeding fifty dollars for every day such refusal or neglect shall continue from the first.

Ibid, s. 12.
Penalty for erecting shed larger than permitted.

31. If any person or persons shall erect any frame shed of larger dimensions than for which a permit may have been granted, he, she, or they shall be subject to a penalty of twenty-five cents per square foot, for each square foot in excess of the number granted, to be recovered as other fines and forfeitures are recoverable.

No. 17, April 25, '74.
Spouting and gutters.

32. The Inspector of Buildings is hereby authorized and directed to compel all persons owning property, or agents of the same, to put up proper spouting and gutters to all buildings claimed by them within the city limits, and to keep the same in proper repair, so as not to allow the water to leak from or flow over the gutters to the pavement below; and
Notice. for any violation of the provisions of this section, after ten days' notice from the Inspector of Buildings, the person or
Penalty. persons so offending shall forfeit and pay a penalty of ten dollars; said fine to be collected as other fines are recovera-

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ceedings a perpetual injunction was laid, and the city appealed. Held by the Court of Appeals, June 28, 1878: that, it was inconsistent for the city to pass an ordinance to allow a nuisance to remain six months after the Mayor had determined it to be such; that a stationary steam engine is not in itself a nuisance even if erected and used in the midst of a populous city, unless it interfere with the safety or convenience of the public in the use of the streets; that there is no proof of this, nor was the engine used in any business that the law pronounces offensive or noxious; and that, in fact, the only reasons given for the attempted removal of the engine are its liability to explode and the necessary proximity of the fire of its boiler to combustible materials, the danger of fires, the additional insurance risks required on neighboring property, and the fears of neighboring owners. The court held these not to be legal reasons for its removal, and affirmed the decree below, laying the perpetual injunction. *Mayor, &c.* v. *Radecke.*

ble, and the owners of all permanent and stationary awnings over sidewalks, not extending over the kerbstone, are hereby required to have gutter and down spouts placed to them to carry the water to the gutter of the streets. Gutters and down spouting to awnings.

33. If any person or persons having such awnings (as described in the preceding section) in use, or if those who may hereafter erect such awnings, shall fail to comply with the provisions of the preceding section, on reasonable notice from the Inspector of Buildings, said person or persons shall forfeit and pay a penalty of one dollar for each day he, she, or they may refuse or neglect, after said notice, to have such gutters and down spouts placed as herein described; said fines to be collected as other fines are recoverable. No. 17, April 25, '74. Notice. Penalty.

34. Permission is granted to any proprietor or proprietors of any business place in this city to put up lettered flaps on awnings, and to letter any posts or tree-boxes in front of their premises, with the condition that the awning-flaps shall be at least eight feet from the pavement, and shall be removed at thirty days' notice from the Mayor. Res. No. 311, June 11, '73. Lettered flaps on awnings. Lettering posts or tree boxes.

35. No person or persons shall set up any pent-house, shed or wooden awning, in any of the streets, lanes or alleys of the city, or shall set up or fix an awning of canvas, linen or other cloth, the railing of which shall not be at least eight feet from the pavement, under a penalty of five dollars, and one dollar per day until the same is removed. No. 33, s. 16, R. O. Pent houses and awnings regulated. Penalty.

36. It shall be unlawful for any person or persons to set up or suspend over or into any street, lane or alley of the city, any sign post, sign, figure or device whatever, more than two feet from the side of said street, lane or alley, and one foot additional for each story above the first from which the same may be set up or suspended; provided that in no case shall any such sign post, sign, figure or device be permitted to extend over more than one-third of the side walk on the No. 13, Mar. 12, '63. Sign-posts, figures or devices. Provisos.

first story; and every person offending in either case shall
Fine. forfeit and pay the sum of five dollars, and one dollar for each and every day the same shall remain thereafter; pro-
When innkeeper exempted. vided, however, that any innkeeper, by permission of the Inspector of Buildings, with the approbation of the Mayor, may be exempted from the penalties of this ordinance, so far as respects signs and sign posts.

No. 45, s. 1, April 19, '76. How hoistway to be enclosed. 37. It shall be the duty of the owner or occupant of each and every warehouse, or other building in the City of Baltimore in which there is a hoistway, to cause the said hoistway on each story of said warehouse or other building to be enclosed by a good and sufficient railing, three feet in height, around the opening thereof; and it shall be the further duty of the owner or occupant of such warehouse or other building to cause said railing to be securely fastened up, on the completion of the day's business of each day, in such warehouse or building, and for every violation of the provisions of this section, the owner or owners, occupant or occupants
Penalty. thereof, shall pay a fine of fifty dollars, to be recovered as other fines for violating city ordinances are recoverable; provided, that the penalty hereby imposed shall be against the occupant of said warehouse or other building, whether the owner thereof or otherwise, and if unoccupied, the said penalty shall be against the owner or owners thereof.

Ibid, s. 2. 38. It shall be the duty of the Inspector of Buildings to
Inspector of Buildings to give notice to owners or occupants of buildings. examine all buildings in which hoistways are used, and to give notice in writing to the owner or owners, occupant or occupants thereof, requiring them to comply with the provisions of the preceding section, within ten days after the service of said notice, or be subject to the penalty imposed hereby.

Ibid, s. 3. 39. It shall not be lawful for any person or persons to
Construction of hoistways. construct any hoistway in any building hereafter to be erected, unless the same shall be enclosed in the manner

provided for in section 37 hereof, under a penalty of fifty dollars, to be recovered as other fines are recoverable. Penalty.

40. The City Commissioner and the Inspector of Buildings are authorized and directed to have placed lightning rods of the most improved design on the public buildings owned by the corporation of Baltimore City, wherever in their judgment the same may be deemed expedient and necessary; the expense of the same to be taken out of any unappropriated money in the city treasury. No. 70, June 12, '73. City Commissioner and Inspector of Buildings to have lightning rods placed on public buildings.

PARTY WALLS AND PARTITION FENCES.

41. Where party walls or partition fences have been, or shall hereafter be erected, in a good and substantial manner, by any person or persons within the city, any person or persons who shall make use of, or derive advantage from such party wall or partition fence, shall pay the original proprietor or proprietors one-half part of the value of such party wall or partition fence, at the time he, she or they shall make use thereof, or derive advantage therefrom; provided, that no person shall have power under this ordinance to demand more than one-half the expense of a nine inch brick wall, for any building not exceeding two stories high, nor more than one-half the expense of any fourteen inch brick wall, for any other building whatever; and provided also, that the cost of any fence shall not exceed three dollars for every ten feet running measure. No. 53, R. O. Use of party walls, &c. Provisos.

42. The Inspector of Buildings is hereby authorized and directed, when called on by any one requiring his attendance, to regulate all party or partition walls or fences within the corporate limits of the City of Baltimore, in such manner as may, in his judgment, be most likely to promote equal justice between the parties concerned; and he shall immediately thereafter make return of every such proceeding under his No. 17, April 25, '74. Inspector of Buildings to regulate party walls, &c. Return to Register.

hand and seal, to the Register, to be recorded and kept with every paper and voucher relating thereto; and before, in any case, the said Inspector of Buildings shall hold a meeting to regulate any party or partition wall or fence within the corporate limits as aforesaid, he shall first give at least four days' notice in at least two of the daily newspapers of said city of the same, stating the time, place, and object of such meeting.

Notice.

No. 17, April 25, '74.

43. Before the said Inspector of Buildings regulate any party or partition wall or fence as aforesaid, he shall obtain the best evidence on oath or affirmation the case will admit of, a statement of which evidence, with every voucher and paper relating thereto, he shall return in his certificate aforesaid, to be recorded as aforesaid; and the said Inspector of Buildings shall receive, for the use of the city, from the person or persons requiring his services, the sum of two dollars for each and every day he shall attend.

Evidence.

To be certified to Register.

Fees.

No. 100, s. 1, Nov. 1, '73.

44. It shall not be lawful for any person or persons to erect, within the corporate limits of the City of Baltimore, any party or partition wall of a less thickness than nine inches between buildings of over thirteen feet front; provided, that the gable wall of the adjoining house, should there be any, may be taken in its extent as part of the division wall, and a compliance with the law, if the said wall be of the *minimum* thickness.

Thickness of party or partition walls.

Proviso.

Ibid, s. 2.

45. If any person or persons shall erect any party or partition wall of a less thickness than nine inches between houses of more than thirteen feet front, the Inspector of Public Buildings shall at once, upon being advised thereof, notify such person to remove the same, and the person or persons so violating shall be subject to a fine of twenty dollars for each offence, and also the further sum of twenty dol-

Duty of Inspector of Public Buildings.

Penalty.

lars for each and every month such violation shall be continued, said fine to be collected as other fines are collectable.

NOTE.—A division wall may become a party wall by agreement, either actual or presumed; and although such wall may have been built exclusively upon the land of one, if it has been used and enjoyed in common by the owner of both houses for a period of twenty years, the law will presume in the absence of evidence showing that such use and enjoyment was permissive, that the wall is a party wall. In such cases the law presumes an agreement between the adjacent owners, that the wall shall be held and enjoyed as the common property of both.

An action was brought to recover damages for injuries done to the plaintiff's house by the careless and negligent manner in which the house of the defendant, next adjoining, was improved, and for the direct losses consequent upon such injuries sustained by the plaintiff in his trade and business. The plaintiff's house was injured by the partial falling in of the division wall between the two houses; and this was caused by digging too near the wall for the purpose of deepening the cellar under the defendant's house.

No notice was given by the defendant of his intention to deepen the cellar, and evidence was offered to show that the excavation was done in a careless and negligent manner. Evidence was also offered to show that the business of the plaintiff, who kept an ice cream saloon and made cakes and other articles in that line, was interrupted for several days; held that the plaintiff was entitled to recover such damages as would be sufficient to reinstate the wall and the house in as good condition as they were prior to the injury, and to compensate him for the loss consequent upon the interruption of his business. *Brown & Otto* v. *Werner*, 40 Md. 15.

An agreement authorizing a party wall to be raised and continued in a straight line with the present division wall does not give permission or privilege either to pull down such party wall, or to diminish the area of the adjoining building. *Baugher* v. *Wilkins, Ex'rs*, 16 Md. 35.

ARTICLE VIII.

CARRIAGES, HORSES, BOATS AND SCOWS.

STATUTES.

1. Hackney coaches, draymen, &c., to be licensed and regulated.
2. What a hackney coach.
3. Breadth of wheels of wagons, carts and drays.
4. Police Commissioners to fix rates of fare: proviso.
5. Number to be placed on carriages: rates of fare to be placed inside.
6. Penalty for charging higher rates, &c.
7. For refusing number: for refusing to give correct rates: for misconveying or insulting passengers.
8. When special licenses may be granted.
9. Penalty in cases of special licenses.
10. Statement to be made by applicant for special license.
11. Penalties: how recovered.
12. Right of appeal.
13. Penalties: how appropriated.

LIEN OF LIVERY STABLE KEEPERS.

14. For charges.
15. How sale to be made.
16. Account to be stated: proviso.

ORDINANCES.

1. Carriages to keep to the right: penalty.
2. Not to enter narrow streets when occupied: penalty.
3. Drivers to hold reins: immoderate gait prohibited: horses, &c., not to be turned loose: drivers to hold, or to be within reach of bridle: not to drive or place cart, dray, &c., over footways: proviso.
4. Carriages of burden not to go faster than a walk.
5. No person to ride or drive over bridges faster than a walk.
6. Penalty for omnibuses passing each other.
7. Penalty for racing.
8. Express riding regulated.
9. Riding and driving regulated.
10. Sleighs, &c., to have bells.
11. Drays regulated.
12. Mayor to regulate car stands: proviso.
13. Carriages of pleasure regulated.
14. Duty of drivers occupying stands: not to seek employment on the sabbath.

Article VIII.—Statutes.

15. Vehicles remaining in the streets over night: proviso: sabbath day.
16. Wagons, &c., not to stand on streets on the sabbath: exception.
17. Passenger railway cars not to be obstructed: fine.
18. Cracking of whips prohibited.
19. Wagons, &c., not to stand across streets: proviso.
20. Nor stand across flag stones, &c.
21. Not to obstruct approach to any place, except at market on market days: penalty.
22. Wagons, carts, &c., not to remain longer than two hours, when not in actual use: exception: penalty.
23. Distance between vehicles in driving: penalty: proviso: funerals.
24. Penalty for riding or driving across the line of funerals.
25. Taking or removing vehicles, &c. without owner's permission.

LICENSES AND NUMBERS.

26. When Mayor shall withdraw licenses.
27. Comptroller's powers.
28. Hacks, &c., to be numbered: owner to take out license: penalty.
29. Licenses, when to terminate and be renewed.
30. Register to provide numbers, &c.: where numbers to be placed.
31. Numbers of any design may be used: proviso.
32. Rate of license.
33. Penalty for false entry or change of numbers.
34. Carriages not to be used for hire without being licensed and numbered.
35. Number corresponding with license only to be used.
36. Register to give notice.

RULES.

37. Penalty for violating rules, &c.

LIVERY, HIRING AND SALE STABLES.

38. Buildings: permit.
39. Publication.
40. Forfeiture.

STANDS FOR CARRIAGES, CARTS, &C.

41. Hacks not to stand on certain parts of Charles street.
42. Carriages on Bowly's wharf and Light street regulated.
43. Mayor to designate stands for carriages, &c., on certain streets: proviso.
44. Horses, wagons, &c., not to occupy certain streets.
45. What carts, &c., excepted: provisos.
46. Conditions.
47. Carts, &c., not used to sell from, to be removed: penalty.
48. Wood carts on Camden street.
49. Furniture wagons on German St.
50. Hacks, &c., in Monument square: rows of hacks around Battle Monument: penalty.

STATUTES.

1. The Mayor and City Council have power to license and regulate hackney coaches, or other carriages kept for hire and employed within the city, and also draymen, wagoners, carters, porters and watermen, residing and employed within the said

P. L. L., art. 4, sec. 138.

Hackney coaches, draymen, &c., to be licensed and regulated.

city, with power to make all necessary regulations respecting the same.*

Ibid, sec. 139.

What a hackney carriage.

2. Every carriage, coach, or other vehicle moved by horses or other animal power which shall be used for the conveyance of persons within the City of Baltimore for hire or compensation, shall be deemed a hackney carriage.

Ibid, sec. 863.

Breadth of wheels of wagons, carts and drays.

3. The Mayor and City Council may regulate the breadth of the wheels of wagons, carts and drays, to be used for hauling burdens on the streets of said city, not to affect persons hauling produce to the said city.

1865, c. 90.

Police Commissioners to fix rates of fare.

4. The Board of Police Commissioners of the City of Baltimore shall determine and fix the rate of fare† to be charged by the owners of hackney carriages in said city, and every owner of a hackney carriage, who shall have obtained a license therefor, as required by the ordinances of the Mayor and City Council of Baltimore, shall be authorized and entitled, during

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* For law authorizing Mayor to regulate the sale of horses and carriages at auctions, and their riding and driving, see sec. 27, p. 98.

† The rates of fare fixed by the Police Commissioners are as follows:

Steamboats and Railroad Stations.—To or from any steamboat or railroad station, to any hotel or private house in any part of the city—one passenger, 75 cts.; for each additional passenger, 25 cts.; for each trunk, box or bag, sufficiently large to be strapped on, 15 cts.; no charge for small parcels put in the carriage.

City.—From any one point within the city limits to another—one passenger, 75 cts.; for each additional passenger, 25 cts.

Time.—For one hour, $1.50; for each additional hour, $1.00. Same rates for all fractions of an hour, but no charge for less than a quarter of an hour.

Evening and Night.—For hacks taken from the stand to any part of the city, as follows: From 1st May to 30th September, inclusive, after 8 o'clock P. M., for a single passenger, 75 cts.; if more than one, each 50 cts.; like sum for returning. From the 1st October to 30th April, inclusive, after 7 o'clock P. M., the same. No charge for baggage.

General Rules.—1. An additional allowance for carriage only when sent from stand, 25 cts. 2. Children over ten years, half price; under ten, no charge. 3. The police force are strictly enjoined to enforce these rules.

the time in such license specified, to ask, charge and receive as a compensation from every person using the same, the rates of fare and compensation, and hire prescribed by the said Board of Police Commissioners, and no more; provided, that the provisions of this section shall not apply to the owners of hackney carriages who conduct their business exclusively at their respective stables. Proviso.

5. The owner of every licensed hackney carriage, other than those excepted in the preceding section, before he shall be entitled to charge, ask or receive any hire or compensation for the use thereof, shall cause the number of such carriage, as stated in his license, in plain and easily legible figures, at least two inches in length, to be painted or otherwise delineated in conspicuous places on each side of such carriage, both within and without, and shall also keep in at least two conspicuous positions in the interior of such carriage a copy of the rates of fare or charges prescribed by the Board of Police Commissioners, as aforesaid, printed on a white paper card, with black ink, by types of a size not less than long primer, so that the same may be conveniently seen, and read, in the day time by any person who may be a passenger in said carriage. 1865, c. 90. Number to be placed on carriage. Rates of fare to be placed inside.

6. Every owner of a hackney carriage licensed as aforesaid, for the use of which any higher or greater rate of fare shall be asked and received by any driver or other person having care of such carriage than what is prescribed by this article, or who shall omit or neglect to comply with the directions herein contained, shall incur a penalty of ten dollars; every continuance of an omission to comply with the provisions herein contained for one day after any prosecution therefor being taken as a distinct offence. P. L. L., art. 4, sec. 144. Penalty for charging higher rates, &c.

7. Every driver of any licensed hackney carriage who shall ask and receive any greater hire, or other compensation in money or other valuable articles, for the use of such carriage, Ibid, sec. 145. Penalty for refusing number.

For refusing to give correct rates; for misconveying or insulting passengers.

or the conveyance of any persons or baggage therein, than is prescribed in this article, or who shall refuse or omit when required to inform any person using such carriage or applying for the use of it, of the true number thereof, or the correct amount of the rates of fare authorized to be charged for the use of it, or who shall wilfully mislead, or misconvey, or insult, by abusive or indecent and opprobrious language, any passenger whom he shall have had in his care for conveyance in the carriage of which he is the driver, shall for every such offence incur such penalty, not exceeding twenty dollars, as shall be adjudged by the Mayor of the said city or any justice of the peace therein, before whom complaint shall be made by or on behalf of the party injured.

1865, c. 90.

When special license may be granted.

8. The proprietor of any hackney carriage in the City of Baltimore who does not intend to go upon or use the public stands in said city, with such hackney carriages, shall at the time of applying for a license for the same as required by the present, or any future ordinances of the Mayor and City Council of Baltimore, signify in writing such intentions, and thereupon a special license may and shall be granted to such proprietors, by the Comptroller, or other proper officer of said city; and for every special license thus granted, there shall be paid such sum as is now or shall hereafter become payable for other hackney carriages by the present or future ordinances of said city.

1865, c. 90.

Penalty in cases of special licenses.

9. No hackney carriages which shall be thus specially licensed, shall make use of or go upon or stand or wait for employment at any of the public stands designated by or under the present or any future ordinances of the Mayor and City Council of Baltimore, or at any other place or places in said city, except the premises of the owner thereof, under a penalty of twenty dollars for every such offence, one-half to be paid to the informer, to be recovered against either the owner or driver thereof, as fines of a like amount are now recovered.

10. Each and every proprietor of hackney carriages shall, at the time when he applies for a special license, or any renewal thereof, furnish the Comptroller or other proper officer of the City of Baltimore with a correct statement of the number of hackney carriages used by him, and such owner whenever he shall have increased the number of such hackney carriages, shall report such increase to the Comptroller, or other proper officer of said city, and every person violating any of the provisions of this section shall forfeit his license, and be liable to a penalty of ten dollars. 1865, c. 90. Statement to be made by applicant for special license. Penalty.

11. All penalties which shall be incurred under this law, or for the breach of any of its provisions, may be recovered by warrant issued in the name of the State, in the same manner as debts within said city are recoverable, with the right of appeal to the Baltimore City Court. P. L. L., Art. 4, sec. 146; 1865, c. 90. Penalties, how recovered.

12. On the trial of such appeal, the party of whom the penalty is claimed shall be entitled to a jury trial; but there shall be no stay of execution of any judgment appealed from, unless the party appealing shall give bond, with security approved by the officer rendering such judgment and conditioned that the party appealing shall prosecute the appeal with effect, and obey, perform and pay such judgment as shall be rendered by the Baltimore City Court, on the trial of said appeal. Right of appeal.

13. All penalties which shall be recovered for the breach of any of the provisions of this law, shall be appropriated one-half to the use of the two dispensaries* in the City of Baltimore, to be equally divided betwen them, and the other half to the use of the informer, whose name shall be endorsed on the warrant issued for the recovery of each respective penalty. Ibid, sec. 148; 1865, c. 90. Penalties, how appropriated.

* The two dispensaries here referred to are the General Dispensary, incorporated by Act of 1807, c. 110, amended by Act of 1872, c. 452, and the Second Dispensary incorporated by Act of 1817, c. 211.

LIEN OF LIVERY STABLE KEEPERS.

1865, c. 163, s. 1.

Lien of livery stable keeper for charges.

14. It shall be lawful for any livery stable keeper to retain in his custody, any horse, mare or gelding, placed under his care for livery, and also any vehicle until all charges for so keeping shall have been paid by the owner or owners thereof.

Ibid, s. 2.

How sale may be made.

15. It shall and may be lawful for such livery stable keeper to sell any such horse, mare or gelding, or vehicle, at public auction, in the city of Baltimore, after giving at least twenty days' notice in two of the daily newspapers published in the city of Baltimore, of the time, place and manner of sale, and after deducting the amount due for keeping, together with all expenses of said sale, to return the surplus, if any, to the owner of such horse, mare or gelding, or vehicle.

Ibid, s. 3.

Account to be stated.

16. Before proceeding as above, it shall be necessary for such livery stable keeper to state any account for the keeping of such horse, mare or gelding, or vehicle, and prove the same before a justice of the peace for the city of Baltimore, who upon being satisfied by proof of demand and refusal or neglect to pay on the part of the owner, shall thereupon issue his warrant authorizing such sale as aforesaid; provided, that the proprietors of such livery stables shall set up on their premises, in some conspicuous place, a copy of the aforegoing two sections, printed in large type, and his rates of livery.

Proviso.

ORDINANCES.

No. 32, s. 1, R. O.

Carriages to keep to the right.

1. The drivers of all carriages, of burden or pleasure, driving or passing through the streets, lanes or alleys of the city, where there is room sufficient for two to pass, shall keep on that side of the street, lane or alley, on their right hand respectively; and if any driver of a carriage shall drive his carriage in the middle of the street, or on the side of the way on his left hand, so as to prevent or obstruct another car-

riage from passing as aforesaid, every driver so offending, shall forfeit and pay for every such offence a sum not exceeding five dollars. Penalty.

2. Whenever any carriage shall have entered any street, lane or alley in the city, where there is not room sufficient for two carriages to pass, no other carriage shall enter the said street, lane or alley in the opposite direction, but shall remain in an adjacent street, until the first shall, with all diligence, have passed through; and if any driver or other person shall offend in such case, he shall forfeit and pay, for every such offence, a sum not exceeding five dollars. Ibid, s. 2. Not to enter narrow streets when occupied. Penalty.

3. No person shall sit or stand in or upon any carriage, or any horse or beast harnessed thereto, in order to drive the same, unless he shall have strong reins or lines fastened to the bridle of his beasts and held in his hands, sufficient to guide and restrain them; and no person driving any carriage, or riding any horse, mare, gelding or other beast in or through the said city, shall permit or suffer the beast or beasts, he shall so ride or drive, to go at an immoderate gait; and no person shall turn any horse, mare or gelding loose within the city, or drive such horse, mare or gelding loose through any of the streets, lanes or alleys of the said city; and all porters, carters and other persons having the care of any carriage who shall not hold reins in their hands to guide or restrain their beasts, shall walk by the head of the shaft or wheel-horse, holding, or within reach of the bridle or halter of the said horse; and no person shall drive, lead or place any horse or beast of burden, or any horse attached to a cart, dray or other carriage, laden or unladen, on any of the footways* of the city; and every person offending in any or either of the cases aforesaid, shall forfeit and pay for every such offence a sum not exceeding twenty dollars; provided, that nothing herein contained shall Ibid, s. 3. Drivers to hold reins. Immoderate gait prohibited. Horses, &c., not to be turned loose. Drivers to hold or be within reach of bridle. Not to drive or place carts, drays, &c., over footways. Proviso.

*See case of *Roddy* v. *Finnegan*, 43 Md. 492, under Art. XXXVIII, Police.

prevent any person from riding, driving or leading across any of the footways any horse or beast of burden, into or out of any lot or tenement.

Ibid, s. 4.

Carriages of burden not to go faster than a walk.

4. It shall not be lawful for any wagon of burden, cart or dray, laden or unladen, to be driven through any paved street, lane or alley within this city, at any other gait than a walk, and any driver offending herein, shall forfeit and pay a sum not more than five dollars nor less than two dollars.

Ibid, s. 5.

No person to ride or drive over bridges faster than a walk.

5. It shall not be lawful for any person to ride or drive any horse or horses over any bridge within the limits of the city at any gait other than a walk, under the penalty for each and every offence of five dollars.

Ibid, s. 6.

Penalty for omnibuses passing each other.

6. Any driver of any omnibus passing or attempting to pass any other omnibus, while the same is in motion at the rate of four miles per hour, shall be subjected to a fine of twenty dollars.

Ibid, s. 7.

Penalty for racing.

7. Any rider of any horse, mare or gelding, and any driver of any vehicles engaged in any contest of speed, within the limits of the city, shall be subjected to a fine of twenty dollars.

Ibid, s. 8.

Express riding regulated.

8. Any rider or driver of any express, going within the limits of the city, at a rate more than six miles per hour, shall be subjected to a fine of twenty dollars.

Ibid, s. 9.

Riding and driving regulated.

9. Any rider of any horse, mare, gelding or mule, and any driver of any hack, cab, omnibus, gig, sulky, carryall, buggy wagon, stage coach, private carriage, or any carriage of pleasure, or carriage of any description other than those mentioned in the fourth section of this ordinance, going or moving within the limits of the city, at a rate more rapid than six miles an hour, shall be subject to a fine of five dollars.

Ibid, s. 10.

Sleighs, &c., to have bells.

10. No driver of a carriage going upon runners or rail tracks shall pass through the streets, lanes and alleys of the city, unless one or more bell or bells be fixed to the horse or

horses drawing the same, under a penalty for every such offence not exceeding five dollars.

11. Each and every drayman shall place his horse and dray lengthways with and close to the kerbstones in the street in which the same shall stand, and no more than one range shall stand in any street, and drays shall be placed at a distance of not less than twenty-five feet from each other. Ibid, s. 11. Drays regulated.

12. The Mayor is hereby authorized to regulate the distance between carts, and the manner in which they shall stand, either by general rule or rules applying to particular streets in his discretion; provided that nothing herein contained shall be construed to authorize the placing of two lines of carts in one street. Ibid, s. 12. Mayor to regulate cart stands. Proviso.

13. Each and every carriage of pleasure kept for hire when unemployed and in any street and not in motion, shall be placed by the driver thereof in the middle of such street and lengthwise with said street, and no more than one range of carriages shall stand in any street, and such carriages shall be ranged parallel to the front of the houses, and at a distance of not less than thirty feet from each other, and in such manner as not to obstruct the passage of wagons or other carriages in the streets, and as not to prevent foot passengers from crossing a street in the direction and line of a footway on the side of any other street. Ibid, s. 13. Carriages of pleasure regulated.

14. Every driver, or person having charge of any cart, dray or other carriage, whilst occupying and stand, and unemployed, shall sit in such carriage, or stand near thereto with the reins in his hands, or in such manner to have the same within his reach, and no owner or driver of any carriage of pleasure for hire or pay within the city, shall take a stand, or move to and fro in any of the streets, lanes or alleys of the city, waiting or seeking for hire or employ on the Sabbath day, and every person offending in either of the cases mentioned in this, or the Ibid, s. 14. Duty of drivers occupying stands. Not to seek employment on the Sabbath.

preceding three sections, shall forfeit and pay for every offence a sum not exceeding five dollars.

No. 71, s. 1, Sept. 3, '60. Vehicles remaining in the streets over night. Proviso.

15. It shall be lawful for the owner or owners of any cart, dray or other vehicle to suffer the same to remain before their premises, on which they live, during the night; provided, that not more than eight feet of any street or alley shall be thus occupied; and provided further, no cart, dray or other vehicle shall remain in the streets, lanes or alleys of the city on the Sabbath day.

No. 32, s. 16, R. O. Wagons, &c., not to stand on streets on the Sabbath. Exception.

16. It shall not be lawful for any person or persons to drive or stand with a wagon cart, dray or other vehicle, or feed horses on any paved street, lane or alley on the Sabbath day, except such wagon and horses are in the service of the United States or State of Maryland, under a penalty of five dollars.

No. 71, s. 3, Sept. 3, '60. Passenger railway cars not to be obstructed. Fine.

17. No carriage, wagon or other vehicle, shall be allowed to stand in any of the streets so as to obstruct the passage of the city passenger railway cars; and no driver of any vehicle, having sufficient space to turn out of the way of said cars, who shall refuse to do so after being requested, shall, with those violating the first provision of this section, forfeit and pay the sum of five dollars for each and every offence, to be recovered as other fines and forfeitures are now collectable.

No. 32, s. 15, R. O. Cracking of whips prohibited.

18. Every driver of a hack or other vehicle, who shall crack a whip upon the pavement adjacent to the public stands shall forfeit and pay for every such offence the sum of one dollar.

Ibid, s. 17. Wagons, &c., not to stand across streets. Proviso.

19. It shall not be lawful for any wagon or other carriage to be placed or stand across any street, lane or alley, in the city, or in any other position except with the length parallel to the side of the street, lane or alley in which it may be; and the owner or driver of any wagon or other carriage placing the same or permitting it to stand in any other position than that above described, shall forfeit and pay the sum of two dollars; provided, that any wagon or other carriage of burden

may, during the time of loading or unloading, with shaft horses only, in the day time, stand in a position convenient for those purposes for any necessary space of time, not exceeding three hours, without the owner or driver thereof incurring the penalty aforesaid; but nothing in this proviso contained shall authorize the placing of any wagon or other carriage in any position which will prevent the passage of any wagon, cart or other carriage.

20. It shall not be lawful for any person to place any carriage of any description whatever, upon or across any of the flag or stepping stones, placed for the convenience of foot passengers across any street, lane or alley in the city; and every driver of any carriage whatever, shall promptly remove his carriage off the same, upon demand of any person, under a penalty of five dollars. Ibid, s. 18. Nor stand across flagstones, &c.

21. If any owner or driver of any wagon, cart or other carriage shall place such wagon, cart or other carriage, or any horse on any street, lane or alley of the city other than the streets, lanes and alleys within the limits of the several markets on market days, so as to prevent the access of any other carriage to the kerb stone in front of any building, against the consent of any owner or occupier of such building, or if such owner or owners, upon being required to move his cart, wagon or other carriage, or horse, by the owner or occupier of such building, or by any police officer, shall refuse or neglect so to do immediately, he shall forfeit and pay for every such offence the sum of five dollars; and it shall be lawful for the owner or occupier of such building to remove the said cart, wagon or other carriage, horse or horses, and every person who shall obstruct the said owner or owners, shall forfeit and pay the sum of five dollars for each offence. Ibid, s. 19. Not to obstruct approach to any place except at market on market days. Penalty.

22. Excepting within the limits of the several markets, and in accordance with the article, entitled Markets, no person whatever shall place any wagon, cart or other vehicle licensed Ibid, s. 20. Exception.

Wagons, carts, &c., not to remain longer than two hours, when not in actual use.

by the city, or owned in the city of Baltimore, or any horse, mare or gelding belonging to the same, on any of the streets, lanes or alleys of the city, when not in direct and absolute use at the time, to remain there for a longer time than two hours,

Penalty.

under a penalty of three dollars for each and every offence; and all carriages, wagons, carts, drays and other vehicles, upon their stands by authority of the Mayor of the City, shall be considered as in use under this section.

No. 21, April 4, '68.

Distance between vehicles in driving.

23. No driver of any vehicle upon the streets of the city shall drive so close to any vehicle in front, that there shall be less than ten feet between the rear of said vehicle in front and the head of the horse of the vehicle in the rear at all crossings,

Penalty.

under a penalty of not less than two dollars nor more than five dollars, at the discretion of the justice of the peace, for each and every offence, to be recovered as other fines are re-

Proviso.

coverable; provided, that this section shall not apply to funerals or other processions.

No. 32, s. 23, R. O.

Penalty for riding or driving across the line of funerals.

24. It shall not be lawful for any person to ride or drive any horse or horses across the line of a funeral procession in the streets, lanes or alleys of the city, under a penalty for each and every offence of two dollars.

No. 85, Oct. 13, '77.

Taking or removing vehicle &c., without permission of owner, &c.

25. If any person shall enter upon or into any vehicle or conveyance, or remain therein, or drive or remove the same from the place where the same may then be, without the authority or permission of the owner or the party in charge thereof, such person so entering, remaining, driving away or removing without authority or permission as aforesaid, shall

Penalty.

be subject to a fine of not less than one dollar, nor more than twenty dollars; to be collected as other fines and penalties are collected.

LICENSES AND NUMBERS.

Ibid, s. 24. When Mayor shall withdraw licenses.

26. It shall be the duty of the Mayor to withdraw the license from any vehicle licensed by the city, the driver of

which shall violate a second time any of the provisions of this ordinance regulating the speed of horses and vehicles.

No. 9, s. 4, R. O. Comptroller's powers.

27. The Comptroller shall issue all licenses for and numbers of carriages, wagons and other vehicles, boats and scows as enumerated in the succeeding section, he accounting with the Register for the same and paying over to him the fees received for the same.

No. 32, s 25, R. O. Hacks, &c., to be numbered.

28. All hackney coaches, buggies, cabs and gigs, kept for hire, and all wagons, furniture carriages, carts, drays, package carts, boats of every description, and scows, used or employed within the city,* shall be numbered with plain, conspicuous figures, on plates of tin, to be provided by the Register for that purpose, as hereinafter directed, to begin with number one, and so on progressively; and the owner or owners of such carriages, boats or scows, shall annually appear at the office of the Comptroller, and there enter in a book, to be kept for that purpose, his or her name and place of abode, and the description of every such carriage, boat or scow by him or her owned, and the number thereon to be affixed; and such owner or owners shall take out a license, containing his, her or their number, and signed by the Comptroller, with the city seal thereto affixed; and no owner or holder shall be permitted to use or employ, or let for hire, on any street, lane or alley, nor in any water within the city, any hackney coach, buggy, cab or gig, kept for hire, wagon, furniture carriage, cart, dray, package cart, boat or scow, until he, she or they shall first comply with the regulations herein contained; and should any holder or owner thereof use or employ any such carriage, boat or scow within the city, until he, she or they have fully complied with the requisitions of this ordinance and

Owner to take out license.

*Held by Brown, C. J., in City Court, *Frederick* v. *Mayor &c.*, March 21, 1874, where ice carts, owned by residents of Baltimore county, who also had their ice house in that county, were "used and employed within the city," that licenses must be taken out and the ice carts numbered as required by this section.

the regulations herein contained, he, she or they shall be liable
Penalty. to forfeit and pay for every such offence a fine of one dollar.

No. 32, s. 26, R. O. 29. All licenses shall terminate on the first day of May,
Licenses, when to terminate and be renewed. annually, and shall only be considered as entitled to renewal if such renewal shall be applied for on said day, or within twenty days thereafter; and in all cases where said license shall not have been renewed within twenty days aforesaid, a new license shall be necessary, to be dated and paid for from the first of May, as in case of renewal.

Ibid, s. 27. 30. It shall be the duty of the Register, annually, on or
Register to provide numbers, &c. before the first day of May in each and every year, to purchase a sufficient number of tin plates numbered with plain, conspicuous figures, done with black paint, beginning with number one and so on progressively, two of each to correspond to the number of the carriage, boat or scow, and also to purchase suitable dies for the arithmetical numbers, and the figures standing for the date of the year in which said numbers were issued shall be stamped on the end of each numbered plate, the said plate to be of suitable size and description, in the discretion of the Register, and to be paid for out of any money in the treasury not otherwise appropriated; and it shall be the duty of the Comptroller, on receiving the same from the Register, to furnish for each licensed carriage, boat or scow, two of said tin plates with numbers corresponding to the number of the license and record of said carriage, boat or scow, which
Where numbers to be placed. numbered plates shall be fastened on each side of and on the most conspicuous part of such carriage, boat or scow, so that the numbers may be plainly seen, under a penalty of two dollars.

Ibid, s. 28. 31. All persons who take out licenses under this ordinance,
Numbers of any design may be used. are hereby authorized to provide numbers for their carriages, wagons and other vehicles, of such design as to them may seem proper, such numbers to conform with the number of

their license, the same to be in a conspicuous place; provided that the number furnished by the Comptroller be nevertheless attached to such carriage and wagon in such place as he may direct. Proviso.

32. The owner or owners of any carriage, boat or scow, obtaining license therefor, shall pay the Comptroller for the use of the city, for every hackney coach, cab, buggy, wagon or other four wheel pleasure carriage, kept for hire, five dollars and fifty cents for the original license, and five dollars for the annual renewing thereof; for every chair, gig, cab, buggy or other pleasure carriage drawn by one horse and kept for hire, three dollars and fifty cents for the original license, and three dollars for the annual renewing thereof; for every wagon drawn by more than three horses or mules, ten dollars and fifty cents for the original license, and ten dollars for the annual renewing thereof; for every wagon or cart, drawn by more than one, and not more than three horses or mules, five dollars and fifty cents for the original, and for each renewal, five dollars; for every wagon or cart or other carriage of burden, drawn by not more than one horse or mule, two dollars and fifty cents, and for each renewal, two dollars; for each boat or scow, two dollars and fifty cents for the original, and two dollars for each renewal; for every package cart, one dollar, and for every transfer of any of the licenses authorized by this ordinance, fifty cents. Ibid, s 29. Rate of license.

33. If any person shall cause or procure a false entry to be made of any such carriage, boat or scow, or after a true entry shall alter the number of his carriage, boat or scow, being registered, or not having a license, shall permit a number to be fixed to or remain on his or her carriage, boat or scow, he or she shall forfeit and pay for every such offence the sum of twenty dollars. Ibid, s. 30. Penalty for false entry or change of number.

34. No owner of any carriage shall use the same in carrying or transporting any person or persons, within the said city, Ibid, s. 31.

Carriages not to be used for hire without being licensed and numbered.

for hire or pay, unless such owner shall appear at the office of the Comptroller and make entry and take out license as aforesaid, and number such carriage on the middle panel or other conspicuous place, of each side, with plain and conspicuous figures, and the same renew annually; and such owner shall be subject to all the other rules and regulations herein contained, respecting wagoners, carters and draymen, and shall be liable to the same forfeitures and penalties upon the non-compliance with or violation of any such rule or regulation.

Ibid, s. 32.

Number corresponding with license only to be used.

35. It shall not be lawful for the owner or owners of any carriage, wagon, cart, dray, package cart, furniture wagon, boat or scow, to retain or suffer to be placed on any such vehicle any other number than one corresponding with the license for the same, and any person or persons violating the provisions of this section, shall be subject to a fine of three dollars.

Ibid, s. 33.

Register to give notice.

36. It shall be the duty of the Register to notify all persons annually, of the necessity of attending to the provisions of this ordinance respecting licenses, by advertising the same for ten days previous to the first day of May in all the daily papers of the city.*

RULES.

Ibid, s. 36.

Penalty for violating rules under this ordinance.

37. Every person violating any rule made by the Mayor in virtue of this ordinance, shall be subject to a penalty of two dollars, unless some other penalty is hereinbefore provided for the offence.

LIVERY, HIRING OR SALE STABLES.

No. 72, s. 1, July 21, '60 Buildings.

38. It shall not be lawful for any person or persons, or bodies corporate, to erect or cause to be erected, or to alter or cause to be altered, any building or buildings for the purpose of being used as livery, hiring or sale stables, within the

* See duty of Sheriff under Licenses, Art. XXXIII.

limits of direct taxation, without having first had and obtained a permit from the Mayor and City Council of Baltimore. * Permit.

39. Notice of all applications for permission to erect livery, hiring or sale stables, or to alter buildings to be used for that purpose within the limits of direct taxation, shall be inserted three times a week in two or more of the daily newspapers published in the city of Baltimore, two weeks previously to making such application. Ibid, s. 2. Publication.

40. For any and every violation of the provisions of the preceding two sections, the party or parties so violating, shall forfeit and pay the sum of two hundred dollars, and a further sum of fifty dollars for each and every week thereafter, until the stable or stables so erected or altered shall be removed outside of the limits of direct taxation, torn down, or ceased to be used for that purpose; the said fines and forfeitures to be recovered as other fines and forfeitures are now recoverable. Ibid, s. 3. Forfeiture.

STANDS FOR CARRIAGES, CARTS, &c.

41. It shall not be lawful for licensed carriages of pleasure, commonly called hacks, to stand upon the bed of Charles street, between Camden and Lombard streets, and any person offending against the provisions of this section, shall forfeit and pay the sum of five dollars for each and every offence; to be recovered as other fines and forfeitures are now recoverable. No. 71, s. 2, Sept. 3, '60. Hacks not to stand on certain parts of Charles street. Fine.

42. It shall not be lawful for any carriage or carriages, of any description whatever, to stand on that part of Bowly's wharf south of a right line with the north side of Camden street, or on that part of Light street which lies between Pratt and Lee streets, longer at any one time than the same can be loaded or unloaded, under a penalty of two dollars for each and every offence. No. 32, sec. 21, R. O. Carriages on Bowly's wharf and Light st. regulated.

* See as to permits from Appeal Tax Court, Article XLIX, Taxes.

Ibid, s. 22.

Mayor to designate stands for carriages, &c., on certain streets.

43. The Mayor is hereby authorized and requested to designate stands for licensed carriages of pleasure and burden and package carts, out of Baltimore street and that part of Pratt street which lies between South and Hanover streets; and no person shall take any stand not so designated with a licensed carriage of pleasure or burden, or a package cart, under a penalty of not less than one nor more than five dollars; provided, that the Mayor shall not designate stands for carts in any streets except at the south end of Broadway, and in Camden, Conway, Barre and Lee streets, east of Charles street, and at the lower end of the Centre market space.

Proviso.

No. 50, s. 1, July 2, '60.

Horses, wagons, &c, not to occupy certain streets.

44. It shall not be lawful for any horse, wagon, or other vehicle to occupy or remain upon any of the following streets, to wit: Hanover street from Conway to Lombard street; Camden street from Charles to Howard street; Sharp street from Conway to Pratt street, and Dover street from Hanover to Sharp street, during the following days, to wit: Mondays, Thursdays and Saturday afternoons and evenings.

Ibid, s. 2.

What carts, &c. excepted.

45. In order that the provisions of the aforegoing section shall not interfere with those persons who have been in the habit of occupying said streets on said occasions, with a cart, wagon, or other vehicle, for the purpose of selling or vending therefrom any article or articles, said cart, wagon, or other vehicle, so occupying said streets, for the purpose aforesaid are hereby excepted from the provisions of the above section; provided, however, the said cart, wagon or other vehicle, shall be so arranged as to preserve between every two vehicles, an open space of not less than four feet, for the purpose of a passage way for the accommodation of the public; and provided further, that the shafts of said carts shall not extend more than one foot beyond the curb, and the shafts of said wagon or other vehicle shall be unshipped; and provided further, that such carts, wagons or other vehicles occupying the south side of Camden street for the sale of articles, shall be so placed

Provisos.

that the articles sold therefrom can be purchased from the pavement or sidewalk.

46. The owners and occupiers of the property upon the line of the street or streets upon which it is designed to reverse the carts, wagons and other vehicles, as a stand or stall for the sale of any articles, shall enter into an agreement with the Mayor and City Council, consenting thereto, and allowing the parties making sales from said carts, wagons or other vehicles, the use of two feet of the pavement next the kerb stones in front of their property; and no vehicles shall be allowed to remain standing on the bed of Sharp street. Ibid, s. 3. Conditions.

47. Any person or persons having in charge any cart, wagon or other vehicle not intended to be used to sell from, shall be permitted to remove the same to some of the adjoining streets, and so arrange them upon the centre or crown thereof as to cause no obstruction to the free passage of all vehicles upon either side of the same. Any person or persons violating the provisions of this and the preceding three sections, shall be subject to a penalty of five dollars for each and every offence, to be collected as other city fines and forfeitures are collected. Ibid, s. 4. Carts, &c., not used to sell from to be removed. Penalty.

48. Wood carts are not permitted to occupy Camden street, between Charles and Light streets, as a stand, under a penalty of five dollars for each offence; but Conway street, between Charles and Light streets, is hereby designated as a stand for said carts. Resolution No. 225, May 13, '76. Wood carts on Camden street. Penalty.

49. It shall not be lawful for any person or persons to use the bed of German street, between Howard and Eutaw streets, as a furniture wagon stand, under a penalty of five dollars for each offence, to be recovered as other fines are recoverable; but the bed of German street, between Eutaw and Paca streets, may be so used until otherwise determined by the Mayor and City Council of Baltimore. Resolution No. 214, May 12, '76. Furniture wagons on German street. Penalty.

No 1, Nov. 28, '7[illegible].

Hacks, &c., in Monument Square.

50. It shall not be lawful for any hack, carriage or other vehicle for hire, to stand or be moving about Monument square, or on Calvert street between Baltimore and Lexington streets, nor on Fayette street, between St. Paul and North streets, except when actually employed: Provided, that not more than four rows of hacks not exceeding five in a row, may stand north of the Battle Monument, with their horses heads facing to the south, and not less than fifteen feet north of the chain around the Monument, thirty feet south of the flagstones across the south side of Lexington street, and thirty feet from the kerbstones on the east and west side of Monument square; each and every person violating this section shall be fined not less than two nor more than four dollars for each and every offence, to be collected as other fines and forfeitures are now collected.

Rows of hacks around Battle Monument.

Penalty.

NOTE.—By Res. No. 6, Nov. 21, '67, James Miller and others had the privilege granted them of standing drays on Pratt street, between Spear's wharf and Smith's wharf, revokable however, by the Mayor, whenever in his judgment the public interests require it.

ARTICLE IX.

CHIMNEYS.

STATUTE.

Licensing and regulating chimney sweeping.

ORDINANCES.

1. Superintendents of Chimney Sweepers to be appointed and licensed: penalty.
2. To give bond.
3. Duty of Superintendents: penalty for refusing to allow chimneys to be swept.
4. Penalty for neglect of duty by Superintendents.
5. Fees.
6. Penalty when chimneys take fire: provisos.
7. Flues of chimneys in which anthracite coal is used regulated.
8. Width of funnels regulated: notice.
9. Timber resting on chimneys regulated.
10. Superintendents to enforce regulations.
11. Their duty in relation to new houses: liability of owners: charge for scraping.
12. Chimneys, &c., annoying neighbors or endangering property prohibited: penalty.
13. Spark catchers: penalty.
14. Pipes through sides of wooden houses or through wooden ceilings, &c., prohibited: penalty.
15. Smoking meat prohibited: proviso: penalty.
16. Superintendents to examine fireplaces, &c.: notice to Fire Inspector: penalty.
17. Annual report of Superintendents.
18. Hours for sweeping regulated: penalty.

STATUTE.

The Mayor and City Council have power to license and regulate the sweeping of chimneys, and fix the rates thereof, and to regulate the sweeping of any chimney by the neglect of which the city may be endangered, and to ascertain the width of those to be built in the city.

P. L. L., art. 4, sec. 150. Licensing and regulating chimney sweeping.

ORDINANCES.

No. 48, s. 1, R. O.
Superintendents of chimney sweepers, to be appointed and licensed.

1. There shall be annually appointed and licensed eleven Superintendents of Chimney Sweepers, who shall be assigned to separate districts of the city, as nearly equal as possible, under the direction of the Mayor, and who shall reside in their respective districts, and no person shall exercise the employment of Superintendent of Chimney Sweepers until he shall have obtained from the Mayor a license under the seal of the corporation, on pain of forfeiting for every such offence a sum not exceeding five dollars.

Ibid, s. 2.
To give bond.

2. Before any license shall be granted or renewed, every person appointed Superintendent of Chimney Sweepers shall give bond to the Mayor and City Council of Baltimore in the penal sum of one hundred dollars, with security to the satisfaction of the Mayor, with condition that he will faithfully execute the employment of Superintendent of Chimney Sweepers in his district, will duly pay and satisfy all just claims that may be against him as such, and in all things well and faithfully perform the several duties required by the ordinances of the corporation relating to his office.

Ibid, s. 3.
Duty of Superintendents.

3. Each Superintendent is hereby directed to apply to the occupier or occupiers of every house and of every room and apartment within his district for permission to sweep any chimney in such house, or belonging to such room which has been so much used as to require, in the opinion of the Superintendent, to be swept, and has not been swept at any time within the term of four weeks next preceding the day of such application, and if the said occupier or occupiers will not then permit such Superintendent to sweep such chimney, or will not appoint a reasonable time within twenty-four hours thereafter for the doing thereof, or will not permit such chimney to be swept at the time which may be so appointed,

he, she or they shall pay to the superintendent the same sum of money as if such chimney had been swept by him, and shall forfeit and pay to the corporation a sum not exceeding five dollars, and in such case the superintendent shall be and he is hereby directed to apply each and every day for the sweeping of such chimney until the same be actually swept, and upon every such application, if the occupier or occupiers of such house or room will not permit him to sweep such chimney, he shall be entitled as aforesaid, to receive each and every day from such occupiers the same sum of money as if said chimney had been swept by him, and every such occupier or occupiers shall forfeit and pay to the corporation for each and every such offence a sum not exceeding five dollars.

Penalty for refusing to allow chimneys to be swept.

4. If any of the superintendents do not, every four weeks apply as aforesaid for permission to sweep each and every chimney within his district which, by this ordinance ought to be swept, and each and every day repeat such application as aforesaid, he shall, for every such default, forfeit and pay to the corporation a sum not exceeding five dollars.

Ibid, s. 4.

Penalty for neglect of duty by Superintendents.

5. No superintendent, licensed as aforesaid, shall demand or receive from any person, directly or indirectly, for his services, any other or greater fees or rates than are herein allowed, under the penalty of five dollars for every such offence, to wit: for a chimney one story high, ten cents; for a chimney two stories high, fifteen cents; for a chimney three stories high, twenty cents; for a chimney four or more stories high, twenty-five cents.

Ibid, s. 5. No. 59, Ap'l 29, '64.

Fees.

6. If any chimney in the city shall take fire, and blaze out at the top, the superintendent within whose district the said chimney shall be, shall forfeit and pay to the corporation the sum of ten dollars; provided, nevertheless, that such forfeiture shall be paid by the occupier or occupiers of

No. 48, s. 6, R. O.

Penalty when chimneys take fire.

Proviso.

the house or room wherein such chimney may be, in case he, she or they would not permit such chimney to be swept, upon application having been made therefor by the said superintendent, agreeably to the provisions of this ordinance; and provided, also, that the said superintendent shall not be liable to the fine imposed by this section, where the fire occurs in a chimney in which is placed a Franklin or other stove, or in a stove pipe or chimney so fixed as to prevent the thorough sweeping and cleansing of such chimney.

Proviso.

Ibid, s. 7.

Flues of chimneys in which anthracite coal is used, regulated.

7. The flue of any chimney in which anthracite coal is used as a fuel shall be exempt from the provisions of this ordinance requiring that flues shall be swept once in every four weeks, but such flues shall be swept once in every year, if thought necessary by the superintendent.

No. 38, June 7, '69.

Width of funnels regulated.

8. If any person or persons shall erect or build, or cause to be erected or built, any chimney within the limits of the city of less width than eight inches square throughout the funnel, he, she or they shall forfeit and pay a fine of twenty dollars, and shall cause the same to be taken down within ten days after notice so to do shall have been given to him or them by the Fire Inspector, under a penalty not exceeding twenty dollars, and a further sum of five dollars per day for each and every day thereafter the same shall be suffered to remain.

Notice.

No. 48, s. 9, R. O.

Timber resting on chimneys regulated.

9. It shall not be lawful for any person or persons to erect or build, or cause to be erected or built, any chimney within the limits of the city which shall have any joist or timber resting on or entering the same further than will leave at least four inches between the end thereof and the inside of the chimney, and every person who shall refuse to cause any such joist or timber so placed by him, or his authority, to be removed within ten days after notice so to do, shall forfeit and pay a like penalty as is imposed by the preceding section.

10. It shall be the duty of the Superintendents of Chimney Sweepers to carry into effect in their respective districts the provisions of sections eight and nine of this ordinance. Ibid, s. 10. Superintendents to enforce regulations.

11. Each superintendent of the sweeps is hereby directed to apply to the owner or owners of any new built house within his district for permission to scrape the chimneys belonging to such house before the same is occupied, and if the said owner or owners will not permit such superintendent to scrape such chimney or chimneys, and shall suffer the same to remain unscraped until such house is occupied, the owner or owners shall pay to the superintendent the same sum of money as if such chimneys had been scraped by him, and shall forfeit and pay to the corporation as a fine a sum not exceeding five dollars; and no superintendent shall demand or receive from any person, directly or indirectly, under the penalty of five dollars for each and every offence, more than twenty-five cents for each funnel so scraped. Ibid, s. 11. Their duty in relation to new houses. Liability of owners. Charge for scraping. Penalty.

12. No person shall erect or continue to use any smoke-stack, chimney-flue or stove-pipe within the city in such manner as that the smoke or cinders therefrom shall annoy any neighbor, or endanger the surrounding property by fire, and upon the complaint of a majority of the neighbors to the Fire Inspector, he may, in his discretion, or he may on his own motion, order the same to be altered or improved, as he may deem best for the protection of the surrounding property; and if any person shall refuse or neglect to alter or improve the same within ten days after notice from the Fire Inspector, he shall forfeit and pay a fine of twenty dollars, and ten dollars for each and every day thereafter until such order shall be obeyed; the said fines to be collected as other fines are collectable. Ibid, s. 12. No. 91, June 12, '71. Chimneys annoying neighbors or endangering property prohibited. Penalty.

13. All chimneys, smoke-stacks or stove-pipes not over fifty feet high, connected with blacksmith shops, steam engines or furnaces, shall be provided with spark-catchers, so No. 17, Mar. 17, '66. No. 91, June 12, '71. Spark catchers.

as to prevent the cinders from annoying the citizens or endangering the property in the neighborhood; and the Fire Inspector shall see that this section is complied with, and in cases of non-compliance the party offending shall be subject to the same penalties as are provided in the preceding section.

Penalty.

No. 48, s. 12, R. O.

Pipes through sides of wooden houses or wooden ceilings, &c., prohibited.

14. No person shall erect a stove, and conduct the pipe thereof through the side or end of any wooden house, or the roof or wooden ceiling of any building, under a penalty not exceeding ten dollars, and shall forfeit and pay the same sum for each and every month thereafter, until such pipe shall be removed.

Penalty.

Ibid, s. 13.

Smoking meat prohibited.

Proviso.

15. It shall not be lawful to make or cause to be made any fire for the purpose of smoking any bacon or other meat in any warehouse or other building, except in houses built expressly for that purpose, and in the opinion of the Fire Inspector, made secure, so as not to endanger the adjoining property, and any person offending against the provisions of this section shall forfeit and pay the sum of twenty dollars, and the further sum of ten dollars for each and every day the practice shall be continued.

Penalty.

Ibid, s. 14.

Superintendents to examine fire places, &c.

16. The Superintendents of Chimney Sweepers in each district shall, from time to time, examine in their respective districts the fire places and chimneys of all houses, outhouses and buildings, and all stoves and stove pipes, and the place where ashes, hay, straw or other combustible matters are or shall be kept, and all smoke houses; and upon finding any of them defective or dangerous, shall give notice to the Fire Inspector, who shall in his discretion, order the same to be removed, altered or amended, and if any person shall neglect or refuse to obey such order, such person shall forfeit and pay a sum not exceeding five dollars, and shall forfeit and pay the same amount each and every week thereafter, until such order shall be obeyed.

Notice to Fire Inspector.

Penalty.

Article IX.—Ordinances.

17. It shall be the duty of the Superintendent of Chimney Sweepers, in the month of December of every year, to return to the Mayor* an enumeration of all the houses erected in their respective districts, distinguishing the number of houses of one, two, three, four or more stories, under the penalty of twenty dollars. Ibid, s. 15. Annual report of Superintendents. Penalty.

18. It shall not be lawful for any person to send out, for the purpose of sweeping or scraping chimneys, any boy or boys, or any person engaged as a chimney sweep, from the first of November to the first of April, inclusive, at an earlier hour than sunrise; any person violating this section shall forfeit and pay the sum of five dollars. Ibid, s. 16. Hours for sweeping regulated. Penalty.

* See as to permits to erect buildings, Article XLIX, Taxes.

ARTICLE X.

CITY HALL.

ORDINANCES.

SUPERINTENDENT OF CITY HALL.
1. Duties: salary.

CITY MESSENGER.
2. Duties: salary.

WATCHMEN.
3. Day Watchmen: duties: salaries.
4. Night Watchmen: duties: salaries.
5. Substitutes.

ENGINEERS AND FIREMEN.
6. Duties: salaries.

ABSENCE FROM DUTY.
7. Permission of Mayor.

ORDINANCES.

SUPERINTENDENT OF CITY HALL.

No. 92, s 3, May 15, '75. Duties.

1. There shall annually be appointed, as other city officers are appointed, a Superintendent of the City Hall, who shall at all times be under the supervision and control of the Mayor. He shall be authorized to appoint, subject to the approval of the Mayor, such persons whose services may be required to keep the City Hall at all times in a condition of cleanliness, and shall monthly present the pay roll of such persons to the Mayor for his approval. He shall promptly report to the Mayor all omissions of duty on the part of those charged with the duties respectively of heating, cleaning and watching the City Hall building. He shall, from time to time, as necessity may require, make requisitions for fuel and such articles as may be necessary for general use about the City Hall, subject to the approval of the Mayor, and shall enter in a book all such requisitions as may be approved by the Mayor. For his services he shall be paid an

annual salary of fifteen hundred dollars. Before entering upon the discharge of his duties he shall execute a bond in the sum of ten thousand dollars for the faithful discharge of his trust. Salary.

CITY MESSENGER.

2. There shall be annually appointed, as other city officers are appointed, a City Messenger, whose duty it shall be to attend to the office of the Mayor during business hours, deliver messages for the Mayor's, Register's and Comptroller's offices, and perform such other duties as may be required of him by the Mayor. He shall, as a compensation for his services, receive an annual salary of nine hundred dollars. Ibid. s. 4. Duties. Salary.

WATCHMEN.

3. There shall be annually appointed, as other city officers are appointed, three day watchmen of the City Hall, whose duty it shall be to attend daily from 6 o'clock A. M. to 6 o'clock P. M. They shall each wear an appropriate badge to designate their office, and perform service in such portion of the building as they may from time to time be assigned to by the Mayor. They shall prevent all improper persons from entering the building, and promptly remove therefrom all persons who may be guilty of any misconduct. They shall inform all persons who desire it as to the locality of the offices in the building, and if required, conduct the party seeking the information to the same. They shall generally perform such services as may be necessary for the protection of the building, and for the accommodation of those who may enter it on business, or for other proper purposes. They shall each receive for their services one thousand dollars per annum. Ibid, s. 5. Day watchmen. Duties. Salaries.

4. There shall be annually appointed as other city officers are appointed, two night watchmen of the City Hall, whose duty it shall be to attend thereto, from six o'clock P. M. to six o'clock A. M.; one of them shall perform duty in the basement story and cellar of the building, and the other on Ibid, s. 6. Night watchmen. Duties.

the floors above the basement. Their duty shall be to move about the parts of the building assigned respectively to their care and charge, and should they, or either of them sleep, or lie down when on service, he or they shall be immediately discharged from office. As a compensation for their services they
Salaries. shall each receive an annual salary of one thousand dollars.

Ibid, s. 8. 5. Neither the day or the night watchmen shall place
Substitutes. any substitute on duty when sickness or other circumstances may render their absence necessary, unless such substitute shall first be approved by the Mayor.

ENGINEERS AND FIREMEN.

Ibid, s. 7. 6. There shall be annually appointed as other city officers are appointed, two engineers and four firemen, whose
Duties. duty it shall be to attend to the heating department of the building, and shall employ or appropriate such hours in the prosecution of their respective duties as may be designated by the Mayor from time to time as necessity or circumstances may require or suggest. The engineers must be practical machinists, who will be capable of making such repairs to the heating apparatus as may be required. The engineers shall each receive an annual salary of twelve hundred dollars,
Salaries. and the firemen shall each receive an annual salary of nine hundred dollars.

ABSENCE FROM DUTY.

Ibid, s. 8. 7. None of the foregoing officers shall absent themselves
Permission of Mayor. from duty without the permission of the Mayor.

NOTE.—For the ordinances providing for building of City Hall, see No. 73, Aug. 5, '68; No. 69, Oct. 18, '69; No. 1, Nov. 4, '69; No. 4, Nov. 23, '69; No. 10, Jan. 30, '71; No. 112, June 24, '71; No. 125, Sept. 30, '71; No. 8, Dec. 21, '71; No. 83, June 24, '72, and No. 54, June 9, 1874, and resolutions No. 27, Dec. 22, '69, and No. 246, Oct. 25, '70.

Previous ordinances and resolutions on this subject are No. 98, Oct. 16, '60; No. 58, Sept. 25, '65; No. 48, July 23, '67; Res. No. 123, June 15, '63; No. 1, Nov. 14, '67; No. 38, Dec. 3, '67; No. 334, July 1, '68; No. 339, July 1, '68. Res. March 16, '69, and April 1, '69. See "History of the City Hall," published by City, 1877, under Resolution No. 493, Oct. 29, 1875.

As to City Hall Stock, see Art. XLVI, Stocks, Loans and Finance.

ARTICLE XI.

COMPTROLLER AND REGISTER.

ORDINANCES.

COMPTROLLER.

1. Appointment of Comptroller: salary: term of office: bond.
2. Duties of Comptroller.
3. To supervise the fiscal concerns of the corporation.
4. To examine contracts, issue licenses, &c.: open accounts with all the departments: certify to correctness of claims: report all contracts to Council: report when appropriations are exhausted: examine and certify to correctness of pay rolls.
5. Public improvements.
6. To represent city when property insured is destroyed.
7. Insurance of city property without the city.
8. Comptroller to bid at public sale for property sold for taxes.
9. To sell for cash property purchased: proviso.
10. Payments to Collector and Register.
11. Comptroller to take charge of refuse material: to sell same and old metal.
12. Refuse materials, &c., to be handed over to Comptroller.
13. Separate account of refuse material.
14. Clerks: their duties and salaries.
15. Bonds of clerks.
16. When chief clerk to act in absence of Comptroller.

REGISTER.

17. Register to be appointed: to give bond.
18. Deputy Register: his bond: oath.
19. When deputy may officiate.
20. Council to fill vacancy: Mayor to summon the Council to fill vacancy.
21. Duties of the Register: city seal: fees: exception.
22. Further duties: record of appointments: how to dispose of and draw for money: accounts: to report to Council.
23. When authorized to obtain advances from bank.
24. When Register may borrow.
25. Duty as to claims against the city.
26. Payments by Register.
27. Office hours.
28. Clerk and assistant clerk: additional clerk: compensation: extra assistance: proviso.
29. Salaries of Register and deputy: fees, how disposed of.

ACCOUNTS.

30. System of keeping accounts: moneys paid out: moneys received.
31. Tuesdays and Fridays, disbursing days.

ORDINANCES.

COMPTROLLER.

No. 21, Feb. 28, '71
No. 9, s. 1, R. O.
Appointment of Comptroller.

1. Biennially, in the month of January, there shall be appointed, in the manner that other city officers are appointed, a qualified person, who shall be a good accountant, to be called Comptroller of the City of Baltimore, at a salary of two thousand five hundred dollars per annum, who shall hold his office for two years, and until his successor shall have qualified; his term of office shall commence on the first Monday of March next succeeding his appointment; he shall be liable to removal from office in the same manner as the City Register; and before entering upon his duties he shall execute to the Mayor and City Council of Baltimore a good and sufficient bond, to be approved by the Mayor, in the sum of ten thousand dollars, conditioned for the faithful discharge of his duties, and shall also take the usual oath of office.

Salary.

Term of office.

Bond.

No. 9, s. 2, R. O. s. 2
Duties of Comptroller as to accounts, &c.

2. It shall be the duty of said Comptroller to examine, audit, adjust and settle all accounts whatsoever in which the corporation is concerned, either as debtor or creditor, where provision for the settlement thereof is made by law, and the settlement of which is not especially committed by ordinance to some other authority; and where no such provision, or insufficient provision has been made, he shall examine such accounts, and report to the City Council, through the Mayor, the facts relating thereto, with his opinion thereon.

Ibid, s. 3.
To supervise the fiscal concerns of the corporation.

3. The said Comptroller shall supervise the fiscal concerns of all the departments, bureaus and officers of the corporation which shall receive or disburse the public moneys, or which are charged with the management or custody thereof, and may require at any time from these departments,

bureaus or officers, an account, in writing, of any moneys or property of the corporation in their hands or under their control; he shall also annually charge the City Collector with the amount of the annual levy, and credit him with the amount received as having been collected on such levy.

4. Said Comptroller shall examine all contracts made by the city officers, all requisitions upon the city treasury, and accounts of every nature against the city, issue all licenses, numbers of carriages, wagons and other vehicles,* he accounting with the Register for the same, and paying over to him the fees received for the same; he shall open accounts for appropriations with all the departments of the city government, and report immediately to the Mayor when any department shall overdraw or exceed its appropriations;† he shall keep the titles to all property owned by the city, and see that the property of the city is maintained in good condition‡ and that that part of it lying without the limits of the city is regularly insured; he shall certify to the correctness of all claims, of whatsoever description, upon which money is due, and no check shall issue but upon his endorsement of its correctness, which shall be authority to the Register to issue his check, to be countersigned by the Mayor; he shall report at such time as is required by law § after the meeting of the Council in annual session, all contracts made by the corporation, as directed or authorized by the Council, and not performed or completed, or upon which any money remains unpaid, with the amount of money remaining unpaid on each;¶ he shall report forthwith to the Council, through the Mayor, every case in which an appropriation is exhausted,

Ibid, s. 4.

To examine contracts, issue licenses, &c.

Open accounts with all the departments.

Certify to the correctness of claims.

Report all contracts to Council.

Report when appropriations are exhausted.

* See Horses, Carriages, Boats and Scows, Article VIII, and Licenses, Article XXXIII.

† See further, secs. 34–37, p. 24, *ante*.

‡ See Inspector of Buildings, p. 116, *ante*.

§ See sec. 33, p. 23, *ante*.

¶ See p. 62, &c., *ante*.

while its object is not completed, and accompany such report with a statement of moneys which have been drawn on such appropriations, the particular purposes for which they were drawn, and the cause of the deficiency, and an estimate of the amount that will be necessary to complete the object of the appropriation; he shall examine into and certify the sufficiency of all bonds required to be taken by the Mayor; he shall examine and certify to the correctness of all pay-rolls and salaries of all officers of every grade, affidavits being made in all cases where required before the justice of the peace appointed by the city within the district where said parties reside, or may be stationed for the time being, before said pay-rolls are submitted for settlement.

Examine and certify to correctness of pay rolls.

Affidavit.

Res. No. 128, June 27, '65. Public improvements.

5. The Comptroller and Register shall not accept, pass, settle or pay any bill or order, in their departments, for public improvements, unless due provision has been made for the payment of the same by an act of legislation making an appropriation for such purpose.*

No. 9, s. 7, R. O. To represent city when property insured is destroyed.

6. The Comptroller is authorized to represent the city in all cases where damage has or may occur from fire to any property of the corporation, which may have been insured, and any moneys that may be awarded to the city by reason of loss from fire, shall be paid into the city treasury, and the Inspector of Buildings is hereby authorized to expend the same in repairing such property as may have been injured by fire, should he, in conjunction with the Mayor, deem it expedient to make such repair, and if not deemed expedient, the money received for such damage by fire, shall be paid by him into the city treasury, and he shall draw on the Register, with the approbation of the Mayor, for the amount of such repairs.

* See Const., sec. 7, p. 6, *ante*.

For duties of Comptroller as keeper of title deeds, &c., see p. 65, *ante*.

7. Hereafter the Comptroller is authorized and directed to cease insuring the property owned by the city and lying within the corporation limits from loss or damage by fire; provided, however, that nothing herein shall prevent the said Comptroller from taking proper precautionary measures to insure and keep insured all property owned by the city lying without the limits of the City of Baltimore. Res. No. 197, June 7, '72. Insurance of city property. Proviso.

8. The Comptroller is hereby authorized and directed, when in his opinion the interest of the city requires it, to bid for account of the Mayor and City Council of Baltimore, on any real or leasehold property offered at public sale by the Collector to pay taxes in arrears due the city of Baltimore and State of Maryland, to such amount as he may deem necessary to pay said taxes, together with interest and expenses due and chargeable thereon, and no more; any property that may be so purchased shall be held subject to redemption at any time within one year and a day from the day of sale, by the owner thereof or other parties in interest, as provided for by the laws of the State and ordinances of the city. No. 47, s. 1, July 15, '62. Comptroller to bid at public sale for property sold for taxes.

9. The Comptroller is hereby authorized and directed to sell for cash, any property that may be purchased by him as aforesaid, and not redeemed within the time limited by law and ordinance, in such way as he may think best, and as soon as practicable, deliver to the purchaser or purchasers a deed for the city's interest in the same; provided however, that said property shall be sold for a sum not less than the amount of taxes, together with all costs, charges and interest due and chargeable thereon. Ibid, s. 2. To sell for cash property purchased. Proviso.

10. The Comptroller is hereby directed, as soon as he has received the money for the property sold by him as aforesaid, to pay over to the Collector the amount of taxes, together with all interest and charges due and chargeable on said Ibid, s. 3. Payments to Collector and Register.

property on the books of the Collector, and any balance that may be left, after paying the costs and expenses incurred by the Comptroller in the purchase and sale of said property, shall be by him paid over to the Register of the City and pass into the city treasury.

No. 13, s. 1, Ap'l 4, '62.
Comptroller to take charge of refuse material.

11. It shall be the duty of the Comptroller to take charge of and keep an account of all refuse material that may accumulate in the City Commissioner's, and other departments of the city, the articles laid aside as useless at the said departments, to be taken charge of and accounted for by those having supervision of the same. And it shall also be the duty of the Comptroller to dispose of at private or public sale, to the best advantage, all old metal and refuse materials of every kind, and pay the proceeds over to the City Register, specifying at the same time the articles, price, and to whom sold.

To sell old metal and refuse materials.

Ibid, s. 2.
Refuse materials, &c., to be handed over to Comptroller.

12. The City Commissioner and other persons having city property under their charge, shall set aside, on or before the first day of each month, such old metal and other materials as mentioned in the preceding section, and hand the same over to the Comptroller, they taking and keeping an account thereof.

Ibid, s. 4.
Separate account of refuse material.

13. The Comptroller is hereby directed to open a separate account for the department of refuse material.

No 2, Nov. 29, '76; No. 28, Mar. 30, '70.
Clerks.
Duties.
No. 21, Feb. 28, '71.
No. 2, Nov. 29, '76.
Salaries.

14. The Comptroller is authorized to employ in his office a chief clerk, and two assistant clerks, who shall perform such duties as may be required of them by the Comptroller. The salary of the chief clerk of the Comptroller's department is fixed at the sum of fourteen hundred dollars; that of the first assistant clerk at the sum of eleven hundred dollars per annum, payable monthly, and that of the second assistant clerk at the sum of one thousand dollars per annum, payable monthly. The Comptroller is authorized to obtain

such extra assistance in his office as may be required; provided, the whole expense shall not exceed the sum of six hundred dollars. No. 55, April 26, '64; No. 59, Aug. 13, '62. Extra assistance.

15. The chief clerk of the Comptroller's department shall be required to execute to the Mayor and City Council, a good and sufficient bond, to be approved by the Mayor and Comptroller, and certified by the City Solicitor, for the sum of five thousand dollars, conditioned for the faithful discharge of the duties of his office; and the other clerks in said office shall, in the same manner or form, give good and sufficient bond in the sum of two thousand dollars. No. 44, s. 1, June 4, '77. Bonds of clerks.

16. In the event of the necessary absence of the City Comptroller from his office from sickness or any other cause, the chief clerk may, by obtaining the written certified authority of the Mayor (which certificate must, on each day that the Comptroller may be absent, be renewed) issue warrants to the City Register, authorizing the receiving of moneys for the use of the city, or draw warrants on that office for the payment of claims against the city; provided the City Register may, if he should entertain doubts as to the validity of such claim, suspend the payment of the same until such time as the Comptroller may resume the duties of his office. Ibid, s. 2. When chief clerk to act in absence of Comptroller. Proviso.

REGISTER.

17. There shall be biennially appointed in the month of January, by a convention of both branches of the City Council, a person of integrity to serve as Register of the City, who shall perform the duties required of him either by this or any other ordinance, and who shall, before he enters upon the duties of his office, execute a bond to the corporation, with such securities as the Mayor and presidents of the respective branches of the Council may approve, in the penal sum of fifty thousand dollars, and with the No. 8, s. 1, R. O; No. 3, Feb. 21, '68; No. 65, May 30, '56; No. 56, April 26, '64. Register to be appointed. To give bond.

condition that he will faithfully discharge his duties and the trust reposed in him, which bond shall be deposited by the Mayor in such fire proof vault as he may select during his term of office, and at the expiration thereof, be delivered by him to his successor.

No. 8, s. 2, R. O.

May appoint a deputy.

18. The Register is hereby authorized and directed to appoint a deputy, who shall make all collections for the Commissioners of Finance for rents of city property, and who shall perform all such duties of the office as the Register shall from time to time prescribe and direct, for whose acts the Register shall be held responsible; the Register shall have power to require from his said deputy a bond, with condition for the faithful performance of his duties, with such penalty and such security as he may deem proper, and before he enters upon the duties of his office, the said deputy shall take the oath prescribed to officers of the corporation.*

May require bond from his deputy.

Oath.

Ibid, s. 3.

When deputy may officiate.

19. In the event of the necessary absence of the Register from sickness or other cause, the said deputy, with the written assent of the Mayor, shall have full power and authority to exercise and perform all the duties of the Register.

Ibid, s. 4.

Council to fill vacancy.

20. Whenever a vacancy shall occur in the office of Register of the City, it shall be the duty of the convention of the two branches of the City Council to fill such vacancy, and the person appointed to fill such vacancy shall, before he enters upon the duties of his office, execute a bond agreeably to the provisions of the first section of this ordinance, and it shall be the duty of the Mayor forthwith to summon the City Council for the purpose of filling the said vacancy in the office of Register, if the same shall occur during the recess.

Mayor to summon the Council to fill vacancy.

* See p. 22, *ante*.

Article XI.—Ordinances.

21. The Register shall take under his charge and keeping the corporate seal of the city, and use it in all cases which now are or may hereafter be required, either by the laws of the United States, the several States, the ordinances of this corporation, or the usage and customs of nations, whenever applied to for that purpose; and for each and every seal which he shall affix to an instrument or instruments of writing he shall be entitled to receive for the use of the city the sum of two dollars, except that in cases where the Register's certificate, under seal, shall be required to be used as evidence in the claims of soldiers and seamen in the United States service, or in the claims of their widows, or heirs of such as have died, or may hereafter die in the service; in which cases he shall furnish such certificate without any charge whatever. He shall further be authorized to charge and receive the following fees: for authenticating copies of records, fifteen cents for each and every sheet containing one hundred words, and so, pro rata, for every search, and for every certificate to a copy twenty-five cents, for the use aforesaid.

Ibid, s. 5; No. 28, May 6, '65. Duties of the Register. City seal. Fees. Exception. Fees.

22. The Register shall record, or cause to be recorded, in a book or books, all appointments of each and every officer of this corporation; and shall take under his charge all money now belonging to or which may hereafter belong to this corporation, and shall immediately deposit the same in the National Farmers' and Planters' Bank of Baltimore, or such other bank as the Mayor and presidents of the two branches may think proper, in the name of the Mayor and City Council of Baltimore; and he is hereby directed, upon endorsement of their correctness by the Comptroller, to make all payments with checks on said bank, countersigned by the Mayor, and drawn to the order of some person or persons having authorized claims against the city, and for the exact amount thereof, which he shall regularly enter in a

Ibid, s. 6. Further duties. Record of appointments. How to dispose of and draw for money.

bank book, particularly stating the date, the name of the person or persons, and the amount; and it shall be his duty

Accounts.

to keep regular and correct accounts, in a book or books, in folio, of all money received and expended by him on account of the city, particularly stating, under proper heads, the specific objects whence received and for what expended; and

To report to Council

he shall annually lay before the Council, as soon after the thirty-first day of December as practicable, his account of all moneys received and expended by him during the past year, supported by proper vouchers; also a statement of the estimated receipts and payments required for the current year, and any other information connected with the finances of the city which may be calculated to aid the Council in their deliberations upon the subject; and when required by the Mayor, he shall exhibit to him his accounts and vouchers, his bank book and crossed checks.

Ibid, s. 8.

23. In anticipation of the revenue from collections, under

When authorized to obtain advances from bank.

the levies made for that purpose, the Register is hereby authorized to make such arrangements with the bank in which the account of the city is or may be kept, for the advance of such sum or sums of money as may be required from time to time to enable him punctually to meet the interest on the city stock debt—the bank so advancing the money to apply it to the payment of such interest.

No. 26, April 21, '77.

24. The City Register, with the approval of the Mayor,

When Register may borrow.

is hereby authorized to borrow funds, by note or otherwise, to meet the maturing obligations and requirements of the city, when in their judgment the same may be required.

No. 8, s. 13, R. O.

25. It shall be the duty of the Register to ascertain the

Duty as to claims against the city.

amounts of all claims that may be made against the corporation, and report the same to the City Council as soon after the termination of each fiscal year as practicable.

26. It shall not be lawful for the Register to pay to any person or persons any sum of money on account of the individual or committee expenses of any member of the Council, (excepting salary) unless the same be authorized by ordinance specially enacted for the payment of the same.* No. 59, s. 3, Ap. 12, '71. Payments by Register.

27. The Register shall attend at his office in the City Hall every day (Sundays excepted) from nine o'clock in the morning to three in the afternoon, unless prevented by sickness or other unavoidable cause. Ibid, s. 15. Office hours.

28 The Register is authorized to employ in his office a clerk, whose compensation shall be fourteen hundred dollars per annum, and an assistant clerk, whose compensation shall be nine hundred dollars per annum; and one additional clerk whose annual salary shall not exceed twelve hundred dollars; and the Register is further authorized to obtain such extra assistance in his office as may be required; provided the whole expense shall not exceed the sum of six hundred dollars. Ibid, ss. 2, 17, No 33, May 5, '68; No. 35, May 14, '67; No. 65, May 30, '66; No 56, Ap'l 26, '64, No 86. Sept. 26; '60; res. No. 4, Dec. 17, '62; No. 59, Aug. 13, '62, clerk and assistant clerk. Res. No. 73, March 11, '70. Additional clerk. Compensation. Extra assist'ce. Proviso.

29. The Register shall receive for his services the compensation of three thousand dollars per annum, and the deputy register eighteen hundred dollars per annum, payable monthly; and all fees or perquisites of or appertaining to the office or allowable to them under the statutes of the State or ordinances of the corporation of Baltimore, (except the payment made to the Register by the State Treasurer, under the authority of sec. 94 of Art. 81, Public General Laws, being 1874, c. 483,) shall be paid in the city treasury.† No. 8, s. 17, R. O.; No. 33, May 5, 68; No 35, May 14, '67 No 101, June 15, '71. Salary of Register. No. 121, June 23, '71. Salary of deputy.

* See secs. 30–31, p. 23, *ante.*

† See statutes under article XLIX, Taxes.

For the Register's duties as to Stocks and Finances, see article XLVI.

ACCOUNTS.

Res. No. 32, Feb. 14, '77.
System of keeping accounts.

30. The Mayor, Comptroller and Register are hereby requested to adopt a system of keeping the accounts in the different departments of the City Government as will fully protect all the interests of the city, and to devise a system of checks by which each department shall be held responsible for all the receipts and expenditures. Hereafter no money shall be paid out for any purpose in any of the departments, except through a warrant of the Comptroller upon the City Register, and all moneys received for any object or purpose whatever shall be turned in to the City Comptroller, excepting that received by the tax department, and by him delivered in turn to the City Register.

Moneys paid out.

Moneys received.

No. 20, April 20, '78.
Tuesdays and Fridays, disbursing days.

31. The officers of the City Government who are charged with the duty of issuing warrants and checks in favor of the creditors of the city are imperatively required to be present in their respective offices on Tuesday and Friday of each week, from 9 o'clock A. M. to 2 o'clock P. M., in order to discharge, without delay, to the holders of claims against the city, the duties required of them in the aforegoing connection.*

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*This ordinance recites the following regulation:

At a conference held by the Mayor, Comptroller and Register, on February 19, 1877, in virtue of the above resolution, [being sec. 30,] the following preamble and rules were adopted:

It is evidently the purpose and intent of the resolution of the Mayor and City Council of February 14th, 1877, that all the moneys received by the several departments of the City Government shall, by the process of a receiving warrant from the Comptroller, be paid to the City Register.

From the language of the resolution aforesaid, it is also manifestly the intention that the department of the Comptroller shall be a general auditing and adjusting office, as well as a general depository of all bills or vouchers on which money shall be drawn or paid, and that the Register's department shall be a general disbursing office, under the restriction imposed by the resolution aforesaid—that "no money shall be paid out for any purpose in any of the departments except through a warrant of the Comptroller upon the City Register."

To the end, therefore, that this resolution shall, so far as may be practicable, be rendered effective as provided therein, be it *Resolved* by the Mayor, Comptroller and Register of the City, as follows, to wit:

1st. That the several departments of the City Government, whenever the sum of money received by them respectively shall amount to five hundred dollars, shall report the same to the City Comptroller, specifying the source or sources from which it was received, and obtain from him a receiving warrant to pay such money to the City Register. Provided that no department shall be required to make more than one payment on any one day; and provided further, that all of the departments that may receive money as revenue shall, on the first Wednesday of each month, pay over to the City Register, on the receiving warrant of the Comptroller, such sum as may respectively be in their possession.

2d. That each department shall take duplicate bills of every item of expense it may contract for or incur, one of which shall be retained and filed in the department, and the other bill or voucher, with a warrant from such department on the Comptroller for the payment of the same, shall be sent to the City Comptroller. Provided that the pay rolls of each department may be drawn in favor of its proper accredited officer; such pay roll, however, to be filed in the office of the Comptroller as are other bills or vouchers; and provided further, that in cases of contracts in which money may be payable on account, the department having a contract in charge shall take duplicate receipts, one of which shall be retained, and the other, with a warrant on the Comptroller, shall be sent to that officer.

3d. The offices of the Comptroller and the Register shall be open on Tuesday and Friday of each week, from 9 o'clock A. M. to 2 o'clock P. M., for the issuing of warrants and the payment of the same, respectively; and that all warrants issued by the departments for the payment of money, with accompanying bills or vouchers, shall, if required by the Comptroller, be deposited in his office before 12 o'clock M. on the day preceding the day of payment, to the end that the same may be audited and warrants issued without much detention on the day of payment; provided that so much of this rule as may require a deposit in advance of the day of payment shall not apply to bills or warrants for the sum of ten dollars or less.

4th. The teachers and officers of the public schools, city officers, officers of the courts, as well as the expenses of the courts, shall be paid as provided by existing ordinances.

5th. Much embarrassment has been experienced in the filing and in the examination of papers on file, in consequence of many bills or vouchers being written on small slips of paper, therefore no bill or voucher will be recognized at the office of the City Comptroller that measures less than seven inches by three and one-half inches, and which is not written in ink.

6th. The foregoing regulations shall take effect on the 1st day of March, 1877, and the several departments shall be notified accordingly.

ARTICLE XII.

CORONERS.

STATUTE.

1. Four coroners: term of office: salary: proviso: oath and bond.
2. Coroners to be assigned to districts: deputies.
3. Duties of coroners: juries not to be paid: when expenses of interment to be paid by Register: proviso.
4. Monthly report to Police Commissioners: money, &c., to be deposited in bank to order of Judges of Orphans' Court.

ORDINANCE.

MORGUE.
1. Dead house: what bodies to be placed therein.
2. How long bodies to remain.
3. Preservation of clothing, &c.: when coroner to dispose of same.
4. Vault in Eastern Potter's Field: how long bodies to remain.

STATUTE.

1878, c. 347.

Four Coroners. Term of office. Salary. Proviso. Oath and Bond.

1. The Governor, by and with the advice and consent of the Senate, shall appoint and commission four competent persons, to act as Coroners for the city of Baltimore, to hold office during the period of two years, at an annual salary of six hundred dollars each, payable quarterly, by the Register of said city; provided, that before entering upon the duties of their office, the persons appointed coroners shall take the oath of office prescribed by the Constitution of the State of Maryland, for office holders; and further, they shall give bond to the said State of Maryland, with security, to be approved by the judge of the Superior Court of Baltimore

City, in the penalty of two thousand dollars each, conditioned for the faithful performance of their duties, as now prescribed by law, or which shall hereafter be prescribed.

1872, c. 45. Coroners to be assigned to districts. 2. Each of the four coroners shall be assigned to such sub-division or district of the city of Baltimore, as the Governor may direct, and in case of absence or illness of any coroner, he shall deputize some competent person to attend to the duties of his office during his absence or illness. Deputies.

1872, c. 45. Duties of Coroners. Juries not to be paid. 3. The coroner shall hold an inquest over any person found dead in his district, in said city, when the manner and cause of death shall not be already known as accidental, or in the course of nature. No coroner's jury in said city shall receive any fee or compensation for services as such, and said coroners are hereby authorized and empowered to issue their certificates to the Register of Baltimore City, for the payment of such expenses as may be necessary for the interment of any person over whom they, or either of them, has held an inquest, and whose body is not claimed by friends or relatives; provided, the amount of such expenses shall not in any case exceed the sum of seven dollars. When expenses of interment to be paid by Register. Proviso.

1872, c. 45. Monthly report to Police Commissioners. 4. Each of said coroners shall make a monthly report to the Police Commissioners of Baltimore City, of the number of inquests held by him during the month last past before said report, with a full description, as far as may be, of the persons who are the subjects of such inquests, their sex, age, color and nationality, the cause and mode of their death, and such other particulars as may be necessary to their identification in case of strangers and unknown persons; and each of said coroners shall also, immediately after holding an inquest, deposit in some bank of Baltimore city, subject to the order of the judges of the Orphans' Court of said city, all property, money and other effects found upon the person of those over whom he shall hold inquest as hereinbefore provided. Money, &c., to be deposited in bank to order Judges Orphans' Court.

Article XII.—Ordinance.

ORDINANCE.

MORGUE.

No. 55, s. 1, July 24, '69. Morgue or Dead House.

1. The City Commissioner is hereby authorized and directed to erect, in connection with the central police station house of Baltimore city, a morgue or dead house for the reception and keeping for identification of the bodies of unknown persons dying within the city, and such other bodies as may be directed to be placed therein by the coroners of Baltimore city, except bodies which may be so far decomposed as to be beyond the probability of recognition, and the bodies of those who may have died of contagious diseases.

What bodies to be placed therein.

Ibid, s. 2. How long bodies to remain.

2. All bodies not identified and claimed shall remain in said dead house for at least twenty-four hours, and the City Commissioner, in the erection of said dead house, shall make such arrangements as may be necessary for the proper preservation of such bodies.

Ibid, s. 3. Preservation of clothing, &c.

3. The City Commissioner shall provide a room in said police station house, for the preservation of the clothing, for the purpose of identification, of all deceased persons buried from said dead house, which clothing shall be carefully numbered and retained for twelve months, after which time, if not reclaimed, it shall be disposed of by the coroners, as required by section 154, of Article IV of the Code of Public Local Laws (sec. 4, of this Article.)

When Coroner to dispose of same.

Ibid, s. 4. Vault in Eastern Potter's Field.

4. The City Commissioner is hereby authorized and directed to build in the Eastern Potter's Field a vault of such dimensions as he may deem proper for the objects contemplated by this ordinance; and all said bodies unclaimed, after the time mentioned in the preceding section, shall be removed to said vault, and each body placed in said vault between the first day of September and the first day of May,

shall remain at least fifteen days; and each body placed in said vault between the first day of May and the first day of September, shall remain at least ten days before final interment, except such bodies as are excepted in section first of this ordinance.*

* See Potter's Fields, under Art. XXIII, Health.

By resolution No. 383, June 30, 1875, the Comptroller was authorized to sell at public auction, the lot or parcel of ground owned by the Mayor and City Council of Baltimore and used as the Eastern Potter's Field, upon such terms as might, in his judgment, be most conducive to the interest of the corporation. The concluding part of this resolution was repealed by resolution No. 234, May 26, 1876. See resolution No. 350, Oct. 21, '72, and resolution No. 384, Oct. 30, '72, also ordinances No. 41; June 13, '60; No. 79, May 6, '59, and resolution No. 162, April 20, 1878.

ARTICLE XIII.

COUNSELOR, SOLICITOR AND EXAMINER OF TITLES.

ORDINANCES.

COUNSELOR AND SOLICITOR.

1. Appointment of City Counselor and City Solicitor.
2. Duties of Counselor.
3. Duties of Solicitor.
4. Solicitor to endorse opinion on bonds, &c.
5. Substitute.
6. Extra counsel.
7. Salaries of Counselor and Solicitor.
8. Appeals: proviso.
9. How writs to be endorsed.

EXAMINER OF TITLES.

10. Appointment of Examiner of Titles.
11. Duties.
12. Duties.
13. Salary.

ORDINANCES.

COUNSELOR AND SOLICITOR.

No. 71, ss. 1, 3, May 13, '64. Appointment of City Counselor and City Solicitor.

1. The Mayor, by and with the advice and consent of the convention of the two branches of the City Council, shall, annually in the month of February, appoint a member of the Baltimore bar to be the City Counselor, and another member of the same bar to be the City Solicitor.

Ibid, s. 5. Duties of Counselor.

2. It shall be the duty of the Counselor to argue all cases in the Supreme Court of the United States, or the Court of Appeals of the State of Maryland, in which the Mayor and City Council of Baltimore may be a party, and to try all such cases in any court of the United States which may sit within the State of Maryland, or in the Superior Court of Baltimore

City, and to try all cases in any other courts which the Mayor may specially require him to try; it shall also be his duty to advise with the Solicitor as to the framing of all bills and answers in equity, all pleading at common law, and all exceptions or other documents connected with proceedings in the courts, whenever the Solicitor may request him so to do; it shall also be his duty to give advice and opinions in writing upon any legal question affecting the interests of the city, which may be submitted to him by the Mayor, either branch of the Council, or any committee of the Council, or by the Solicitor.

Ibid, ss. 2, 4.

Duties of Solicitor.

3. The Solicitor shall be the attorney of the Mayor and City Council of Baltimore; and it shall be the duty of the Solicitor to try all cases in which the city is interested in any of the courts of the city of Baltimore, except the Superior Court, and in all other courts in the State of Maryland, except those mentioned in the preceding section, and act as junior counsel to the Counselor in any court in which his services may be required; it shall also be his duty to give advice or opinions in writing upon any legal question affecting the interests of the city which may be submitted to him by the Mayor, either branch of the City Council or any committee of the City Council, or any officer of the city; it shall also be his duty to report annually to the City Council, in writing, the number of cases depending at the time of the report, and any decisions made within the year upon the construction of any ordinance.

Ibid, s. 3. No. 114, June 21, '75.

Solicitor to endorse opinion on bonds, &c.

4. All bonds or other written instruments, (except deeds or other instruments of writing transferring or conveying land or any interest therein to the Mayor and City Council), involving the interests of the city, to be executed by or passed to the Mayor or other officer of the corporation, shall, before they are executed or received, as the case may be, have en-

dorsed upon them the opinion of the Solicitor as to their legal sufficiency; it shall shall also be the duty of the Solicitor to give legal advice, whenever required, to the members of the City Council on subjects connected with their official duties, and to prepare all ordinances, resolutions and memorials required of him by any committee of the City Council.

Ibid, s. 7.

Substitute.

5. If either of the said law officers shall be unable or unwilling to try any case which under the provisions of this article he ought to try, he shall provide, at his own expense, a substitute, who shall be approved by the Mayor, and if he shall fail to make such provision in proper time, the Mayor shall employ a proper person to supply his place, and the expense shall be charged to him, and deducted from the first money payable to him thereafter.

Ibid, s. 8.

Extra counsel.

6. No extra counsel shall be employed on the part of the city in any case, except by virtue of a resolution of the Mayor and City Council.

No. 71, s. 9, May 18, '64. No. 115, June 9, '75.

Salaries of Counselor and Solicitor.

7. The salary of the Counselor shall be twenty-five hundred dollars per annum, and that of the Solicitor four thousand dollars per annum, payable monthly, which salary shall be in full of all compensation for their services, and of all expenses incurred by them in attending the courts, and in discharging the duties of their respective offices, whether in or out of the city.

Ibid, s. 13.

Appeals

Proviso.

8. The approbation of the Mayor and consent of the Solicitor shall be obtained before any appeal shall be prosecuted in any case, which approbation shall be in writing and filed in the cause; provided, that before any appeal shall be taken to the Supreme Court of the United States, or the Court of Appeals of the State of Maryland, the approbation of the Counselor shall also be obtained.

9. Whenever the name of the Mayor and City Council of Baltimore shall be used in the institution of any suit or other proceeding, the name of the person for whose use, or of the informer at whose instance the same is instituted, shall be endorsed upon the writ.* Ibid, s. 10. How writs to be endorsed.

EXAMINER OF TITLES.

10. The Mayor, by and with the advice and consent of a convention of both branches of the City Council, when and as other city officers are appointed, shall annually appoint a citizen of the city, who shall be an attorney-at-law, to be the Examiner of Titles. No. 114, s. 1, June 21, '75. Appointment of Examiner of Titles.

11. The duties of the Examiner of Titles shall be as follows: Whenever it may be proposed on the part of the Mayor and City Council of Baltimore, by ordinance or resolution, to purchase, condemn or acquire any land or interest therein, it shall be the duty of the Examiner of Titles to make, or cause to be made, an examination of the title thereto, and no contract shall be made or money paid on account of such purchase, condemnation or acquisition, except on the approval by the Examiner of the title, and after he shall have furnished his certificate of the title thereto, as provided in the next succeeding section, and in cases of approval by the Examiner, he shall also certify to the legal sufficiency of the deeds or other instruments intended to transfer or convey any land or any interest therein to the Mayor and City Council, which deeds or other instruments of writing he shall prepare or have prepared. Ibid, s. 2; No. 71, s. 3, May 18, '64; No. 20, April 17, '63; No. 52, s. 5, May 7, '68. Duties.

12. He shall, as soon as practicable after the passage of any ordinance authorizing any condemnation, report to the Street Commissioners, or the officers empowered to make the No. 114, s. 2, June 21, 75. Duties.

*See further duties under Licenses, Art. XXXIII; Harbor Board, ordinances, under Art. XXIII, Harbor, Docks and Wharves; and sec. 104, Art. XXIII, Health.

See further, as to suits, under Fines and Forfeitures, Art. XIX, and Courts, Art. XIV.

same, full information respecting the ownership of the property which it may be proposed to condemn, setting forth where the same is not held in fee simple the several interests or estates therein; in all cases of the examination of titles careful notes and abstracts of the same shall be made and preserved, and, together with all proper details, plats and descriptions, shall be entered and indexed in a well bound record book or books, which shall be the property of the city, and, as filled, be deposited in the office of the City Comptroller; he shall also, whenever he certifies in respect to a title, transmit to the Comptroller a copy of the abstract of the same, or the original, if it be a case in which the abstract is to be furnished to him; he shall also report to the City Solicitor in writing all information which may be called for by him relating to the titles to any property which may be involved in the trial of appeals from the Commissioners for Opening Streets, or in other proceedings of condemnation by the city, and shall make and report all examinations of title that may be required by the City Counselor or the City Solicitor in the trial of any suit or proceedings to which the city may be a party, or which may otherwise be needed on behalf of the city by the Register, City Collector or any other officer of the city; and on his ceasing to hold office, whether by expiration of his term or otherwise, all notes and memoranda of any examination of titles not completed and entered in the books aforesaid shall be passed over to his successor.*

Ibid, s. 4. Salary.

13. The salary of the Examiner of Titles shall be three thousand dollars per annum, payable monthly.

* See further as to duties of Examiner under Sewers, Art. XLIV; Streets and City Commissioner, Art. XLVII; Taxes, Art. XLIX.

ARTICLE XIV.

COURTS.

CONSTITUTION, ART. IV.

SUPREME BENCH.

1. Six courts.
2. Jurisdiction of Superior Court, Court of Common Pleas, and City Court.
3. Jurisdiction of Circuit Court: habeas corpus.
4. Jurisdiction of Criminal Court.
5. Supreme Bench of Baltimore City: term of office: salary.
6. Assignment of judges: may be changed from time to time: jurisdiction: sickness, absence or disability.
7. General terms: rules of court: jurisdiction: right of appeal.
8. No appeal to Supreme Bench from City Court on appeals from justices of the peace: test of writ.
9. Quorum.
10. Cases pending in old courts to be proceeded with: Baltimore City Court.
11. Clerks of courts: term of office: salaries: perquisites not allowed: vacancy.
12. Authority of clerks of Common Pleas and Superior Courts: licenses: deeds, &c.: Baltimore County Court records: clerk to Supreme Bench.
13. Another court in Baltimore City: re-apportionment of jurisdiction of Baltimore courts: clerks' bonds.

ORPHANS' COURT.

14. Three judges: term of office: jurisdiction: per diem: vacancy.
15. Register of Wills: term of office: vacancy.

JUSTICES OF THE PEACE.

16. Governor to appoint justices: Mayor and City Council to appoint constables: removal: term of office: right of appeal.
17. Vacancies.

SHERIFF.

18. Election of sheriff: qualifications: term of office: bond: vacancy.

STATE'S ATTORNEY.

19. Election of State's Attorney: term of office: removal.
20. Returns to be made to judge of Criminal Court: case of tie.
21. Duties: fees: proviso: deputy.
22. Qualifications.
23. Vacancy.
24. To collect, &c., money for State: bond.

COURT OFFICERS.

25. Officers of courts, how appointed: compensation: judges to investigate and report.

Article XIV.

STATUTES.

SUPERIOR COURT, COURT OF COMMON PLEAS AND CITY COURT.

1. Jurisdiction of judges: motions for new trials, and in arrest of judgment, &c.
2. No paper book or brief required.
3. Terms.
4. Return days.
5. Writ may be made returnable to next return day.
6. Writ may be renewed.
7. Same proceedings when returned at return day as at term.
8. Judgment by default, when to be given: when to be struck out: writ of inquiry.
9. Trial term, when.
10. Plaintiff, how and when entitled to judgment.
11. Plaintiff's affidavit, &c.
12. Assessment of damages by court.
13. Writs returnable at election of plaintiff.
14. When execution may issue on judgments.

CIRCUIT COURT.

15. Terms.
16. Jury.
17. Opinions of judge.

CRIMINAL COURT.

18. Terms.
19. Cases.
20. Jurisdiction.
21. Commitments and recognizances.
22. Witnesses to be recognized to.
23. Warden's duty.
24. Warden to bring prisoners before court.
25. Original commitment.
26. Costs.
27. When capias to be re-issued: time within which to be returned.
28. Fees.
29. Subpœnas for witnesses.
30. Fees.
31. Renewal of subpœnas.
32. Penalty on Sheriff.
33. Saturday court: no jury.
34. When prosecutor to pay costs.
35. How costs recovered.
36. Prosecutor's name on indictment for misdemeanor.
37. Judge of court to accept surrender by bail.
38. Children of convicts.
39. Fine on witnesses.
40. When bail liable to attachment for contempt.
41. To be committed till payment: proviso.
42. Fees to State's Attorney in removed cases.
43. Assistant counsel.
44. Compensation: proviso.

ORPHANS' COURT.

45. Judge's pay.
46. Bailiff's pay.
47. When intestate mariner's estate to devolve on charitable marine society.

REGISTER OF WILLS.

48. Bond.
49. Approval of bond.
50. Neglect to bond to vacate office.

CLERKS OF LAW COURTS.

51. Bond of clerks of courts.
52. Approval.
53. Renewal of bond.
54. Failure to give bond.
55. No deputy to be surety.
56. Clerks to keep index of judgments.

Article XIV.

CLERK OF CRIMINAL COURT.

57. Bond of clerk of Criminal Court.
58. Renewal of bond.

CLERK OF CIRCUIT COURT.

59. Clerk of Circuit Court.

SALARIES OF CLERKS.

60. Salaries of clerks: duty of Comptroller.

COURT OFFICERS.

61. Pay.
62. Their salaries.
63. Salary of bailiff.
64. Night watchman of office of clerk of Circuit Court: duties: removal.
65. City Register to pay salary.
66. Night watchman of office of clerk of Court of Common Pleas: duties: removal.
67. Salary.

STENOGRAPHERS.

68. Fund for payment of stenographers.
69. Stenographers for courts: salaries: duties.
70. In Orphans' Court, his duties: compensation.
71. Assistant stenographers: proviso.

SHERIFF.

72. Pay when attending court.
73. Execution for fees.
74. What officers' fees Sheriff to collect.
75. When Sheriff may distrain, &c., for fees: proviso.

WITNESSES.

76. Per diem in Criminal Court.

JUSTICES OF THE PEACE AND CONSTABLES.

77. Appointment.
78. Bonds: what to account for.
79. Office hours.
80. Not to issue but on application of plaintiff or attorney.
81. Before whom summons may be made returnable and case tried.
82. Pay when called from office.
83. Where to keep his office.
84. Justices of the station houses: duties: hours of service.
85. Change of station house justices.
86. Salary of station house justices: certificate of Police Commissioners: fees and gratuities.
87. When station house justice appointed temporarily by Police Commissioners: per diem.
88. Not to be paid fees by city.
89. Writs, how served.
90. State writs or summons, how made returnable.
91. Before whom person arrested on criminal charge, &c., taken.
92. Statements of accounts of State fines.
93. Statements of accounts of city fines.
94. Affidavit of justice as to accounts.
95. How costs accounted for.
96. Appointment.
97. When justice or constable to be removed: no deputy in serving writ.
98. Supersedeas.
99. If justice in Baltimore dies, papers to be delivered to clerk of City Court.

FEES.

100. Of justices of the peace.
101. Of constables.
102. Tax for constables' fees: proviso.

COSTS.

103. In actions for wrongs independent of contracts: in appeals from justices of the peace.
104. Costs to be paid by appellant.

ORDINANCES.

JUDGES OF SUPREME BENCH.

1. Register to pay judges.

SUPERINTENDENT AND WATCHMAN OF COURT HOUSE AND RECORD OFFICE.

2. Superintendent and watchman appointed.
3. Duty of superintendent: Register of Wills to have control of Orphans' Court room: superintendent to report annually: expenses not to exceed appropriation: proviso.
4. Duty of watchman: proviso.
5. Superintendent and watchman to give bond.
6. Salary of superintendent and watchman: proviso: substitute.
7. No expense to be incurred unless provided for by ordinance.

JANITOR OF ORPHANS' COURT.

8. Janitor of Orphans' Court, how appointed: duties: salary.

JANITOR AND WATCHMAN OF OLD MASONIC BUILDING.

9. Janitor of old Masonic hall: salary.
10. Watchman of same: salary.

CONSTITUTION, ART. IV, PART IV.

SUPREME BENCH.*

Const. art. 4, part 4, sec. 27. Six courts.

1. There shall be in the Eighth Judicial Circuit six Courts, to be styled the Supreme Bench of Baltimore City, the Superior Court of Baltimore City, the Court of Common Pleas, the Baltimore City Court, the Circuit Court of Baltimore City, and the Criminal Court of Baltimore.

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*As to jurisdictions of courts before Const. 1867, see 28 Md. 9, 157, 245, 356, 362 and 365; 33 Md. 481; 8 Gill, 296; 5 Md. 337; 7 Md. 135; 7 Md. 152; 8 Md. 147; 11 Md. 101; 13 Md. 316; 14 Md. 173; 19 Md. 451; 1 Md. 368.

As to jurisdiction in appeals from Street Commissioners, under Const., Art. IV, part 4, sec. 28, (sec. 2, above,) and P. G. L., Art. XXIX, secs. 51, 52, 53, 60, see notes of decisions under Article XLVII, Streets.

The Court of Common Pleas has no jurisdiction in cases of mechanics' liens.—*Gelston et al.* v. *Thompson*, 29 Md. 595. As to appeals from the Court of Common Pleas in insolvency cases, see *Von Nostrand* v. *Carr*, 30 Md. 128.

The judgment of the City Court upon an appeal from a Justice of the Peace is final when within the jurisdiction of the Court; if it is not within

Article XIV.—Constitution.

2. The Superior Court of Baltimore City, the Court of Common Pleas, and the Baltimore City Court, shall each have concurrent jurisdiction in all civil common law cases, and, concurrently, all the jurisdiction which the Superior Court of Baltimore City and the Court of Common Pleas now have, except jurisdiction in equity, and except in application for the benefit of the insolvent laws of Maryland, and in cases of appeal from judgments of Justices of the Peace in said city, whether civil or criminal, or arising under the ordinances of the Mayor and City Council of Baltimore, of all of which appeal cases the Baltimore City Court shall have exclusive jurisdiction; and the said Court of Common Pleas shall have exclusive jurisdiction in all applications for the benefit of the insolvent laws of Maryland, and the supervision and control of the trustees thereof.

Ibid, sec. 28.

Jurisdiction of Superior Court, Court of Common Pleas, and City Court; 1852, c. 159, 198, 227, 251, 312, 323; 1853, c. 86, 238, 451; 1858, c. 323.

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the jurisdiction of the Court, it is not final, and an appeal therefrom lies to the Court of Appeals.—*Herzberg* v. *Adams*, 39 Md. 309.

By Article LXXV of the Public General Laws, where a defendant is returned "summoned" and fails to appear, it is made the duty of the Court, on the second day of the term to which the summons is returnable, to enter his appearance, and the action shall proceed in the same manner as if the party had appeared in person; and this provision is applicable to the law courts of Baltimore City.—*Horner* v. *O'Laughlin*, 29 Md. 466.

When a judgment by default has been entered, it is error in the court to enter a judgment of *non pros.* because the verdict or inquisition of the jury was for a sum below the jurisdiction of the court; the judgment by default is conclusive of the question of jurisdiction, but a judgment by default does not settle the right of the plaintiff to recover the amount stated in his cause of action. The defendant is entitled to have an inquisition by the jury.—*Cooper* v. *Roche*, 36 Md. 563.

Under the Constitution, relating to the courts of Baltimore City, the several courts therein provided for are distinct and separate, neither having any authority or control over the clerks, dockets or records of the others. The proper mode of proving the proceedings and judgments of one of these courts in any other court is by the production of a transcript thereof, under seal, duly certified. The original dockets, or a mere copy of the docket entries, or the original papers, are not proper or admissible evidence for that purpose. For the like reason the evidence of the deputy clerk of one of the said courts as to the loss of the papers in a case in said court is inadmissible in any other court.—*Goldsmith* v. *Kilbourn, ex'x*, 46 Md. 289.

Ibid, sec. 29. Jurisdiction of Circuit Court. Proviso. Habeas corpus.

3. The Circuit Court of Baltimore City shall have exclusive jurisdiction in equity within the limits of said city, and all such jurisdiction as the present Circuit Court of Baltimore City has; provided, the said court shall not have jurisdiction in applications for the writ of *habeas corpus* in cases of persons charged with criminal offences.*

Ibid, sec. 30. Jurisdiction of Criminal Court. 1852, c. 344; 1853, c. 33.

4. The Criminal Court of Baltimore shall have and exercise all the jurisdiction now held and exercised by the Criminal Court of Baltimore, except in such appeal cases as are herein assigned to the Baltimore City Court.

Ibid, sec. 31. Supreme Bench of Baltimore City. Term of office. Salaries. Provisos.

5. There shall be elected by the legal and qualified voters of said city, at the election hereinbefore provided for, one Chief Judge and four Associate Judges, who, together, shall constitute the Supreme Bench of Baltimore City, and shall hold their offices for the term of fifteen years, subject to the provisions of this Constitution with regard to the election and qualifications of judges, and their removal from office, and shall exercise the jurisdiction hereinafter specified, and shall each receive an annual salary of three thousand five hundred dollars, payable quarterly, which shall not be diminished during their term of office; but authority is hereby given to the Mayor and City Council of Baltimore to pay to each of the said judges an annual addition of five hundred dollars to their respective salaries; provided, that the same, being once granted, shall not be diminished nor increase during the continuance of said judges in office.

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*The jurisdiction in *habeas corpus* is defined by the Act of 1876, c. 373, as follows:

The several circuit courts of this State, the Superior Court of Baltimore City, the Court of Common Pleas, the Circuit Court of Baltimore City, and the Baltimore City Court, and the several respective judges thereof, out of court, and each of the judges of the Court of Appeals, shall have jurisdiction over the whole State in all matters relative to *habeas corpus*.—*Deckard* v. *State*, 38 Md. 203.

See *Hab. Corp.* case of Young, Valiant and Thomson in report of Police Commissioners, Jan., 1867.

6. It shall be the duty of the said Supreme Bench of Baltimore City, as soon as the Judges thereof shall be elected and duly qualified, and from time to time to provide for the holding of each of the aforesaid courts, by the assignment of one or more of their number to each of the said courts, who may sit either separately or together in the trial of cases; and the said Supreme Bench of Baltimore City may, from time to time, change the said assignment, as circumstances may require, and the public interest may demand; and the judge or judges so assigned to the said several courts shall, when holding the same, have all the powers and exercise all the jurisdiction which may belong to the court so being held; and it shall also be the duty of the said Supreme Bench of Baltimore City, in case of the sickness, absence or disability of any judge or judges assigned as aforesaid, to provide for the hearing of the cases, or transaction of the business assigned to said judge or judges as aforesaid, before some one or more of the judges of said court.

Ibid, sec. 32.

Assignment of judges.

May be changed from time to time.

Jurisdiction.

Sickness, absence or disability.

7. The said Supreme Bench* of Baltimore City shall have power, and it shall be its duty, to provide for the holding of as many general terms as the performance of its duties may require, such general terms to be held by not less than three judges; to make all needful rules and regulations for the conduct of business in each of the said courts during the session thereof, and in vacation, or in chambers, before any of the said judges; and shall also have jurisdiction to hear and determine all motions for a new trial in cases tried in the Criminal Court of Baltimore, where such motions arise, either on questions of fact or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law determined by the judge holding said court; and the Supreme

Ibid, sec. 33.

General terms. 1870, c. 177.

Rules of court.

Jurisdiction.

*For the jurisdiction of the Supreme Bench, before the Act of 1870, c. 177, see 35 Md. 249; 34 Md. 42; 33 Md. 481; 33 Md. 288; 30 Md. 558; 31 Md. 329.

Bench of Baltimore City shall make all needful rules and regulations for the hearing before it of all of said matters, and
Right of appeal. the same right of appeal to the Court of Appeals shall be allowed from the determination of the said court on such matters as would have been the right of the parties if said matters had been decided by the court in which said cases were tried.

Ibid, sec. 34. 8. No appeal shall lie to the Supreme Bench of Baltimore
No appeal to Supreme Bench from City Court on appeals from justices of the peace. City from the decision of the judge or judges holding the Baltimore City Court, in case of appeal from a justice of the peace, but the decision by said judge or judges shall be final;
Test of writs. and all writs and other process issued out of either of said courts, requiring attestation, shall be attested in the name of the Chief Judge of the said Supreme Bench of Baltimore City.

Ibid, sec. 35. 9. Three of the judges of said Supreme Bench of Balti-
Quorum. more City shall constitute a quorum of said court.

Ibid, sec. 36. 10. All causes depending, at the adoption of this constitu-
Cases pending in old courts to be proceeded with. tion, in the Superior Court of Baltimore City, the Court of Common Pleas, the Criminal Court of Baltimore, and the Circuit Court of Baltimore City shall be proceeded in, and prosecuted to final judgment, or decree, in the courts, respectively, of the same name established by this constitution, except cases belonging to that class, jurisdiction over which is by this
Baltimore City Court. constitution transferred to the Baltimore City Court, all of which shall, together with all cases now pending in the City Court of Baltimore, be proceeded in, and prosecuted to final judgment in said Baltimore City Court.

Ibid, sec. 37. 11. There shall be a clerk of each of the said courts of
Clerks of courts. Term of office. Baltimore City, except the Supreme Bench, who shall be elected by the legal and qualified voters of said city, at the election to be held in said city on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-

seven, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible thereto, subject to be removed for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. The salary of each of the said clerks shall be thirty-five hundred dollars a year, payable only out of the fees and receipts collected by the clerks of said city, and they shall be entitled to no other perquisites, or compensation. In case of a vacancy in the office of clerk of any of said courts, the judges of said Supreme Bench of Baltimore City shall have power to fill such vacancy until the general election of Delegates to the General Assembly, to be held next thereafter, when a clerk of said court shall be elected to serve for six years thereafter; and the provisions of the constitution in relation to the appointment of deputies by the clerks of the circuit courts in the counties shall apply to the clerks of the courts in Baltimore city.

Salaries.

Perquisites not allowed.

Vacancy.

12. The clerk of the Court of Common Pleas shall have authority to issue within said city, all marriage and other licenses required by law, subject to such provisions as are now, or may be prescribed by law. The clerk of the Superior Court of said city shall receive and record all deeds, conveyances, and other papers, which are, or may be required by law, to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the law, or equity side of Baltimore County Court, and of the dockets thereof, so far as the same have relation to the city of Baltimore, and shall also discharge the duties of clerk to the Supreme Bench of Baltimore City, unless otherwise provided by law.

Ibid, sec. 38.

Authority of Clerks of Common Pleas and Superior Court.

Licenses.

Deeds, &c.

Baltimore County Court records.

Clerk to Supreme Bench.

13. The General Assembly shall, whenever it may think the same proper and expedient, provide, by law, another court for the city of Baltimore, and prescribe its jurisdiction and powers; in which case there shall be elected by the voters of said city, qualified under this constitution, another judge

Ibid, sec. 39.

Another court in Baltimore city.

1853, c. 122, 391, 1867, c. 401.

of the Supreme Bench of Baltimore City, who shall be subject to the same constitutional provisions, hold his office for the same term of years, receive the same compensation, and have the same powers, as are herein provided for the judges of said Supreme Bench of Baltimore City; and all of the provisions of this constitution relating to the assignment of judges to the courts, now existing in said city, and for the dispatch of business therein, shall apply to the court, for whose creation provision is made by this section. And the General Assembly may re-apportion, change or enlarge the jurisdiction of the several courts in Baltimore city. Until otherwise provided by law, the clerk of the Superior Court of Baltimore City, of the Court of Common Pleas, of the Circuit Court of Baltimore City, of the Baltimore City Court, and of the Criminal Court of Baltimore, shall each give bond in such penalty as is now prescribed by law to be given by the clerks of the courts bearing the same names, under the present constitution.

Re-apportionment of jurisdiction of Baltimore courts.

Clerks' bonds.

ORPHANS' COURT.

Art. 4, part 5, sec. 40.

Three judges.

Term of office. 1852, c. 20, 48, 62, 73, 139, 247, 290, 341; 1853, c. 81, 147, 271, 333, 385.

Jurisdiction.

Per diem.

Vacancy.

14. The qualified voters of the city of Baltimore, shall, on the Tuesday next after the first Monday in November next, and on the same day in every fourth year thereafter, elect three men to be Judges of the Orphans' Court of said city, who shall be citizens of the State, and residents for the twelve months preceding, in the city. They shall have all the powers now vested in the orphans' courts of the State, subject to such changes as the Legislature may prescribe.* Each of said judges shall be paid a per diem for the time they are actually in session, to be regulated by law, and to be paid by the said

*The Orphans' Court derives its powers from statutory provisions. Its jurisdiction is confined to the express letter of its authority. *Taylor* v. *Bruscup*, 27 Md. 219; *Craufurd's* adm. v. *Craufurd*, 22 Md. 466; *Price* v. *Taylor*, 21 Md. 365; *Townsend* v. *Brooke*, 9 Gill, 90; *Lowe* v. *Lowe*, 6 Md. 352; *Hayden* v. *Burch*, 9 Gill, 82. *Normant* v. *Bryden*, 44 Md. 112.

As to Register of Wills, see *Sappington* v. *Scott*, 14 Md. 40.

city. In case of a vacancy in the office of judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the same for the residue of the term.

15. There shall be a Register of Wills in the city of Baltimore, to be elected by the legal and qualified voters of said city, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be re-eligible, and subject at all times to removal for wilful neglect of duty, or misdemeanor in office, in the same manner that the clerks of the courts are removable. In the event of any vacancy in the office of Register of Wills, said vacancy shall be filled by the judges of the Orphans' Court, until the next general election for delegates to the General Assembly, when a Register shall be elected to serve for six years thereafter. Ibid, sec. 41. Register of Wills. Term of office. Vacancy.

JUSTICES OF THE PEACE.

16. The Governor, by and with the advice and consent of the Senate, shall appoint such number of justices of the peace, and the Mayor and City Council of Baltimore shall appoint such number of Constables, for the several wards of the city of Baltimore, as are now, or may hereafter be prescribed by law; and justices of the peace and constables, so appointed, shall be subject to removal by the judge of the Criminal Court, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.* The justices of the peace and constables, so appointed, and commissioned, shall be conservators of the peace, shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal, in Const. art. 4, part 6, sec. 42. Governor to appoint justices. Mayor and City Council to appoint constables. 1852, c. 274; 1853, c. 102; 1854, c. 302. Removal. Term of office. Jurisdiction. 1852, c. 176, 239; 1853, c. 201; 1854, c. 225, 236.

*As to indictment at common law of justice of the peace for malfeasance in office, see *Hiss* v. *State*, 25 Md. 556. As to justices before Const., 1864, see *Taylor* v. *Hebden*, 202; *Cantwell* v. *Owens*, 14 Md. 215; *State* v. *Mace*, 5 Md. 337; *Mayor, &c.*, v. *State*, 15 Md. 378.

Right of appeal.

all cases, from the judgment of justices of the peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

Ibid, sec. 43.

Vacancies. 1860, c. 7.

17. In the event of a vacancy in the office of a justice of the peace, the Governor shall appoint a person to serve as justice of the peace, for the residue of the term; and in case of a vacancy in the office of constable, the Mayor and City Council of Baltimore shall appoint a person to serve as constable for the residue of the term.

SHERIFF.

Const., art. 4, part 7, sec. 44.

Election of sheriff.

Qualifications.

Term of office.

Bond.

Vacancy.

18. There shall be elected in the city of Baltimore, in every second year, one person, resident in said city, above the age of twenty-five years, and at least five years preceding his election, a citizen of this State, to the office of Sheriff. He shall hold his office for two years, and until his successor is duly elected and qualified; shall be ineligible for two years thereafter; shall give such bond, exercise such powers, and perform such duties as now are, or may hereafter be fixed by law.* In case of a vacancy by death, resignation, refusal to serve, or neglect to qualify, or give bond, or by disqualification, or removal from the city, the Governor shall appoint a person to be Sheriff for the remainder of the official term.

STATE'S ATTORNEY.

Const., art. 5, part 2, sec. 7.

Election of State's Attorney.

19. There shall be an Attorney for the State in the City of Baltimore, to be styled the State's Attorney, who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday in November in the year eighteen

*Though the Constitution provides for filling the office of Sheriff, it does not specify or describe his powers and duties; these are left to the common law and Acts of Assembly, and may be changed by law. *Mayor, &c.* v. *State*, 15 Md. 379. See *Hatcheson* v. *Tilden*, 4 H. & McH. 279; *Roberts* v. *Gibson*, 6 H. & J. 116; *State* v. *Wyman*, 2 G. & J. 254; *Kitty* v. *Hammond*, 3 H. & McH. 149.

hundred and sixty seven, and on the same day every fourth year thereafter; and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified; and shall be re-eligible thereto, and be subject to removal therefrom, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney General. Term of office. Removal.

20. All elections for the State's Attorney shall be certified to, and returns thereof made to the judge of the Criminal Court, whose duty it shall be to decide upon the elections and qualifications of the persons returned; and, in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the person elected. Ibid, sec. 8. Returns to be made to judge of Criminal Court. Case of tie.

21. The State's Attorney shall perform such duties and receive such fees and commissions as are now, or may hereafter be, prescribed by law, and if the State's Attorney shall receive any other fee* or reward, than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore City shall have power to appoint one deputy, at a salary of not more than fifteen hundred dollars per annum, to be paid Ibid, sec. 9. Duties. Fees. Proviso. Deputy in Baltimore city.

* 1864, c. 243, provides that in any case where judgment shall be recovered by the State against any principal debtor and a surety or sureties, and said judgment shall be satisfied by said surety or sureties, the same shall be entered by the attorney representing the State to the use of the surety or sureties satisfying the same, on the said attorney filing in the case a certificate of the Comptroller stating that said judgment has been so satisfied, and said surety or sureties shall then be entitled to execution in his or their own name or names against the principal and the other sureties.

Before this Act, where a judgment in favor of the State was paid by a surety, there was no statute which authorized an assignment thereof to such surety to be made by any officer or agent of the State, and it could not be done under 1793, c. 23, s. 8, (P. G. L., Art. 9, sec. 6,) by the State's Attorney. *Peacock* v. *Pembroke*, 8 Md. 348.

by the State's Attorney out of the fees of his office, as has heretofore been practiced.

Ibid, sec. 10. Qualifications.

22. No person shall be eligible to the office of State's Attorney, who has not been admitted to practice law in this State, and who has not resided, for at least two years, in the county or city in which he may be elected.

Ibid, sec. 11. Vacancy.

23. In case of vacancy in the office of State's Attorney, or, of his removal from the city in which he shall have been elected, or, on his conviction, as herein specified, the said vacancy shall be filled by the judge of the Criminal Court, for the residue of the term thus made vacant.

Ibid, sec. 12. To collect, &c., money for the State. Bond.

24. The State's Attorney, in the city of Baltimore, shall have authority to collect, and give receipt, in the name of the State, for such sums of money as may be collected by him, and forthwith make return of, and pay over the same, to the proper accounting officer.* And the State's Attorney of the city of Baltimore, before he shall enter on the discharge of his duties, shall execute a bond to the State of Maryland, for the faithful performance of his duties, in the penalty of ten thousand dollars, with two or more sureties, to be approved by the judge of the Criminal Court.

COURT OFFICERS.

Const., art. 4, part 1, sec. 9. Officers of court, how appointed. Compensation. Judges to investigate and report.

25. Such officers of the courts in the city of Baltimore as may be found necessary shall be appointed by the judges of the Supreme Bench of Baltimore City. It shall be the duty of the General Assembly to prescribe, by law, a fixed compensation for all such officers; and said judges shall, from time to time, investigate the expenses, costs and charges of their courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action.

* See *Martin v. State*, 1 H. & J. 721.

Article XIV.—Statutes.

STATUTES.

SUPERIOR COURT, COURT OF COMMON PLEAS AND CITY COURT.

1. The judge, before whom any case may be tried, in either the Baltimore City Court, the Superior Court of Baltimore City, or in the Court of Common Pleas, shall have exclusive jurisdiction to hear and determine, and the said judge shall hear and determine all motions for a new trial where such motions arise, either on questions of fact or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law, determined by the said judge; and all such motions shall be heard and determined within thirty days after they are made. 1870, c. 177. Jurisdiction. Motions for new trial.

2. In no case shall either the plaintiff or defendant be required to file a "paper book" of evidence or brief, in either of the courts of the city of Baltimore.* 1870, c. 177. No paper book or brief required.

3. The stated terms of the Superior Court of Baltimore City, the Court of Common Pleas, and the Baltimore City Court, shall commence on the second Monday in January, the second Monday in May, and the second Monday in September in each year. P. L. L., art. 4, secs. 160, 171; 1867, c. 401, s. 6; 1876, c. 96. Terms.

4. In addition to the first day of each term of the Superior Court of Baltimore City, the Court of Common Pleas and the Baltimore City Court, the second Monday in February, March, 1864, c. 6, s. 1; 1867, c. 401, s. 6; 1876, c. 96. Return days.

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* The act of 1870, c. 177, entitled an act to change the jurisdiction of the Supreme Bench of Baltimore City, and re-apportion and enlarge the jurisdiction of the Baltimore City Court, the Superior Court of Baltimore City, and the Court of Common Pleas, as provided by section 39 of article 4 of the constitution, (section 13, p. 188 *ante*) enacts the above two sections.

April, June, July, October, November and December, in each year, shall be return days.*

1864, c. 6, s. 2.

Writ may be made returnable to next return day.

5. Any person instituting an action in either of said courts, may, at his election, have his original writ made returnable to the next succeeding return day, or, to the first day of the next succeeding term.

*DECISIONS UNDER THE RULE DAY ACT—1861, c. 4, repealed secs. 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 172, 173 of Art. 4, P. L. L., being the act of 1858, c. 323, for the dispatch of business in the Superior Court and Court of Common Pleas of Baltimore city. The act of 1864, c. 6, enacted sections 3 to 13 of this Article, being a re-enactment of said repealed sections with amendments.

Held that under the act of 1858, c. 323, a plaintiff could obtain judgment by default on an open account, verified by affidavit, at the term or on the rule day to which the defendant was summoned and failed to appear, but the court could not, at the same term, extend such judgment by assessment of damages and costs: and that the plaintiff in such a case was entitled to final judgment only in case the defendant failed to appear before the first day of the term or rule day next thereafter, and then the judgment could go only for the amount of the acconnt thus authenticated: but that the court has no power to allow interest on the account which should have been ascertained by a jury on a writ of inquiry. [But see 1864, c. 175, P. G. L. Art. 75, sec. 62, and 1864, c. 6, s. 9,—sec. 12 of this Article.] Held further, that though the final judgment would be struck out because improperly and prematurely extended and because interest was allowed by the court, yet the judgment by default, for the defendant's failure to appear would not be disturbed, *Mailhouse* v. *Inloes et al.* 18 Md. 328. *See Gardner* v. *Jenkins*, 14 Md. 60. The act of 1858, c. 323, did not conflict with the right of removal of causes from one court to another, provided for by the Constitution and Acts of Assembly. *Griffin* v. *Leslie*, 20 Md. 19.

A writ of *scire facias* is not an original writ within the meaning of the act of 1864, c. 6, sec. 2, (sec. 5 of this Article) and can, therefore, be made returnable only on the return day of the regular term. *Bridge & Woods* v. *Adams*, 32 Md. 577.

In an action under the act of 1864, c. 6, after sundry unexecuted writs of summons, the defendant was returned "summoned," but did not appear at the return day; no motion for judgment by default against him was made, and no order taken by the plaintiff on that day, or on any day previous to the next return day. After several return days had passed, on motion of the plaintiff in writing, a judgment *nisi* for want of appearance by the defendant was entered. At the succeeding term, the judgment by default was extended, and during the same term, the defendant appeared and moved that

6. On the return of any original writ not executed in either of said courts, the same may be renewed, returnable to the next return day thereafter, or to the next term of the said court from which said original writ was issued. Ibid, s. 3. Writ may be renewed.

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the judgment by default, and the extension thereof be stricken out. The motion was overruled. On appeal held: 1st. That an appeal lies from the order overruling the motion to strike out the judgment. 2d. That on failure of the defendant to appear on the day to which he was returned "summoned," the plaintiff was entitled on motion in writing during the time intervening between that day and the next return day thereafter, to have a judgment by default entered against the defendant, but having failed to do so within that time he could not claim the right afterward. 3d. That the plaintiff having, by his own *laches*, lost his right to claim a judgment by default, the cause must be disposed of by the court below, as if the suit had been instituted independently of the act of 1864, c. 6. 4th. That the defendant having appeared, has the right to plead in the usual form without affidavit. *King* v. *Hicks*, 32 Md. 460.

An action was instituted, on June 23d, 1870, under act of 1864, c. 6, the writ of summons was made returnable on second Monday of July, '70, the next return day prescribed by the act after the suit was begun; on the return day the defendant appeared and demurred to the declaration. At the following September term, being the first term thereafter, the plaintiff entered a motion for judgment by default, for want of a plea verified by affidavit; on December 16th following, the court overruled the demurrer and entered judgment by default, for want of a plea and affidavit of defence, and on the same day assessed the damages and entered final judgment thereon. Held: That these proceedings were in strict conformity with the requirements of the act of 1864, c. 6.

The personal liability of a stockholder of a manufacturing company under sec. 52 of Art. 26, P. G. L., is not in the nature of a *penalty*, but is so far an obligation arising *ex contractu* as fairly to come within the spirit and intent of the act of 1864, c. 6; and a creditor of such company in an action at law to enforce his claim against an individual stockholder, may make the affidavit thereto as required by said act. *Norris* v. *Wrenschell*, 34 Md. 492.

In an action on a single bill, under the act of 1864, c. 6, it is not necessary for the plaintiff filing his cause of action to state in the affidavit required by 8th sec. (sec. 11 of this Article,) of the act to be filed with his declaration, the time from which interest is claimed, the amount thereof, or the cost of protest. *Canton Nat. Building Association* v. *Weber*, 34 Md. 669.

Where a plaintiff with a view of bringing his case within the provisions of the act of 1864, c. 6, sec. 8, files with his declaration as the cause of action an account verified by affidavit showing the true amount that the defendant

Ibid, s. 4.

Same proceedings when returned at return day as at term.

7. After the execution of any original writ made returnable to a return day in either of the said courts, the same proceedings may be had in the prosecution of the said writ as would be proper in case the said writ had been made returnable, and had been returned to a term of the court from which the same was issued.

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is indebted to him over and above all discounts, such account is no part of the pleadings, and should not be allowed to go into the hands of the jury. *Ingalls et al.* v. *Crouch et al.*, 35 Md. 296.

The appending to a declaration under the act of 1864, c. 6, of a notice requiring the defendant to plead within fifteen days, does not take the case out of the operation of the statute.

A bill of particulars furnished upon the demand of the defendant, need not be verified by affidavit, the plaintiff having made affidavit of the true amount of the indebtedness of the defendant, and filed the same at the time of the institution of the action.

The plea of the statute of limitations comes both within the letter and spirit of the 7th section of the act of 1864, c. 6.

Under the act of 1864, c. 6, in default of a plea verified by affidavit, the plaintiff may take his judgment either "on the first day of the term, or at the return day next succeeding the appearance of the defendant, whichever shall first occur," or at any time during the term. A mere discrepancy between the amount stated in the affidavit of the plaintiff and the bill of particulars subsequently furnished, does not necessarily impeach the *bona fides* of the former. *Jones* v. *Barnett*, 35 Md. 258.

In an action of *assumpsit* a judgment by default for want of an affidavit to the pleas as required by the act of 1864, c. 6, sec. 7, (sec. 10 of this article,) was entered at June rule day, 1866, of the Court of Common Pleas, and on the same day damages were assessed by the court and the judgment extended. On this judgment, execution subsequently issued. At May term, 1867, the court passed an order suspending the execution; from this order the plaintiffs appealed. Held that the appeal lies. The act of 1864, c. 6, which requires a plaintiff at the time of bringing his action, to file with the declaration an affidavit stating the true amount that the defendant is indebted to him, with the vouchers of his claim, does not require that a copy of such affidavit should be served on the defendant. *Greff et al.* v. *Fickey et al.*, 30 Md. 75.

The amount claimed in an action on a policy of insurance is a liquidated sum, within the provisions of the act of 1864, c. 6, and may be verified by affidavit.

With the declaration in an action on a policy of insurance, there was filed an account of the defendant's indebtedness, verified by an affidavit in ac-

8. If a defendant regularly returned summoned to appear at a stated term or a return day of the court from which the original writ was issued, shall fail to appear on the day to which the said writ was returnable, judgment for his default may, on motion of the plaintiff made in writing, and filed with the clerk of the court from which said original writ was issued, be entered by the said court or by the said clerk against the said defendant; which said judgment shall be stricken out on his appearance being entered to the action at any time before the first return day thereafter; and if the said defendant shall fail to appear within the time above limited, the party plaintiff may sue out his writ of inquiry, or otherwise enter up final judgment, according to the course of the court.

Ibid, s. 5.

Judgment by default, when to be given.

When to be struck out.

Writ of inquiry.

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cordance with the eighth section of the act of 1864, c. 6, and the policy was filed therewith as a voucher, and referred to in the account; a summons was issued on the 9th of December, 1868, and made returnable on the second Monday of the same month, being the first return day thereafter, and was duly served. The defendant appeared by attorney on the return day, and was put under rule plea, by the second Monday, being the 11th day of January, 1869, and the first day of the ensuing term of the court. On the 7th day of January, 1869, the defendant filed its pleas to the merits, with what purported to be its affidavit appended thereto; a rule replication was laid on the plaintiff, and a joinder of issue upon the pleas was entered by the clerk. On the second Monday of January, 1869, the plaintiff's attorney gave an order to the clerk to strike out the joinder of issue, which was done, and he filed a motion in writing, asking the court to enter judgment against the defendant notwithstanding the pleas, for the reason that the affidavit thereto was insufficient under the seventh section of the act of 1864, c. 6. The defendant afterwards asked leave to file an additional or supplemental plea and affidavit. Judgment by default was entered against the defendant, for want of sufficient affidavit to its pleas. The plaintiff then moved the court to assess the damages and extend the judgment, whereupon the defendant moved for trial by jury of the question of the amount of damages to be assessed. The defendant's motion being overruled, the court assessed the damages, and extended the judgment for the amount claimed, with interest, &c. The defendant excepted, first, to the refusal of the court to allow amended pleas and affidavit to be filed; secondly to the entering of the judgment by default, and thirdly, to the extension of the judgment by

Ibid, s. 6.

Trial term, when.

9. Every suit where the cause of action is a contract, whether in writing or not, or whether express or implied, shall stand for trial or judgment on the first day of the term, or at the return day next succeeding the entry of the appearance of the defendant, whichever shall first happen, unless the time shall be extended by the court on cause shown.

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the court, and its refusal to refer the question of damages to a jury. On appeal, Held: 1st. That the leave to the defendant to file additional pleas and affidavit, was properly refused. 2d. That the affidavit filed with the pleas, being altogether defective and insufficient, there was no error in entering the judgment by default. 3d. That the application of the defendant for a trial by jury of the amount of damages to be assessed to the plaintiff, should have been granted. When a corporation is sued under the act of 1864, c. 6, its pleas must be verified by the oath of some natural person, capable of making an affidavit. *Knickerbocker Life Ins. Co.* v. *Hoeskie*, 32 Md. 317.

Suits for the recovery of damages that are liquidated, or for such ascertained amounts as the plaintiff can properly and safely swear the defendant owes him, are within the provisions of the act of 1864, c. 6. A bond given to dissolve an attachment and a judgment recovered in the attachment case, constitute a cause of action upon which suit may be properly instituted under above act, against the obligors in the bond. And in such action the filing by the plaintiffs of a properly certified *copy* of the bond with their declaration, is a sufficient compliance with the provisions of the 8th sec. of that act. *McAllister* v. *Eichengreen*, 34 Md. 55.

An action was brought under the act of 1864, c. 6, on a bill of lading against the consignees of a cargo of potatoes, by the owner and master of the schooner aboard which they were shipped, to recover demurrage: the bill of lading allowed a certain number of working days for the discharge of the cargo, and required the consignees to pay demurrage at a certain rate for every day detained thereafter. A judgment by default for the want of an affidavit to the plea, was entered. Held: 1st. That the bill of lading expressly stipulating for the payment of demurrage at a certain rate per day, is a contract within the provisions of the act of 1864, c. 6, (sec. 9 of this Article.) 2d. That the plaintiff having complied with the provisions of the act of 1864, c. 6, the failure of the defendant to receive notice of the affidavit to the plaintiff's declaration through the omission of the clerk, furnishes no ground for striking out the judgment. *Jones* v. *Freeman*, 29 Md. 273.

A suit against a Telegraph Company for damages sustained by the failure of the company to transmit a dispatch ordering a sale of gold, is a claim for unliquidated damages, and not embraced within the meaning of Art. 4, secs.

10. In any action brought for any of the causes mentioned in the last preceding section, the plaintiff, if he make affidavit or affirmation as hereinafter stated, shall be entitled to judgment on the first day of the term of the court in which said action is pending, or at the return day next succeeding the appearance of the defendant, whichever shall first happen or occur, although the defendant may have pleaded, unless such plea contains a good defence, and unless the defendant, or some one in his behalf, shall make oath or affirmation that the said plea is true, and that he verily believes that he will be able, at the trial of the cause, to produce sufficient evidence to support the said plea.

Ibid, sec. 7.

Plaintiff, how and when entitled to judgment.

166, 167, 168 and 169 of Code, P. L. L., (1864, c. 6,) which relate only to an ascertained amount of liquidated indebtedness, which the plaintiff can properly and safely swear the defendant owes to him. *Smithson & Owens* v. *U. S. Telegraph Co.*, 29 Md. 162.

The *narr.* did not give the surname of the defendant, but only his Christion name and the initial letter of his middle name. In the affidavit appended to the *narr.*, the defendant's name was given in full. He appeared to the suit; pleaded and filed several papers in the case giving his name in full and describing himself as said defendant. Held: that the defendant was estopped from setting up the misnomer in the *narr.*; and that objection to such misnomer could only be taken by plea in abatement and not by demurrer. *Rich* v. *Boyce*, 39 Md. 314.

The act of 1864, c. 6, by its terms is applicable to suits where the cause of action is a contract either expressed or implied, and where the plaintiff shall file with his declaration an affidavit stating the true amount that the defendant is indebted to him over and above all discounts, and also file the bond, bill of exchange, promissory note or other writing or account by which the defendant is so indebted. The appeal having been dismissed before it was passed upon by the Court of Appeals, it was held that:

1. The act of 1864, c. 6, did not apply.

2. That the cause of action to be within the reason and provision of that act, must be of a character to afford of itself a certain measure or standard for determining the amount recoverable, so that the true amount of indebtedness may be averred and verified by the affidavit.

3. That bonds with collateral conditions, not for the payment of any certain sum of money, and where the recovery thereon must be as for unliquidated damages, will not constitute a cause of action within the statute.

Ibid, s. 8.

Plaintiff's affidavit, &c.

11. The plaintiff shall not be entitled to judgment under either of the three preceding sections, unless at the time of bringing his action he shall file with his declaration an affidavit or affirmation, if he is conscientiously scrupulous as to taking an oath, stating the true amount that the defendant is indebted to him, over and above all discounts, and shall also file the bond, bill of exchange, promissory note, or other writing or account by which the defendant is so indebted; and the said affidavit or affirmation, may be made before any of the persons who may take an affidavit or affirmation to authorize the issuing of a foreign attachment, and may be certified in the same manner.

Ibid, s. 9.

Assessment of damages by court.

12. When any judgment by default shall be entered under the preceding sections, the court may assess the damages on proof thereof, without empanelling a jury to do so.

Ibid, s. 10.

Writs returnable at election of plaintiff.

13. Writs of execution issued out of the Superior Court of Baltimore City, City Court, or the Court of Common Pleas, may be made returnable, at the election of the plaintiff, to the next succeeding return day of the court from which said writ was issued, or to the next succeeding term of the said court.

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4. That if the appeal had been prosecuted and the judgment affirmed, the plaintiffs in the judgment in an action on the appeal bond could have recovered as liquidated damages, the amount of the judgment with interest and costs.

5. But where the appeal has not been prosecuted, and the judgment has not been affirmed, the rule of damages and the extent of recovery will depend upon the loss and injury sustained by reason of the stay of execution on the judgment appealed from. *Keen* v. *Whittington*, 40 Md. 490; *State* v. *Steibel*, 31 Md. 34.

Where the defendant has appeared and pleaded, and the cause has been brought to trial in regular course, the affidavit filed with the declaration to entitle the plaintiff to a judgment by default under the act of 1864, c. 6, as authorized by the act, in no manner controls the nature and character of the proof that may be offered by the plaintiff in support of his action. *McSherry* v. *Brooks*, &c., 46 Md. 104.

14. On all judgments rendered in the Court of Common Pleas, the City Court, and the Superior Court of Baltimore City, and on all judgments by default, when extended according to law and the course of the court, execution may issue at any time after judgment rendered or extended as aforesaid, and the nineteenth section of the twenty-ninth article of the Public General Laws, relating to writs of execution, shall not apply to the city of Baltimore, so far as the same relates to the stay on judgments. 1864, c. 49. When execution may issue on judgment of courts.

CIRCUIT COURT.

15. The regular terms for the sitting of the Circuit Court of Baltimore City, shall be on the second Monday of May, the second Monday of September, the second Monday of November, the second Monday of January, and the second Monday of March, in each year, and the second Monday in July in each year shall be a return day. 1870, c. 32. Terms.

16. Whenever in any case instituted in the Circuit Court, a jury is asked for and allowed, or is desired by the judge thereof, the judge shall issue an order to the Sheriff of Baltimore City, requiring him to summon twenty jurors to attend the court, when proceedings shall be had in such cases as is usual in like cases in equity.* P. G. L., art. 29, sec. 58. Jury.

* An appeal will not lie from a decree of the Circuit Court of Baltimore City to the Supreme Bench of Baltimore. The Supreme Bench has only such jurisdiction as has been conferred upon it by the express provisions of the Constitution of the State. *Dykes* v. *Banks*, 31 Md. 239.

The language, "when proceedings shall be had in such case as is usual in like cases in equity," in section 58 of Article 29 Public General Laws, (section 14, above,) does not import any change in the organic character of the Circuit Court of Baltimore City, as a court of equity, nor imply any material change in the proceedings and practice in equity, in pleadings or evidence; it relates to the incidents of the trial and effect of the verdict, as a means of informing the mind of the court.

In the execution of the special power vested in the Circuit Court of Baltimore City, by the aforementioned section, is included, as a means ne-

OPINIONS OF JUDGE.

1874, c. 312.

Opinions of judge.

17. The act of 1874, c. 312, repealed section 110, of Article 16 of the Public General Laws, so far as the same requires the judge of the Circuit Court or the Superior Court of Baltimore City to file opinions for or in respect of any final decree or decretal order, whenever such decree or order shall have passed upon argument, oral or in writing, on the part of any of the parties to a cause.

CRIMINAL COURT.

P. L. L., art. 4, sec 175.
1876, c. 96.

Terms.

18. The Criminal Court of Baltimore shall hold three regular sessions yearly, to commence on the second Monday of January, second Monday of May, and second Monday of Septtember; and such sessions shall continue until all the business before it shall be finished.

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cessary to the end, the right of framing the issues, and directing the position of the parties litigant, as plaintiffs or defendants; and the court would have the right to instruct the jury, and to admit or exclude the evidence offered.

Upon the trial of issues by a jury ordered by the Circuit Court of Baltimore City, in virtue of said section, bills of exception to the rulings of the court will not lie. A jury having been ordered by the Circuit Court of Baltimore City, in virtue of the provisions of said section, and the Sheriff having made return that he had summoned twenty lawful jurors, the Court of Appeals cannot inquire whether they were a part of the panel summoned to attend some other court, from which they were taken, or whether they were in attendance on some other court or not. Where no objection is made to the form of the issues before the trial in the court below, such objection will not be considered in the Court of Appeals. Upon the rendition of the verdict upon issues submitted to a jury by the Circuit Court of Baltimore City, in virtue of said section, the party against whom it is given, if he thinks it is contrary to evidence, has the right to move for a new trial, or to proceed to take further testimony.

The jurisdiction of the Circuit Court of Baltimore City, is co-extensive with the limits of the city, and unless restrained by law it may assemble within such limits, wherever its convenience dictates. *Barth* v. *Rosenfeld et al.*, 36 Md. 604.

19. At such special sessions of said court, all cases may be tried and disposed of as at the regular terms thereof. P. L. L., art. 4, sec. 176. Cases.

20. The Criminal Court of Baltimore shall have jurisdiction in all cases of felony, and other crimes, offences and misdemeanors within the city of Baltimore.* P. G. L., art. 29, sec. 59 Jurisdiction.

21. All commitments and recognizances for all felonies, crimes, offences and misdemeanors committed within said city, shall be returned from time to time by any justice of the peace taking the same before said court, and shall be lodged with the clerk of said court on the day next preceding the day appointed for holding the said court. Ibid, sec. 62; P. L. L., art. 4, sec. 177. Commitments and recognizances

22. The justices of the peace for Baltimore city, whenever they shall commit any person for want of bail, for trial, on charges of assault and battery, for keeping a disorderly house, or for violation of Article fifty-six of Code of Public General Laws entitled Licenses, and for any other small offences for which no greater punishment than fine and imprisonment can be imposed, shall endorse on said commitments the names and places of residence of the witnesses, who shall have appeared before them on behalf of the prosecution, and shall recognize said witnesses to appear before said court on the next Saturday thereafter. P. L. L., art. 4, sec. 179. Witness to be recognized to court.

23. The Warden of Baltimore City Jail shall, on receiving said commitment, enter the names and places of residence of said witnesses on his docket, and shall, on demand, give a copy thereof to the accused, together with a copy of the commitment. Ibid, sec. 180. Warden's duty.

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* *Larceny.*—1864, c. 50, provides that any person convicted in the Criminal Court of Baltimore, of larceny committed in Baltimore city to an amount under five dollars, may, in the discretion of the judge of the said court, be sentenced to hard labor in the jail of Baltimore city for not less than six months, nor more than two years, instead of the penitentiary.

Ibid, sec. 181.

Warden to bring prisoners before court.

24. The said warden shall bring before the Criminal Court every person who may be committed to jail for want of bail, for any of the offences mentioned in the above section twenty, on the Saturday next succeeding his or her commitment; and if the said person shall think proper to waive his or her right to a trial by jury, and have his or her cause heard and determined in a summary way, the said court shall hear and determine the same, and the same shall be proceeded with in the same manner, and to the same legal effect, as if submitted on presentment or indictment by the grand jury.

Trial before court.

Ibid, sec. 182.

Original commitment.

25. The said warden shall file with the clerk of said court the original commitment, or a copy thereof, on the day preceding the trial.

Ibid, sec. 183.

Costs.

26. The clerk of said court shall tax only half the legal charges in such cases, established by law in cases of indictment found by a grand jury; and all cases of presentment for violation of the provisions of Article fifty-six of the Code of Public General Laws, may be tried upon said presentment, and be chargeable with only half the legal costs chargeable in such cases, when tried upon indictment.

Ibid, sec. 184.

When capias to be re-issued.

27. It shall be the duty of the Sheriff to make return of all capias upon presentment or indictment from said court within five days after the same is delivered to him by the clerk, and if said capias is returned non est, the clerk shall, in the discretion of the State's Attorney of Baltimore City, order said capias to be re-issued, and the same capias shall again be delivered to the Sheriff; and the date of the first return thereof shall be endorsed thereon; and the second return shall be made within the time above specified; and in case the said capias is returned the second time non est, the same shall be again so endorsed and delivered to the Sheriff.

Time within which to be returned.

Ibid, sec. 185.

Fees.

28. The clerk of the said court, and the Sheriff of the said city, shall be allowed only the fees for the issue of one capias,

or for the service of one capias in each term, however often the same may be issued or returned.

29. All subpœnas for witnesses from said court, shall be returned by the Sheriff within six days after the same are issued by the clerk, or within six days after the day of the renewal of such subpœnas, unless the same are ordered to be returned immediately, in which case they shall be so returned if practicable. Ibid, sec. 186. Subpœnas for witnesses.

30. The said Sheriff shall be allowed for the service of one subpœna only, against any witness that may be returned non est, and for whom the said subpœna may be renewed, whether one or oftener in one term. Ibid, sec. 187. Fees.

31. The clerk of said court, if a subpœna is renewed by order of the State's Attorney, or by the counsel of the prisoner or traverser, shall endorse the renewal on the subpœna, and the same shall have all the legal effect of a new subpœna issued in the term of said court, during which said subpœna was first issued. Ibid, sec. 188. Renewal of subpœnas.

32. The Sheriff of said city shall be subject to a penalty of five dollars in each case in which returns are not made within the time prescribed in this article. Ibid, sec. 189. Penalty on sheriff.

33. The judge of said court shall hold a court every Saturday during the year, on which day no petit jury shall be in attendance, unless such jury has been empanelled, and the case before it not concluded. P. G. L., art. 29, sec. 61. Saturday court. No jury.

34. In all cases of misdemeanor, which may be prosecuted in said court, at the instance of any person, if the party or parties so prosecuted shall be acquitted, all the legal costs and expenses attending the prosecution shall be paid by the person at whose instance such prosecution was commenced, unless the court shall certify that there was probable cause for the prosecution. Ibid, sec. 64. When prosecutor to pay costs.

Ibid, sec. 65.

How costs recovered.

35. The same process may be issued for the recovery of the costs and expenses of such prosecution against the person who may become liable therefor under the last preceding section, as could be issued against the party prosecuted, if he, she or they had been convicted.

Ibid, sec. 66.

Prosecutor's name on indictment for misdemeanor.

36. Whenever the grand jury shall find any presentment against any person for a misdemeanor, they shall endorse on the presentment the name of the person at whose instance such presentment is made, who shall be deemed and taken to be the person at whose instance such prosecution was commenced.

Ibid, sec. 67.

Judge or court to accept surrender by bail.

37. If any security in any recognizance shall request to deliver up the principal, the said court, or the judge thereof in the recess, may accept such surrender, and may require and take other recognizance, or commit the principal to jail until he gives such security as the law requires.

Ibid, sec. 68.

Children of convicts.

38. If any person convicted in said court shall have a child or children under the age of twenty-one years, and shall not have property sufficient to maintain such child or children, the said court may bind such child or children to any trade or handicraft; females until the age of sixteen, and males until the age of twenty-one years.

Ibid, sec. 69.

Fine on witnesses.

39. If any person, who shall be summoned as a witness to said court, shall fail to attend as required in said summons, he shall be fined by said court in its discretion, not exceeding one hundred and fifty dollars.

Ibid, sec. 70; P. L. L, art. 4, sec. 132.

When bail liable to attachment for contempt.

40. In all criminal cases in the said court, in which bail shall be forfeited, the person or persons who shall have entered into such recognizance or recognizances for the appearance of any traverser or prisoner, shall be liable forthwith to an attachment for contempt for the non-appearance of the said party, which attachment shall be issued by the court in which an indictment against said traverser or prisoner is pending, at the instance of the attorney prosecuting therein.

41. In all cases in which bail as aforesaid is forfeited, the court may, on the return of said attachment, order the person or persons attached to stand committed until the amount of said recognizance is fully paid and satisfied, or may order said person or persons to be discharged upon the payment of such lesser sum as it shall, in its discretion, deem proper; provided, such sum be not less than the amount of the costs, which may have accrued in the case up to the time of passing such order.* Ibid, sec. 71. Ibid, sec. 133. To be committed till payment. Proviso.

42. In all criminal cases removed from the Circuit Court for Baltimore County to the Criminal Court of Baltimore and tried, the judge of the Criminal Court may allow to the State's Attorney for Baltimore, in addition to the sum now allowed by law, a compensation not exceeding forty dollars in any one case, to be paid by Baltimore county to the Register of the City for the benefit of the State's Attorney.† P. L. L., art. 4, sec. 84. 1865, c. 187. Fees to State's Attorney in removed cases.

43. The Criminal Court of Baltimore may appoint assistant counsel for the State to aid in the trial of criminal or other State cases in said court, whenever in the judgment of the court the public interest requires it. P. G. L., art. 29, sec. 7. Assistant counsel.

44. The Mayor and City Council of Baltimore shall levy and pay such sum as in their judgment will be an adequate compensation for the services rendered by such assistant counsel; provided, the sum levied and paid in any single case shall not exceed one hundred dollars. Ibid, sec. 8. Compensation. Proviso.

* Grason, J., in *Bly's case* on *hab. corp.*, in Circuit Court for Baltimore County, Oct. 1868, decided that the Act of 1854, c. 114, being sections 40 and 41 above, was unconstitutional on the ground that a recognizance is not only legally defined as an obligation of record, but in language and substance is a debt; and the object of the act of 1854 evidently being to collect this debt by the process of attachment of the person in the mode prescribed, this the Legislature could not constitutionally authorize to be done. *Mace* v. *State*, 5 Md. 350; *Thompson* v. *State*, 16 *Ind.* R. 516. Dec. of Rights, art. 23, 25.

† See *Mayor, &c.* v. *Co. Com. Bal. Co.* 19 Md. 554; *Co. Com. Howard Co.* v. *same of Fred'k Co.*, 30 Md. 432.

ORPHAN'S COURT.

1865, c. 169. Judges' pay.

45. The judges of the Orphans' Court of Baltimore City shall receive six dollars for every day's attendance upon the sessions of said court, to be paid by the city of Baltimore.

1868, c. 20. Pay of bailiff.

46. The bailiff of said Orphans' Court shall receive four dollars a day for each day's attendance upon said court.

P. L. L., art. 4, sec. 630. When intestate mariner's estate to devolve on C. M. society.

47. Whenever a mariner residing in or sailing to or from the port of Baltimore shall depart this life intestate, and leaving no relations within the fifth degree, to be reckoned by counting down from the common ancestor to the more remote, the whole surplus estate of such mariner, after paying debts, funeral expenses and costs of administration, shall devolve on and become the property of the Charitable Marine Society of Baltimore.*

REGISTER OF WILLS.

Ibid, sec. 824. Bond.

48. The Register of Wills of Baltimore City, upon his election or appointment, and at or before the expiration of every two years thereafter, shall give bond to the State of Maryland in the sum of thirty thousand dollars, conditioned for the faithful performance of all the duties now or which may hereafter be required of him by law, with securities, the sufficiency of which shall be certified by the judges of the Orphans' Court for said city, the same to be approved by the Comptroller, and, when approved, to be filed in his office.

* In 1835 application was made by an officer of the above society for letters of administration on the estate of a seaman who died abroad in ——. This was resisted by H. having the funds of the deceased in his hands, and claiming to retain a portion of it for services rendered, the deceased having no kindred: held, that H. on proving himself to be a creditor, would be entitled to administration, and that in the absence of such proof the Orphans' Court could grant letters in their discretion. *Hoffman* v. *Gould*, 8 G. and J. 79. See Code P. G. L. Art. 93, sec. 136; *C. H. School* v. *Greenwell*, 4 G. & J. 407; *Thomas, adm'r*, v. *Fred. Co. School*, 7 G. and J. 369.

49. When said bond is inspected by the judges of said court, and is deemed good and sufficient, and is so certified, the same shall be forthwith entered among the proceedings of said court, and sent to the Comptroller for his approval, and when said bond shall be approved by the Comptroller, he shall forthwith make a certificate of the fact of such approval, and send the said certificate to the judges of said Orphans' Court, and the same shall be entered among the proceedings of the court. Ibid, sec. 825. Approval of bond.

50. A refusal or neglect on the part of said Register to give bond, to be approved and recorded as aforesaid within the time prescribed, shall be deemed a disqualification within the meaning of the Constitution, and thereupon his place shall be filled according to the provisions of the twenty-fifth and forty-first sections* of the fourth article of the Constitution, and subject to the term and service therein prescribed. Ibid, sec. 826. Neglect to bond to vacate office.

CLERKS OF LAW COURTS.

51. The clerk of the Superior Court of Baltimore City shall give bond to the State of Maryland in the sum of thirty thousand dollars, the clerk of the Court of Common Pleas in the sum of fifty thousand dollars, and the clerk of the Baltimore City Court in the sum of twenty thousand dollars, each of said bonds conditioned for the faithful performance of all the duties now required of each of said clerks by law, or which may hereafter be required of them by law, with sufficient securities; the sufficiency of which securities shall be certified to by the judge of each of said courts, and approved by the Comptroller as herein directed. P. G. L., art. 18, secs. 66, 71; 1867, c. 401, s. 5. Bonds of clerks of courts.

52. When the sufficiency of the securities in each of said bonds is certified to by the judges of the several courts, the bonds shall be immediately recorded among the proceedings of the court to which the said clerk belongs, and then sent to the Ibid, sec. 67. Approval.

* Sec. 15, p. 189, *ante*.

Comptroller for his approval; and if the Comptroller shall approve said bonds and securities, he shall certify the same to the judges of said several courts, and such certificates shall be recorded in such appropriate courts.

Ibid, sec. 68. Renewal of bond.

53. Each of said clerks shall every second year renew his said bond in the same penalty, and with securities to be certified and approved as hereinbefore directed.

Ibid, sec. 69. Failure to give bond. 9 Md. 242.

54. If any one of the clerks of said courts shall fail to give bond as herein directed, within thirty days after he has received his commission, or shall fail to give a new bond within thirty days after the expiration of two years from the date of the bond previously given, it shall be regarded as a misdemeanor in office, and upon conviction thereof he shall be removed.*

Ibid, sec. 70. No deputy to be surety.

55. No deputy or assistant of a clerk shall become a surety on his official bond.

1864, c. 74. 1864, c. 385. To keep an index of judgments.

56. The clerks of the Superior Court of Baltimore City of the Common Pleas, and Baltimore City Court, are each authorized and required to prepare an index of all judgments

*The Const. of 1851, Art. 4, sec. 14, and Const. 1864, Art. 4, secs. 29, 39, provided that the clerk of the Superior Court of Baltimore City should be subject "to be removed for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law." The act of 1856, c. 286, s. 5, enacted that "a refusal or neglect" on the part of this clerk to give the bond prescribed by this act "within thirty days after its passage shall be deemed a disqualification within the meaning of the Constitution," and directed his place to be filled by the judge of the court, as provided in case of a vacancy by the provisions of the Constitution. Held, that this section of the act in question was unconstitutional, because it provided for the removal of the clerk in a manner directly in conflict with the one prescribed by the Constitution.—Before the clerk could be removed for such failure to give bond, he must be convicted therefor in "a court of law of wilful neglect of duty in office," [sec. 54.] The Constitution of 1851, Art. 4, sec. 16, made all existing laws relating to the former clerks applicable to the new clerks to be elected under that instrument, and gave the Legislature power from time to time to amend and alter them, and under this provision the Legislature had the power to pass the act of 1856, c. 286, with the exception of s. 5, [which is sec. 54, modified to conform to this decision.] *Dowling* v. *Smith*, 9 Md. 242. See Const. 1867, Art. 4, secs. 37, 39.

rendered in the courts aforesaid, and they shall severally, on each day after the adjournment of court, enter in a book to be provided for that purpose, an index of each judgment rendered in the court whereof he is clerk, and they are authorized severally to charge and receive ten cents for each judgment indexed as aforesaid; said fee to be taxed in the bill of costs of each case in which judgment is entered, to be collected as other fees are now collected.

CLERK OF THE CRIMINAL COURT.

57. The clerk of the Criminal Court of Baltimore shall give bond to the State of Maryland in the penalty of fourteen thousand dollars, with sufficient sucurity, to be approved by the judge of said court, and conditioned for the faithful performance of all the duties now required, or which may hereafter be required of him by law, and to be recorded in the office of said clerk. Ibid, sec. 74. Bond of clerk of Criminal Court.

58. The said clerk shall renew said bond at the same time and under the same penalty as are prescribed for the clerks of the circuit courts. Ibid, sec. 75. Renewal of bond.

CLERK OF THE CIRCUIT COURT.

59. There shall be a clerk of the Circuit Court for Baltimore City, who shall in his election, tenure of office, liabilities, powers, duties and compensation, in all respects stand on the same footing with the clerk of the Superior Court of Baltimore City; provided, that his powers, duties and compensation shall be limited to cases in which the circuit court has jurisdiction; and he shall enter into bond to the State in the penalty of twenty thousand dollars, conditioned for the faithful discharge of his duties, with security to be approved by the judge of said court. Ibid, sec. 76. Clerk of Circuit Court. Proviso. Bond.

SALARIES OF CLERKS.

1868, c. 54.

Salaries of clerks.

60. Whenever the fees or other compensation of any of the clerks of the courts of Baltimore city shall, after the payment of all necessary expenses, fail to pay such officers the salary provided for by the constitution, and said clerks, or any of them, shall, under section first, article fifteen, of the constitution, have paid to the State any sum or sums of money as excess, after retaining his salary, such excess, is hereby appropriated to the payment of the salary or salaries so in arrear until each of said clerks shall have received the full amount thereof; and it shall be the duty of the Comptroller of the State to draw a warrant upon the State Treasurer for the payment of said arrears out of the said excess, not to exceed the amount so in arrear, and not to exceed the whole amount of said excess paid into the treasury of the State.*

Duty of Comptroller.

COURT OFFICERS.

P. L. L., art. 4, sec. 134. 1870, c. 94.

Pay.

61. The clerks of the Circuit Court, the Criminal Court, the Court of Common Pleas, the City Court and the Superior Court of Baltimore City, shall severally, at the end of every month, certify to the Mayor and Register of the City the amount due the several bailiffs and criers of their respective courts, and the Mayor and Register shall pay them accordingly.

1864, c. 113.

Their salaries.

62. The Register of the City of Baltimore shall pay to the crier of the Superior Court of Baltimore City, and the crier of the Court of Common Pleas for Baltimore City, the sum of fifteen hundred dollars per annum, in monthly instalments of one hundred and twenty-five dollars at the end of each and every month, as, and for their respective salaries, on the certificate of the clerks of said courts, that said criers have perform-

* 1868, c. 54, was enacted to carry into effect section 37, Art. 4 of Const., p. 186, *ante*. See Const., Art. 3, sec. 45, and Art. 15, sec. 1.

ed their several duties as criers of said courts for the time so certified by said clerks.

63. The Register of the City of Baltimore shall pay to the bailiffs respectively of the Superior Court of Baltimore City, of the Court of Common Pleas of Baltimore City, of the Baltimore City Court, of the Circuit Court of Baltimore City, and of the Criminal Court of Baltimore City, the sum of fifteen hundred dollars per annum, as, and for their respective salaries, at the same time and in the same manner as is provided in the preceding section for the payment of the salaries of the crier of the Superior Court, and the crier of the Court of Common Pleas of Baltimore City. 1870, c. 94. Salaries of bailiffs.

64. The clerk of the Circuit Court of Baltimore City, is authorized and empowered to appoint a night watchman, whose duty shall be to strictly and vigilantly guard throughout the year, between the hours of six P. M. and seven A. M., the records and papers deposited in the office of the clerk of the Circuit Court of Baltimore City, and who shall be removed, in the discretion of the said clerk of the Circuit Court, for neglect or carelessness in the discharge of his duties, or for other good and sufficient cause. 1872, c. 87. Night watchman of office of clerk of Circuit Court. Duties. Removal of watchman.

65. The Register of the City of Baltimore shall pay to the said watchman the sum of nine hundred dollars per annum, as, and for his salary, in the same manner as is provided for the payment of the salaries of the bailiffs of the courts. Ibid, s. 2. City Register to pay salary.

66. The clerk of the Court of Common Pleas in Baltimore City is hereby authorized and empowered to appoint a night watchman, whose duty it shall be to strictly and vigilantly guard throughout the year the records and papers deposited in the office of the clerk of the Court of Common Pleas, and who shall be removed, in the discretion of the said clerk, for neglect or carelessness in the discharge of his duties or for other good and sufficient cause. 1878, c. 479. Night watchman of office of Court of Common Pleas. Duties. Removal.

Ibid, s. 2.

Salary.

67. The Register of the City of Baltimore shall pay to the said watchman the sum of eighty-three dollars and thirty-three cents per month, as, and for his salary, in the same manner as is provided for the payment of the salaries of the bailiffs of the courts.

STENOGRAPHERS.

1867, c. 573, s. 1.

Fund for payment of stenographers.

68. In every action in which issue of fact is now, or shall hereafter be joined in the Superior Court of Baltimore City, or in the Court of Common Pleas, except in cases of appeal from a judgment of a justice of the peace, the plaintiff or plaintiffs in such action, shall as a condition precedent to such action being brought to trial, pay to the clerk the sum of three dollars, and in every such action brought in the Court of Common Pleas on appeal from a judgment of a justice of the peace, the party appellant shall, as a condition precedent to such action being brought to trial, pay to the clerk the sum of one dollar, and the amounts so received by the clerks of said courts, respectively, shall be accounted for under oath and paid over monthly by the said clerks to the Comptroller of the City of Baltimore, and by him deposited in the city treasury, to be used as a fund for the payment of the stenographers employed in said courts, as provided for in the next succeeding section. If the fund thus created be inadequate to pay such salaries, the additional amount necessary for such payment shall be taken and paid from the fund appropriated by the Mayor and City Council of Baltimore for certain expenses, to which fund any surplus of the sums so paid over to the Comptroller, as hereinbefore provided, shall be credited.

Ibid, s. 2.

Stenographers for Court of Common Pleas and Superior Court.

Their salaries.

69. The judge of each of the courts hereinbefore named, is hereby authorized and directed to appoint a stenographer for such court, who shall be a sworn officer of the court, and shall be paid a salary of twenty-five hundred dollars per annum, in like manner as the salaries of other officers of the court are now paid, as prescribed in section 134, P. L. L. Art.

4 (being sec. 61, p. 212, *ante*.) The stenographer so appointed shall be skilled in the practice of his art, and shall hold his position so long as he efficiently discharges the duties of his office. It shall be his duty, under the direction of the judge of the court, to take full stenographic notes of all oral testimony and judicial opinions orally delivered in every trial at the regular terms thereof; and in case the judge shall require a transcript of such stenographic notes, or of any portion thereof, he shall order the expense of such transcription to be paid equally by the parties to the action at the rate of ten cents for every one hundred words so transcribed, and shall enforce payment thereof; and the amount so paid, together with the sum paid as a condition precedent to the cause being brought to trial, shall be deemed a necessary disbursement of the trial and allowed as such to the prevailing party in the action, and shall be so taxed in the bill of costs of the action. It shall further be the duty of the stenographer to furnish to any party to such trials, upon request, a copy of the notes of testimony and judicial opinions taken by him on such trials, or of such part thereof as may be required, on payment, on behalf of such party, of the expense of such copy at the rate hereinbefore prescribed. It shall further be his duty, under the superintendence and direction of the judge of the court, to prepare for publication, from time to time, a volume of reports of such judicial opinions of the court as the judge thereof may designate, and particularly of such as may concern questions of interest to courts in other portions of the State. He shall receive no additional compensation for the preparation of such reports, but shall be entitled to the copyrights thereof, provided they shall be published at his expense.

Duties.

Reports of cases.

§ 70. The judges of the Orphans' Court of the City of Baltimore are hereby authorized and directed to appoint a stenographer for that court, who shall be a sworn officer of the court, but shall be required to attend the sessions of such court only

Ibid, s. 3.

Stenographer for Orphans' Court.

when specially summoned by the presiding judge thereof.

His duties. The stenographer so appointed shall be skilled in the practice of his art, and shall hold his position so long as he efficiently discharges the duties of his office. In any proceeding in said court in which either party shall give notice that in the event of a decision of said court adverse to the claim of such party, an appeal will be taken to the Court of Appeals, the presiding judge of the court shall require the attendance of the stenographer, whose duty it shall be in such proceedings, to take full stenographic notes of all oral proofs and judicial opinions orally delivered, and in case appeal shall be taken from the decision of the court, such notes shall be transcribed, and after being signed by the witnesses, deponents or affiants, shall become a portion of the record of the case, to be transmitted by the judges of the court to the Court of Appeals. By consent of the parties to the proceeding in which such proofs shall be taken, and of the judges of said court, the signing of such record* of proof by the witness, deponent, or affiant, may be waived, in which case such record, after being authenticated by the certificate of said stenographer, or of the presiding judge of the court, shall be deemed to be the record of any proofs or proceedings so taken. The stenographer shall receive

His compensation. as compensation for his services, the sum of eight dollars for each day of actual attendance at the court, by direction of the presiding judge thereof, which sum the presiding judge shall cause to be paid equally by the respective parties to the proceeding in which the notes shall be taken, and shall enforce payment thereof, and if the notes so taken shall be transcribed, as hereinbefore provided, the expense of such transcription at the rate of ten cents for each one hundred words so transcribed, shall be taxed in the bill of costs of the proceeding to

* Under act of 1867, c. 373, s. 3, [sec. 70 above] depositions of witnesses taken without the aid of the stenographer, are not required to be signed by the deponents. *Cannon, Admx.* v. *Crook & Wife*, 32 Md. 483; *Denison* v. *Denison*, 35 Md. 370.

the party appellant, and shall thereafter be awarded as costs by the Court of Appeals, in accordance with the provisions of section forty-two of article twenty-nine of the Code of Public General Laws.

71. The stenographer in each of the courts hereinbefore named may appoint an assistant stenographer, who shall also be a sworn officer of the court, to assist him in the discharge of his duties; provided, that no additional compensation shall be paid, or expense incurred, by reason of such appointment. Ibid, s. 4. Assistant Stenographers. Proviso.

SHERIFF.

72. The Sheriff of Baltimore City shall be allowed four dollars a day for every day he shall attend, either in person or by deputy, in the Superior Court of Baltimore City, and in the Court of Common Pleas, and in the Baltimore City Court, and in the Criminal Court of Baltimore, to be paid to him out of the money received as fees or fines in the Sheriff's office, belonging to the State. 1874, c. 300. Pay.

73. Any officer may send out his fees on execution at any time during the year. 1861, c. 55. Execution for fees.

74. The Sheriff shall collect the fees due to the following officers, which may be placed in his hands for collection, namely: attorneys, clerks of all the courts, commissioner of the land office, coroners, criers, registers of wills, surveyors and sheriffs. 1861, c. 53, s. 2. What officers' fees sheriff to collect.

75. The Sheriff may distrain or execute the goods and chattels of any person against whom any fees are placed in his hands for collection; provided, he has sixty days previously delivered to such person, or left at his place of abode, an account of such fees. Ibid, s. 3. When sheriff may distrain, &c., for fees. Proviso.

WITNESSES.

1878, c. 28.

Per diem.

In Criminal Court.

76. Witnesses attending any of the courts of Baltimore city, except the Criminal Court of Baltimore, shall be entitled to fifty cents a day, and in the Criminal Court shall not be entitled to said allowance, except by the express order of the court, and only in such cases as the court in its discretion may deem proper.

JUSTICES OF THE PEACE AND CONSTABLES.

1876, c. 28.

Appointment of justices.

77. The Governor, by and with the advice and consent of the Senate, shall appoint seven Justices of the Peace from the First Legislative District of Baltimore City, one for each of the wards thereof; seven Justices of the Peace from the Second Legislative District of Baltimore City, one for each of the wards thereof; six Justices of the Peace from the Third Legislative District of Baltimore City, one for each of the wards thereof; and six Justices of the Peace from the City of Baltimore at large, who shall be appointed from such ward or wards as the Governor may elect and determine.

1876, c. 28.

Bonds.

What to account for.

78. Each of said Justices of the Peace, before entering upon the duties of his office, shall give to the State of Maryland a good and sufficient bond, with a surety or sureties to be approved by the judge of the Superior Court of Baltimore City, in the penalty of five thousand dollars, with conditions that he will truly and faithfully discharge, execute and perform all and singular the duties and obligations of the office of Justice of the Peace; and that he will account for and pay over to the clerk of the Court of Common Pleas and to the Register of the City of Baltimore, respectively, all fines, penalties and forfeitures, or the portion thereof which he is bound to account for and pay over to said respective officers, and that he will faithfully and truly account for and pay over to the person or persons or corporation entitled to receive the same all money belonging to

such person or persons or corporation which may come into his hands as such justice of the peace.

79. The Justices of the Peace for said city shall keep their places of official business open each and every day (Sunday excepted,) from the hour of eight o'clock in the forenoon until one o'clock in the afternoon, and from three o'clock in the afternoon until six o'clock in the afternoon; but nothing herein contained shall be construed to exempt them from the duty of attending at all times to the criminal business of the State.

P. L. L., art. 4, sec. 621. Office hours.

80. No Justice of the Peace, in any case of debt or damages whatever, shall issue a summons or execution, except on application for the same by the plaintiff or his attorney in person, or by writing accompanied with the cause or causes of action in said case; and if any justice of the peace for said city shall issue a summons or execution contrary hereto, or if any constable shall serve the same knowingly, such justice or constable shall be liable to indictment in the Criminal Court of Baltimore, and shall on conviction be disqualified from holding his office.

Ibid, sec. 622. Not to issue writ but on application of plaintiff or attorney. Penalty.

81. Every summons issued by said justices shall be made returnable before the same, or any justice of the peace of the ward in which the debtor may reside, and the defendant shall have his election to have his cause tried before the justice who

Ibid, sec. 623. 1868, c. 375. Before whom summons may be made returnable, and case tried.

NOTE.—In City Court January 24, 1876, *Wollman* v. *Sonneborn*. In this case the plaintiff held defendant's promissory note for $100, on which interest was due. He sued before a justice, waiving the interest, and on appeal by defendant from the judgment below, Brown, C. J., held that: the plaintiff had a right, if he saw fit, to waive the interest for the purpose of bringing the case within the justice's jurisdiction, as the interest was not part of the original contract.

issued the summons, or before the justice of the ward in which he resides.*

* This act applies only to civil suits and not to a penal prosecution for violating a city ordinance, punishable by fine. *Mace's case*, 5 Md. 387, decides that the word "debtor" applies to one owing an obligation strictly civil in its nature, and does not describe the perpetrator of an offence "punishable by fines." *Smith* v. *Mayor, &c.*, Supreme Bench Baltimore City, 1869. Brown, C. J., made a similar decision in City Court June 12, 1874, *Finnegan* v. *Welby*, and relied on this case of *Smith* v. *Mayor, &c.*

The following are decisions by Brown, C. J., in City Court:

Wangeman v. *Brewer*, petition for a mandamus, Dec. '73. This is a petition by Ernest Wangeman, who resides in the tenth ward, for a writ of mandamus to be directed to Charles P. Brewer, a justice of the peace, appointed for the said ward, but who has his office in the ninth ward, requiring him to transmit the papers and proceedings on a writ of replevin issued by him against said Wangeman to Otto Benner, a justice of the peace, who has his office in the tenth ward. It does not appear for what ward Justice Benner was appointed. It is maintained by the petition that he has the right to insist that the case against him should be tried in the ward in which he resides, and, therefore, that the papers and proceedings should be transmitted to Justice Benner, because he has his office therein, whether he was appointed for that ward or not. The writ of replevin contains a summons to defendant. The act of 1868, chapter 375, provides that "every summons issued by said justices shall be made returnable before the same or any justice of the peace of the ward in which the debtor may reside, and the defendant shall have his election to have his cause tried before the justice who issued the summons, or before the justice of the ward in which he resides." (Sec. 81, above.) The election given to the defendant is to have his case tried either before the justice who issued the summons or before the justice of the ward in which he resides. The expression, "justice of the ward in which he resides," means justice *appointed for the ward* in which the defendant resides, and not a justice appointed for another ward but who has his office in the ward where the defendant resides; and as in this case Justice Brewer not only issued the writ, but was appointed for the ward in which the defendant resides, I have no doubt that he has jurisdiction of the case. The petition is dismissed with costs.

Wm. S. Rayner v. *H. W. Snowden*, April, '74. This is a petition by Wm. S. Rayner for a mandamus against H. W. Snowden, a justice of the peace. The petitioner states that he resides in the twelfth ward of the city of Baltimore, and that the defendent is a justice of the peace for a different ward, and that he issued a summons directed to petitioner, requiring him to show cause why restitution of certain premises should not be delivered to the plaintiff in the proceedings pending before the defendant. The petitioner

Article XIV.—Statutes.

82. The justices of said city, when called out of their offices on business not judicial, and not relating to criminal procedure, may receive such compensation for their services, in addition to their fees of office, as the party requiring their services may allow them.

P. L. L., art. 4, sec. 624.
Pay when called from office.

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further says that he made application to defendant for a removal of the said proceedings to George V. Metzel, a justice of the peace of the ward in which petitioner resides, but that said defendent refuses to transmit them, and the object of the mandamus is to compel him to do so. Petitioner claims that by virtue of section 623, P. L. L. Art. 4, for the city of Baltimore, as amended by the act of 1868, chapter 375, (section 81, above,) he has the right to elect that said proceedings shall be tried before a justice of the peace of the ward where *petitioner resides*. The privilege of election is a special one, granted by this section only, and the summons mentioned in it is against one who is described as a *debtor*, but the proceedings before Justice Snowden against the petitioner are for the *restitution of possession of land*, and are in the nature of a suit in ejectment, in which the defendant is not properly described as a *debtor*. This is made more plain by reference to the section immediately preceding, which only embraces cases of *debt or damages*. The proceedings for the restitution of land are to enable a landlord to obtain possession of his property after proper notice to the tenant, and are provided for by section 890, P. L. L., Art. 4, (see Art. L, Tenants for years,) which declares that "one justice of the peace for said city shall have all the powers conferred upon two by the general law in relation to landlords and tenants." The general law is found in the Code, P. G. L., Article 53, title Landlord and Tenant, and provides for proceedings by a landlord for recovery of land from his tenant, which are very different from actions for the recovery of small debts. The action of ejectment is in its nature a local action, and the summons is served on the tenant in possession of the land. I think it clear that the right of election given to defendants in section 623, (sec. 81 above,) does not apply to proceedings before a justice of the peace for the restitution of land, and that any justice of the peace for the city has jurisdiction in such cases where the land lies in any part of the city. The mandamus, therefore, cannot be granted, and the petition is discharged with costs.

In *F. B. Loney & Co.* v. *Smith, Dixon & Co.*, March '74, the action before the justice was against several defendants, one of whom demanded that the case should be removed before some other justice of the peace, under the law passed March 30, 1868, (sec. 81, above.) The justice refused to grant the removal, and on appeal Brown, C. J. held that in the foregoing act the word *defendant* was to be taken in a general sense as including defendant and defendants, and that the parties being joined in the action one could not demand removal, and that if there were four defendants who asked removal and only one who opposed it, they must all join or they could not demand removal of the case. Judgment affirmed.

1876, c. 28. Where to keep his office.

83. Each of the justices of the peace, appointed under the provisions of this act, for any legislative district, shall keep his office within the limits of the legislative district for which he may have been appointed, except as hereinafter provided.

1876, c. 28. Station house justices. Duties.

84. It shall be the duty of the Governor, after the appointment of the justices of the peace provided for by this act, to select from the justices of the peace, so appointed, a justice of the peace to sit at each station house in the city of Baltimore. It shall be the duty of the justices, so selected, to sit at said respective station houses, to hear all charges made against any person for any criminal offence; they shall examine carefully

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Harrison v. *Wheeler*, February 1875. The petition sets forth that on January 6, 1875, respondent, a justice of the peace of the city of Baltimore, at the suit of P. O. Burns, issued an attachment on a claim of $34.63, under the act of 1868, c. 447, against the goods and chattels of the petitioner, Harrison. The attachment was not laid in the hands of a garnishee, but was laid as per schedule on the goods and chattels of the petitioner. The petitioner was a resident of the fifteenth ward, and the justice was appointed for a different ward, and the petitioner therefore prayed the justice to transmit the papers and proceedings in the case to a justice appointed for the fifteenth ward. The Justice, believing that he had jurisdiction of the case, refused to grant the request, and this petition is filed for a mandamus to compel him to do so. The attachment was issued on a claim of debt due by the defendant to the plaintiff; and Article 10, section 10, of P. G. L., requires that "there shall be issued with every attachment a writ of *summons* against the defendant." It is clear that this case comes within the above provisions of the Local Code, which authorizes a defendant, when a summons for the recovery of a debt claimed to be due is issued against him by a justice of the peace, appointed for a ward in which the defendant does not reside, to have the case removed before a justice of the ward in which the defendant does reside. The fact that in addition to the summons there is also a writ of attachment issued against the goods and chattels of the defendant does not deprive the defendant of the writ of removal. The writ of mandamus must therefore be issued as prayed.

Scott, C. J., decided in *Brown* v. *Brewer*, J. P., May, 1869, in City Court, that the above section 81 is applicable to the case of an attachment on judgment. In the case of *Ashburn* v. *Maddox*, J. P., before Brown, C. J., in City Court, July 8, 1874, the mandamus was refused on the ground that the attachment, on judgment being issued against Ashburn and another defendant, the case could not be removed by Ashburn alone.

into such charges, when made, to the end that while justice shall be done, no person may be oppressed, or subjected to costs or imprisonment without just cause; it shall further be the duty of said respective justices of the peace, selected to sit at said respective station houses, to hear all cases in which any fine, penalty or forfeiture, not exceeding one hundred dollars, is sought to be recovered from any person or corporation, under or by virtue of any law of this State, or under or by virtue of any ordinance of the Mayor and City Council of Baltimore; the said respective justices, so selected, shall keep their respective offices at said respective station houses, and shall there attend from six o'clock A. M. to eight o'clock A. M. on every day in the week, and from ten o'clock A. M. until twelve o'clock M. on every day in the week except Sunday, and from two o'clock P. M. until six o'clock P. M. on every day in the week except Sunday, and on Sundays from six o'clock A. M. until seven o'clock A. M., and from five o'clock P. M. to six o'clock P. M. to perform such duties as their respective offices may require; each of said justices shall attend in addition, at his station house, at such other hours and times as he may be required to do by the Board of Police Commissioners for the City of Baltimore, or by the State's Attorney of Baltimore City, for the time being; the said justices of the peace, so selected, shall transact no other business at the said respective station houses, except the business provided by this act to be by them respectively done at such station houses.

Hours of service.

85. The justice of the peace, so selected, to sit at any station house, may be changed from time to time by the Governor, at his discretion, and any other justice of the peace may be selected by the Governor to perform the said duties at said station house.

1876, c. 28. Change of station house justices.

86. Each justice of the peace, selected to sit at a station house in the city of Baltimore, shall receive the sum of one hundred and seventy-five dollars per month, or a por-

1876, c. 28. Salary of station house justices.

tionable part thereof, so long as he shall continue to act at a station house in said city, under the selection of the Governor, as provided for in this act; which sum of money shall be paid to him by the Register of the City of Baltimore, at the end of each month of his said service, or a proportionable part thereof, at the end of any portion of a month, at which the service of such justice of the peace, at said station house may terminate, upon the certificate of the Board of Police Commissioners of Baltimore City, that such service has been rendered under the appointment of the Governor as aforesaid; and no justice of the peace, selected for a station house, shall be permitted to charge any fee, or receive any gratuity for granting any release, or for the performance of any duty required by law.

Certificate of Police Commissioners.

Fees and gratuities.

1876, c. 28.

When station house justices appointed temporarily by Police Commissioners.

87. If any justice of the peace, who has been selected as aforesaid to sit at any station house in the city of Baltimore, is unable by reason of sickness, or other unavoidable cause, to attend to his duties at said station house, at any time, when his presence is there required as provided for by this act, it shall be the duty of the Board of Police Commissioners of Baltimore City to require another justice of the peace to perform the duties at said station house of the said justice of the peace so sick or absent. And it shall be the duty of the justice of the peace, so required to perform said duties at said station house, to perform the same so long as may be necessary, or until the Governor shall select another justice to perform said duties. The justice of the peace so required to perform said duties at said station house by the said Board of Police Commissioners, in place of the justice selected by the Governor, shall receive eight dollars per day for every day he shall actually serve at such station house, which pay shall be deducted from the pay provided to be paid to the justice selected to sit at such station house and failing to attend, unless the said Board of Police Commissioners shall certify to the Register of the City of Baltimore that such absence from duty was occasioned by sickness, or

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other unavoidable cause, in which case it shall not be deducted from the pay of the justice of the peace selected to sit at said station house and so failing to attend.

1876, c. 28. When not to be paid fees by city.

88. No justice of the peace appointed under the provisions of this act shall be paid by the City of Baltimore any fee for issuing any State writ, or for any search warrant, or for taking the recognizance of any witness, or for taking any recognizance in any case reported to court, or for any commitment or release, or for issuing any *subpœna* in any criminal case, or in any case instituted to recover any fine, penalty or forfeiture claimed by the State of Maryland, or by the Mayor and City Council of Baltimore; and no police officer or constable shall be paid by the Mayor and City Council of Baltimore any fee for the service of any *subpœna* or process in any criminal case, before any justice of the peace, or for service of any *subpœna* or process in any case pending before any justice of the peace, for the recovery of any fine, forfeiture or penalty by the State of Maryland, or by the Mayor and City Council of Baltimore.

1876, c. 28. Writs, how served.

89. It shall be the duty of the officers of police, policemen and detectives appointed by the Board of Police Commissioners of Baltimore City, to serve and execute any and all writs, warrants, *subpœnas* and commitments, which may be issued by any justice of the peace, selected to sit at the station houses in the city of Baltimore as hereinbefore provided.

1876, c. 28. State writs and summons, how made returnable.

90. Whenever any justice of the peace appointed under the provisions of this act other than one of the justices selected as aforesaid to sit at a station house as aforesaid, shall issue a State writ for the arrest of any person, or shall issue any writ or summons, against any person or corporation, to recover any fine, penalty, or forfeiture, under any law of this State, or under any ordinance of the Mayor and City Council of Baltimore, such writ or summons, shall be made returnable before one of the justices of the peace selected by the Governor to

sit at a station house in the city of Baltimore, and shall not be made returnable before the justice of the peace issuing the same, unless he be one of the justices of the peace selected to sit at a station house as aforesaid.

1876, c. 28.

Before whom persons arrested on criminal charge, &c., taken.

91. Whenever any person shall be arrested upon any criminal charge, or for the violation of any law of this State, or of any ordinance of the Mayor and City Council of Baltimore, it shall be the duty of the police officer or constable, making such arrest, or in whose custody the said person so arrested may be, to take the person so arrested before the justice of the peace sitting at a station house, who may have issued the writ or warrant for such arrest, or before whom such writ or warrant of arrest is made returnable, but if such arrest is made without writ or warrant, or if such writ or warrant is made returnable before another justice than a justice of the peace sitting at a station house, it shall be the duty of the said police officer or constable to take the person so arrested to the nearest station house; and the justice of the peace sitting at said station house shall take jurisdiction in said case.

1876, c. 28.

Statements of accounts of State fines.

92. Every justice of the peace appointed under the provisions of this act, shall file with the clerk of the Court of Common Pleas, on the first day of April, July, October and January, in each and every year, an account, verified by his oath or affirmation, of all fines, forfeitures and penalties imposed by him under the laws of this State, during the three preceding months, which said account shall show the names of the respective defendants, the Acts of Assembly under which said fines, forfeitures or penalties were respectively imposed, and the amounts paid in each case by the said respective defendants; and the said justice of the peace at the time of filing said account, shall pay over to the said clerk the amount of said fines, penalties and forfeitures so received, or the portion thereof to which the State of Maryland is entitled, to be accounted for by said clerk as other moneys of the State are accounted for by him.

93. Every justice of the peace appointed under the provisions of this act shall file with the Register of the City of Baltimore, on the first day of April, July, October and January in each and every year, an account verified by his oath or affirmation, of all fines, forfeitures and penalties imposed by him under the ordinances of the Mayor and City Council of Baltimore during the three preceding months, which said account shall show the names of the respective defendants, the ordinance under which said fines, penalties or forfeitures were respectively imposed and the amounts paid in each case by said respective defendants; and the said justice of the peace, at the time of filing said account, shall pay over to the said Register the amount of said fines, penalties and forfeitures so received, or the portion thereof to which the Mayor and City Council of Baltimore is entitled, to be accounted for by said Register as other moneys of the said city are accounted for by him. 1876, c. 28. Statements of accounts of city fines.

94. If any justice of the peace shall not have imposed or received any such fines, forfeitures or penalties, or any portion thereof, as are mentioned and described in the said two preceding sections, in the said three months preceding the time hereinbefore prescribed for filing said accounts, he shall file an affidavit or affirmation to that effect at the time prescribed for filing said accounts. 1876, c. 28. Affidavit of justice as to accounts.

95. All costs paid to any justice of the peace, sitting at any station house, shall be accounted for and paid by said justice to the Board of Police Commissioners of Baltimore City, to be by them applied as directed by section eight hundred and fifteen of Article four of the Public Local Laws of the State of Maryland.* 1876, c. 28. How costs accounted for.

96. The Mayor and City Council of Baltimore are hereby authorized to appoint two constables for each of the several wards of Baltimore city. The said constables shall hold their 1876, c. 28. Appointment of constables.

* See sec. 11 of Art. XXXVIII, Police.

respective offices for two years from the date of their respective appointments, and until their respective successors are duly appointed and qualified. The said Mayor and City Council of Baltimore are hereby authorized to make the appointments directed by this section on the fourth Monday in March, eighteen hundred and seventy-six, and on the fourth Monday in March in every second year thereafter; provided that the Mayor of said city, shall have full power in his discretion to remove any of the said constables for any malconduct in office, whether the said constable may be convicted in a court of law, as hereinafter prescribed, or not.

1876, c. 28.

When justice or constable to be removed.

No deputy in serving writ.

97. If any justice of the peace, or constable, appointed under the provisions of this act, be convicted in a court of law of any misdemeanor in office, his removal from said office shall be part of the sentence or judgment pronounced upon him by the said court. No constable shall deputize any person to act in the service of any writ whatever, for or in his behalf.

P. G. L., art. 18, sec. 25.
Supersedeas.

98. It shall be lawful for the justices of the peace of the city of Baltimore to take *supersedeas* of any judgment recovered in the Court of Common Pleas, the Superior Court of Baltimore City, or Baltimore City Court, but such *supersedeas* shall be taken by the clerks of said courts respectively.

1870, c. 39.
1864, c. 179.
If a justice in Baltimore dies, papers to be delivered to clerk of City Court.

99. If a justice of the peace in Baltimore city dies, resigns or is removed, his docket and papers shall be delivered to the clerk of the City Court within thirty days thereafter.

FEES OF JUSTICES OF THE PEACE.

1870, c. 164.

100. The justices of the peace of this State, shall be entitled to receive the fees allowed in the following table, and such fees shall be taxed and paid by the party against whom judgment shall be rendered, to wit:

For issuing each summons in debt or damages, or writ of replevin	$ 25
For each summons for witnesses, including all the witnesses applied for at the same time	25
For venire to summon freeholders	35
For fieri facias	35
For venditioni exponas	35
For scire facias	45
For every supersedeas	20
For every oath or affidavit	10
For probate or account	10
For every judgment rendered where there is no trial	25
For every judgment rendered on trial	60
For every warrant of attachment against a resident debtor	45
For every attachment against a non-resident or absconding debtor	1 00
For attachment of contempt	25
For venire to summon a jury in a case of forcible entry and detainer, and summons to tenant	1 00
For taking inquisition and return thereof	4 00
For warrant of restitution	1 00
For taking every acknowledgment of every deed or other instrument of writing from each person making an acknowledgment	30
For a certificate of estrays	40
For issuing writ of attachment by way of execution	45
For taking replevin or other bonds	25
For entering every continuance	10
For every transcript from the docket	15
For every search	10
For binding apprentices, each justice	25

They shall be entitled to be paid in criminal cases, by the County or City of Baltimore, as the case may be, the following fees:

For issuing each State writ	25
For search warrant	25
For taking recognizances of witnesses, each	25
For taking recognizances in each case reported to court	25
For every commitment	25
For every releasement	25
For holding an inquest upon a deceased person	5 00
For issuing an attachment for a witness refusing to attend on summons of a commissioner	50
For taking depositions in cases of contested elections, per day	3 00

FEES OF CONSTABLES.

1865, c. 67; 1872, c. 424.

101. The constables in this State are entitled to demand and receive the following fees, to wit: For serving State warrant and return, seventy-five cents; for serving search warrant, seventy-five cents; for serving summons in civil suit and return, forty-five cents; for serving summons for witness and return, each witness, twenty cents; for serving scire facias and return, forty cents; for levying fieri facias and return, twenty cents; for delivering a person committed over to the jailor, seventy-five cents, and five cents per mile for every mile he may have to travel, and the actual necessary traveling expenses of each prisoner; for summoning jury on inquest, each juror, fifteen cents; for levying attachments for contempt, seventy-five cents; for serving writ of replevin and return forty-five cents; for serving warrant for distraint, twenty-five cents; for summoning and swearing appraisers on distress for rent, and in replevin, each appraiser, twenty-five cents; for serving an attachment in the hands of each garnishee, fifty cents; for killing dog found killing sheep, to be paid by the owner of the dog, four dollars; for poundage fees on any distraint, replevin, attachment or fieri facias, eight per cent. on the first twenty-five dollars, and three per cent. on the residue; but if the de-

fendant shall supersede the judgment on which the execution or attachment shall have issued, within four days after the same shall have been levied or served, the constable shall only be entitled to receive one-half of said poundage fees; for arresting any person charged with a misdemeanor for entering any enclosure and destroying property therein, in the limits of the city of Baltimore, or within four miles thereof, one dollar.

1865, c. 67; 1872, c. 424. Levy for constable's fees.

102. The county commissioners in the several counties, and the Mayor and City Council of Baltimore, shall levy on the assessable property of their respective counties or the said city, the amount of fees that the constables of the several counties or the said city are entitled to receive for executing criminal business; provided, that nothing contained in this section shall exempt any criminal from paying the cost of his arrest, if he shall be of sufficient ability to do so.

Proviso.

COSTS.

1874, c. 167. Costs in actions for wrongs independent of contracts.

103. In all actions at law for wrongs, independent of contracts, in any of the courts of Baltimore city, where the verdict or inquisition of damages after default made, shall be for a sum less than fifty dollars, the costs shall be adjudged to the defendant, unless the court shall otherwise determine; but the court, before allowing costs to the plaintiff in any such case, shall be satisfied that he had good reason for not bringing suit before a justice of the peace; and in all cases of appeal whatsoever from judgments of justices of the peace in Baltimore city, costs shall be allowed to plaintiff or defendant in the discretion of the court.

Costs in appeals from justices of the peace.

1867, c. 164. Costs to be paid by appellant.

104. Before the Baltimore City Court shall proceed to hear or try cases brought to that court by appeal from the judgments of justices of the peace, the judge shall first be satisfied

that all costs incurred on the judgment and proceedings before the justice aforesaid, shall have been paid by the appellant.*

* OPINIONS OF BROWN, C. J., MARCH, 1875.—*Rever* v. *Grab*, in City Court. This is a motion to reinstate an appeal which was dismissed when the case was reached for trial, because it appeared from the certificate of the justice that the costs below had not been paid to the appellant.

The appellant should have been prepared to prove that the costs were paid, if such was the fact, or to pay such as remains due, and the motion subsequently made would therefore, under ordinary circumstances, be too late. I shall, however, in view of all the facts, consider the question as if the motion had been made in proper time.

The proceedings commenced with a distraint warrant for rent claimed to be due by Rever to Grab, amounting to $16.85, and, as it was alleged that property had been fraudulently and clandestinely removed from the premises, a warrant was issued by Justice Slemmer to follow and seize the property removed. Under this warrant a bay horse was seized, which was appraised at $25. Rever then caused a writ of replevin to be isued by Justice Ritgert for the horse, and Grab appeared thereto and made avowry; that is, he claimed the property as landlord by virtue of the distress and became substantially plaintiff in the case. The replevin case was afterwards, on the application of Grab, removed from Justice Ritgert to Justice Slemmer. The costs in the replevin case which had accrued before Justice Ritgert up to the time of removal were paid by Rever.

The case was subsequently tried before Justice Slemmer, who decided in favor of Grab. Rever then appealed to this court.

The act of 1867, c. 164, requires that the judge of this court, before proceeding to hear or try the appeal, "be satisfied that all costs incurred on the judgments and proceedings before the justice aforesaid shall have been paid by the appellant." The appellant insists that, on taking the appeal, he paid all the costs due, amounting to $3.46, and has offered testimony to that effect. The appellee insists that the appellant paid only $2.40, of which $1 was applied by the justice to payment for the appeal bond, and $1.40 were credited to the rest of the costs due. As the docket of Justice Slemmer shows that only $2.40 were paid, and as he testifies that this was the true amount, I feel bound to accept his statement. The costs due, according to the statement of Justice Slemmer on the back of the papers, was $7.06, and after crediting said amount of $1.40, left a balance claimed to be due of $5.66.

It appears that the costs of the distress, amounting to $4.85, are included in the above costs, as charged by Justice Slemmer; and the appellant contends that they are improperly charged, because they are not properly a part of the costs in the replevin case, and therefore there was no need to pay them before the appeal could be heard.

Article XIV.—Ordinances.

ORDINANCES.

JUDGES OF SUPREME BENCH.

1. There shall hereafter be annually paid by the Register of the City, out of the city treasury, to each of the judges of the Supreme Bench of Baltimore City, the sum of five hun- No. 5, Dec. 2, '69. Register to pay judges.

The objection is, I think, well founded. I can find no practice which justifies taxing the costs of the distress as part of the costs of the replevin case. When Grab, the landlord, seized the horse he was entitled to hold him for the payment of the rent and also for the costs of the distress. Rever replevied the horse on giving a bond that he would prosecute the said writ of replevin with effect, and also would return the property if the same should be adjudged. But he did not prosecute the replevein with effect. On the contrary, the justice gave judgment for a restitution of the horse to the defendant Grab, and adjudged that the plaintiff Rever should pay $5 damages and 7.06 costs, which included the costs of the distress. The defendant was certainly entitled to the costs which he had incurred in levying the distress, but as they were not costs incurred in the replevein case, they should not have been charged as such, and the only way in which the justice could award them to him was by including them as part of the damages in the replevein case. That costs can be included in the damages allowed in a judgment for the defendant in replevin is shown by the form in 2 Evans; Harris, p. 359, and I am informed that the practice in Baltimore County Court was to include the costs of the distress in express terms, in the damages allowed to the defendant on his obtaining judgment in the replevin.

The appellant also objects that the justice included in the costs the sum of sixty-six cents allowed for witness fees, and contends that these are not costs which he is bound to pay before he can prosecute his appeal.

The act is very comprehensive in its terms. It requires this court to be satisfied that all costs incurred on the judgment and proceedings before the justice shall have been paid. The language is broad enough to include the costs payable to witnesses as well as those due to the justice, and those due to the constable who served the process, and I am satisfied that it embraces all alike.

The appellant further objects that Article 38, section 17, of P. G. L., allows to a justice 25 cents for taking replevin or other bonds, and that the justice had no right to charge $1 for the appeal bond. The appellee, however, contends that it is not the duty of the justice to prepare the appeal bond for the appellant, and that for this extra service he had a right to charge an additional fee. Such has undoubtedly been the custom for a long time, but it is certain that he would not have the right to charge more than 25 cents for the bond as part of the legal costs. Whether or not he would have the

$500 additional. dred dollars, as an addition to the salaries paid to the said judges by the State of Maryland, the said sum of five hundred

right to charge 75 cents in addition for services rendered in drawing the bond, without any agreement to that effect, it is not necessary for me to decide. Even if any charge for the bond over 25 cents is entirely excluded, there would still be a balance of costs due amounting to 6 cents, as shown by the following statement: costs before Justice Slemmer, including 25 cents for appeal bond, and excluding the cost of the distress, $2.46; paid by appellant on taking his appeal, $2.40; balance costs due, 6 cents.

The costs of the whole proceedings up to this time are as follows: Cost of the distress, $4.85; costs before Justice Ritgert, $5.75; costs before Justice Slemmer, $2.46, making $13.06. Costs in this court—attorney's fee of appellant, $5; clerk's costs of appellant $3.10; Sheriff's costs of appellant, 45 cents, making $8.55. Attorney's fee for appellee, $5; clerk's costs for appellee, $2.20; Sheriff's costs for appellee, 20 cents; witnesses, $6.50; entire amount, $37.51. Here, then, on a claim for rent of $16.85, costs have already been incurred amounting to $37.51, more than double the amount of the claim, and if I should reinstate the case and proceed to try it on the merits, the costs would soon be considerably increased. This case furnishes a striking and painful illustration of the rashness with which parties who can ill afford the expense too often engage in angry litigation, first before a justice, and then on appeal to this court, in controversies where the whole amount involved is soon largely exceeded by the taxed costs alone. The motion to reinstate the case must, however, be sustained on payment by appellant of the six cents due, because while the costs actually due amounted to only six cents, which doubtless the appellant would have been ready and willing to pay, through a mistake of the justice costs amounting to $5.66 were charged and demanded, and by reason of the non-payment thereof the appeal was dismissed.

DEC., 1874, in City Court.—These are appeals from four judgments rendered on the same day by Justice Staylor, in favor of the appellees and against the appellant, on four promissory notes, each judgment being for the amount of one of the notes and for less than one hundred dollars, but the notes added together amounted to $185.62. On receiving the notes the appellees gave to the appellant a receipt, stating that they were "in settlement of account to date." The notes were drawn by the appellant (George W. Berry) to the order of the appellees (Seldner & Son), and payable respectively at thirty days, sixty days, ninety days, and five months after date. Some three months after the last of the notes had matured, the appellees caused the four several suits to be brought on them, before the said justice. The appellant thereupon, before trial, filed with the justice a paper suggesting "that as all four notes and suits thereon embraced one matured indebtedness, there is no jurisdiction on the part of the justice, the amount being in the aggregate

dollars be paid in equal quarterly instalments on the first days of January, April, July and October of each year, be-

over one hundred dollars," but the justice disregarded the suggestion, and gave judgment for the appellees in each case, and the sole question presented on the appeals was whether the justice had jurisdiction. Brown, C. J., held that: Article 51, section 13 of P. G. L., provided that "the civil jurisdiction of justices of the peace extends to all cases for the enforcement of contracts, and to obtain redress for wrongs where the debt or damages claimed shall not exceed one hundred dollars. Each note being below the amount of one hundred dollars, the question is whether it constitutes a debt within the meaning of the Code on which suit may be separately brought before a justice, or whether the four notes should be consolidated into one debt and the jurisdiction of the justice ousted. The Code provides, Article 49, section 9, that where two or more actions arising *ex contractu* between the same plaintiff and the same defendant shall be brought at the same time, the court shall, on motion of the defendant, order the actions to be consolidated, but this provision obviously can only apply to courts holding regular terms, and can have no application to justices of the peace. The account in this case originally exceeded one hundred dollars, and the appellees could not by their own act have divided it into several parts of less than one hundred dollars each, and have then brought a separate suit on each part. To do so would have been to commit a fraud upon the law. But when the appellant gave his four notes in settlement of the claim he voluntarily divided it into four parts, making each a separate debt, and the appellees could have sued on each note as it became due, or could have endorsed the notes to different parties, who each could have had a right of action against the appellant. This right of the appellees to consider each note a separate debt, they did not lose by permitting all the notes to fall due before they brought suit, but each note still constituted a separate debt, because the appellant himself had made it so. I am satisfied, therefore, that a true construction of the Code gave to the appellees the right to bring at the same time separate suits on the four different notes in the justice's court, and to obtain separate judgments thereon, and I cannot see that any inconvenience or injustice can follow from such a practice. Debts can be recovered much more expeditiously and at much less cost in a justice's court than in a court of higher jurisdiction, and there is no policy of the law which would justify this court in attempting to limit the meaning of the plain language of the law which confers jurisdiction on justices where the debt claimed does not exceed one hundred dollars. This question has never been decided by the Court of Appeals of this State, but similar questions have arisen in other States, and the decisions fully sustain the views I have expressed, as will be seen by a reference to the following authorities: *Bridle* v. *Grau*, 42 Mo. 359; *Herrin* v. *Buckelew*, 37 Ala. 585; *State* v. *King*, 5 Ind. 439; *Collins* v. *Woodruff*, 4 Eng. 463; *Fortescue* v. *Spencer*, 2 Iredell, 63.

ginning on the first day of January, eighteen hundred and seventy.*

SUPERINTENDENT AND WATCHMAN OF THE COURT HOUSE AND RECORD OFFICE.

No. 31, s. 1, R. O.

Superintendent and watchman appointed.

2. There shall be annually appointed, as other city officers are appointed, a superintendent and one able-bodied watchman, to take charge of the court house and record office, and surrounding grounds.

Ibid, s. 2.

Duty of superintendent.

3. The said superintendent shall be a man of temperate habits, strict integrity, and general good character, and also capable of keeping accounts, and he shall have entire charge of said property, securing the same from depredation, causing it to be kept in good repair and cleanly condition, and furnishing the necessary fuel and attending to the heating and lighting of the several departments included within said buildings and grounds, except the room occupied by the Orphans' Court for Baltimore City, which room shall be under the exclusive supervision and control of the Register of Wills for Baltimore City, as hereinafter provided. And the said superintendent shall annually, during the first week of January, make to the City Register an estimate in detail of the expenses to be incurred for the current year for the said keeping, including therein the cost of fuel, of repairs, of necessary fixtures, of furniture, of laborers, and of all othes proper incidental requisitions, taking

Register of Wills to have control of Orphans' Court room.

Superintendent to report annually.

*This ordinance recites, that, by the thirty-first section of the fourth article of the Constitution of the State of Maryland, authority is given to the Mayor and City Council of Baltimore to pay to each of the judges of the Supreme Bench of Baltimore City an annual addition of five hundred dollars to their respective salaries; and that, in the opinion of the Mayor and City Council of Baltimore, the salaries of said judges, as now paid to them by the State of Maryland, are totally inadequate to compensate them for the discharge of their onerous and responsible duties, and that it is impossible that any increase of their salaries can be made without an amendment of the Constitution of the State, except by the passage of this ordinance.

into consideration only those expenses rightly chargeable to the city treasury as distinct from those to be provided for by the departments themselves; and in no case shall said superintendent incur other expenses than those so estimated for and appropriated by the Mayor and City Council, and the said Register in no case shall exceed such appropriations, always excepting that upon an emergency occurring not to be foreseen in said annual estimate, the Mayor during the intermission of the session of the Council, may order the necessary expenditure, and the Register is hereby authorized to pay the same out of any money not otherwise appropriated; provided, the same shall not exceed the sum of two hundred dollars, and the vouchers for all such expenditures be filed with the Register.

Expenses not to exceed appropriation.

Proviso.

4. The watchman appointed under this ordinance shall be a man of like good character for integrity and sobriety, and shall be required to take charge of said buildings, grounds and apartments during the night, under such arrangements and instructions as to the time of commencing and continuing the watch hours, as well as the performance of all other duties connected therewith, as shall be made by the Mayor; it being hereby also provided, that at no time shall the said buildings, grounds and apartments be from under the charge and personal attendance of either said superintendent or watchman, and likewise that said watchman shall be subject to the supervision of the captain of the police for the district, who shall report any delinquency of duty to the Mayor.

No. 31, s. 3, R. O.

Duty of watchman.

Proviso.

5. The said superintendent and watchman shall each enter into bonds, with sufficient security to be approved by the Mayor, for the faithful performance of their duty; and for neglect of the same, the said superintendent or watchman may be removed by the Mayor.

Ibid. s. 4.

Superintendent and watchman to give bond.

6. The salary of said superintendent shall be twelve hundred dollars per annum, payable monthly, and the salary of the said watchman shall be one thousand dollars per annum, pay-

Ibid, s. 5. No. 56, Aug. 9, '67; No. 64, May 13, '64; No. 9, Feb. 27, '74; No. 51, Apl. 23, '75.

Salary of superintendent and watchman. Proviso. Substitute.

able monthly; provided always, that in case of absence from duty, from any cause, of the superintendent or watchman, a substitute shall be appointed for the time—if the watchman be absent a substitute shall be appointed by the superintendent; if the superintendent be absent a substitute shall be appointed by the Mayor or Register; the pay of such substitutes to be the same as the officers they represent; said pay to be deducted from the pay of the watchman or superintendent, as the case may be.

No. 31, s. 6. R. O. No expense to be incurred unless provided for by this ordinance.

7. It is hereby distinctly declared and provided, that no debt or contract for debt for expenses incurred for the keeping, repairing, furnishing or in any manner providing for the said buildings, apartments, grounds or appurtenances thereto belonging otherwise than is enacted and provided for by this ordinance, shall be acknowledged as binding on the Mayor and City Council or be paid by the Register, except by special enactment.

JANITOR OF ORPHANS' COURT.

No. 31, s. 2, R. O.; No. 45, July 2, '60; Res. No. 177, May 30, '61; No. 58, May 2, '64. Janitor of Orphans' Court. How appointed. Duties. Salary.

8. The Register of Wills for Baltimore City is hereby authorized and empowered to employ a suitable person to attend to the heating and lighting of the rooms occupied by the Orphans' Court for said city, and to the keeping of the same in good repair and cleanly condition, at a salary of two hundred and fifty dollars per annum, payable monthly by the City Register, out of the amount estimated by the superintendent for the current year, as provided in section three of this ordinance, upon the order from said Register of Wills for said compensation.

JANITOR AND WATCHMAN OF OLD MASONIC BUILDING.

No. 23, Apl. 16, '68; No. 9, Feb. 27, '74. Janitor of old Masonic Hall Court House.

9. There shall be annually appointed, as other city officers are, a janitor, whose duty it shall be to keep in order, clean and arrange the various offices in the building known as the Old Masonic Hall on St. Paul street, now used for the purposes

of the Supreme Bench, the Baltimore City Court and the Circuit Court of Baltimore City; the salary of said janitor shall be at the rate of one thousand dollars per annum, payable monthly. Salary.

10. There shall be annually appointed by the Mayor, as other city officers are appointed, a watchman of the Old Masonic Hall mentioned in the preceding section and used for the purposes therein set forth, whose duty it shall be to take charge of and watch said building, between the hours of 6 o'clock P. M. and 7 o'clock A. M., and who shall remain in or about said building continuously between said hours. He shall be paid as compensation for his services, at the rate of two dollars and fifty cents per day. No. 8, Jan. 20, '71; Res. No. 8, Mar. 16, '69. Watchman of same. Salary.

ARTICLE XV.

CRUELTY TO ANIMALS.

STATUTES.

1. How punished.
2. Overdriving, cruelly beating, starving, &c., horses, oxen, &c.: penalty.
3. Owners, drivers or persons in charge, punishable.
4. Justices and judges of courts: Society for Prevention of Cruelty to Animals.
5. Bull, bear or dog baiting or fighting, &c.: penalty.

ORDINANCES.

1. Cock fighting prohibited: penalty: fines.
2. Live fowls not to be tied by legs: penalty.
3. Muzzling calves: penalty.
4. Burning, cutting or muffling mouths of calves: penalty.

STATUTES.

P. L. L., art. 4, sec. 190. Cruelty to animals; how punished.

1. If any person shall wilfully cause or procure any bull-baiting, cock-fighting, or the fighting of dogs, in the City of Baltimore, or shall wilfully and wickedly kill, cripple, or commit acts of cruelty upon animals in said city, or any of the streets, lanes or alleys thereof, every such person and those aiding therein shall be liable to prosecution and punishment in the Criminal Court of Baltimore, as for other misdemeanors.

1878, c. 387, s. 1. Overdriving, cruelly beating, starving, &c., horses, oxen, &c.

2. Whoever shall overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, or kill, or cause or procure to be so overdriven, overloaded, overworked, tortured, tormented, deprived of neces-

sary sustenance, cruelly beaten, mutilated or killed, any horse, ox, or other animal, shall be punished by a fine of not less than five dollars, nor more than twenty dollars, to be recovered on complaint by any member of the Society for the Prevention of Cruelty to Animals, or by any other person, before any justice of the peace in Baltimore city. Penalty.

3. Every owner, driver or possessor, or person having charge or custody of a maimed, disabled or diseased horse, mule or other animal, who shall cruelly work the same when unfit for work, or cruelly abandon the same, shall be punished in the same manner as provided in the preceding section. Ibid, s. 2. Owners, drivers or persons in charge punishable.

4. It shall be the duty of any magistrate in the city of Baltimore, or the judge of any court in the said city, before whom is brought for trial any person or persons charged with the violation of any of the provisions of this article, to admit the president of the Society for the Prevention of Cruelty to Animals, or the counsel of said society, to aid any State's Attorney in the prosecution of such person or persons. Ibid, s. 3. Justices and judges of courts. Society for Prevention of Cruelty to Animals.

5. Any person or persons who shall keep or use any bull, bear or dog for the purpose of fighting or baiting the same, or as a target to be shot at, either for amusement or as a test of skill in marksmanship, or who shall be a party to or be present as a spectator at any such fighting, baiting or shooting of any bear, bull or dog, or any person who shall rent any room, shed, ground or premises for the purpose of fighting, baiting or shooting any animal as aforesaid, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine of not less than twenty dollars nor more than fifty dollars, or be imprisoned in the jail of the city of Baltimore for not less than thirty days nor more than ninety days, or be both fined and imprisoned, in the discretion of the court before whom such person or persons may be tried and convicted. Ibid, s. 4. Bull, bear or dog fighting or baiting, &c. Penalty.

ORDINANCES.

No. 36, ss. 14, 17, R. O.
Cock fighting.

1. No match or main of cocks shall be fought within the city of Baltimore, and if any match or main of cocks shall be fought within the said city, every person who shall trim, heel, pit or hand any cock so fought, and every owner of any cock consenting to his fighting, and every person who shall bet on such match or main, shall severally forfeit and pay the sum of twenty dollars for every such offence.

Penalty.

No. 128, Aug. 7, '76.
Live fowls not to be tied by legs.

2. It shall not be lawful for any person or persons to offer for sale, in any of the markets or streets of the city of Baltimore, any live fowl or fowls when tied by the legs; any person so offending shall forfeit and pay the sum of two dollars for each and every offence, to be recovered in like manner as other fines and penalties are recoverable.

Penalty.

No. 57, s. 66, R. O.
Muzzling calves.

3. Whenever cows with calves may be exposed or offered for sale, and it may be necessary to confine one or the other with cords or otherwise, the calf only shall be confined, under a penalty not exceeding three dollars; and any person who shall muzzle or tie the mouth of any calf to prevent it from drawing from the cows its natural and accustomed food, shall forfeit and pay a sum not exceeding five dollars, nor less than three dollars.

Penalty.

No. 27, s. 69, R. O.
Burning, cutting or muffling the mouths of calves.

4. It shall not be lawful for any person to burn, sear or cut the inner part of the mouth of any calf, or while passing through or standing in the streets or market places of the city, to confine, or cause to be confined, the mouth of any calf by rope, twine or any kind of muffle placed over the mouth or otherwise of such calf; and every person so offending, shall for every such offence forfeit and pay the sum of five dollars.

Penalty.

ARTICLE XVI.

DEAF, DUMB AND BLIND.

STATUTES.

DEAF AND DUMB.

1. What Deaf and Dumb to be educated by public.
2. Duty of Governor of State: appropriations: provisos.

BLIND.

3. Annual appropriation for indigent Blind.
4. Recommendation.
5. Yearly amount to each: term of instruction.

REPORT OF GOVERNOR.

6. Governor to report to Legislature.

ORDINANCES.

DEAF AND DUMB.

1. Deaf Mutes: proviso: certificate of physician: when Mayor to authorize admission into Frederick Institution: appropriation.
2. Annual appropriation.
3. Agent of the city of Baltimore: duties.
4. Annual appropriation for transportation: Comptroller to issue his warrant for expenses &c.

STATUTES.

DEAF AND DUMB.

1. It shall be and is hereby made the duty of the Mayor and City Council of Baltimore, on the application of any parent, guardian or next friend (provided such parent, guardian or next friend has been a bona fide citizen of this State for at least two years previous to such application) of any deaf and dumb person of teachable age and capacity, not exceeding the age of twenty-one years, to inquire into the age and capacity of said deaf and dumb person, and also into

P. G. L., art. 33, sec. 1. What deaf and dumb to be educated by public.

the ability of such person, his or her parent or guardian, to pay the expense of his or her education; and if satisfied by evidence produced that such person is of teachable age, and is endowed with capacity to receive instruction, and that neither such person, his or her parents or guardian is possessed of means to pay for such instruction, then it shall be the further duty of the Mayor and City Council of Baltimore aforesaid, to certify the same to the Governor of this State.

1865, c. 68; 1870, c. 478.

Duty of Governor of State.

2. On receiving the certificate of the Mayor and City Council of Baltimore, as aforesaid, it shall be the duty of the Governor to authorize the instruction of said deaf and dumb person in the Maryland Institute for the education of the deaf and dumb located at Frederick, for a term not exceeding seven years; and it shall be the further duty of the Governor, on the certificate of the president of said institution, that such deaf and dumb person has been taught at said institution, to order the Comptroller of the Treasury to

Appropriations.

draw his warrant on the Treasurer of this State for two hundred dollars per annum, for each deaf and dumb person taught in pursuance of his authority at said institution, payable to the president thereof, in quarterly payments, on the first days of January, April, July and October, in each year; and the Governor shall also order the Comptroller of the Treasury to draw on the Treasurer his warrant, payable to the proper party for the expenses necessarily incurred in transporting and returning said deaf and dumb person; provided, that the whole amount drawn from the treasury, for the purposes aforesaid, shall not exceed seven thousand five hundred dollars in any one year; provided further, that the Governor shall dispose of applications in behalf of deaf and dumb persons, under the provisons of this article, in the order in which they may be made; and if the applications be more than sufficient to absorb the foregoing appropriation, he shall suspend the action upon the excess until vacancies occur, or further provision be made by the General Assembly.

Provisos.

BLIND.

3. A sum not exceeding fifteen thousand dollars shall be annually appropriated, to be applied, under the direction of the Governor, in placing for instruction in the Maryland Institution for the Instruction of the Blind, such indigent blind persons of the age of nine years and upwards, inhabitants of this State and the county or city from which they are recommended, as may be duly recommended to the Governor by the County Commissioners of each county, or the judges of the Orphans' Court of Baltimore City.

1868, c. 205. Annual appropriation for indigent blind.

4. The recommendation shall state that such blind persons are in such indigent circumstances as to be unable, from their own resources, or those of their parents, to obtain instruction, and are of good natural capacity.

P. G. L., art. 33, sec. 4. Recommendation.

5. The amount per annum paid for any one individual, shall not exceed the sum of three hundred dollars, nor the term of instruction eight years.

1865, c. 75. Yearly amount to each; term of instruction

REPORT OF GOVERNOR.

6. The Governor shall report to the General Assembly at each regular session thereof, the amount of money expended by him in pursuance of the provisions of this article, and the names, ages, and places of residence of the different applicants.

P. G. L., art. 33, sec 6. Governor to report to Legislature.

ORDINANCES.

DEAF AND DUMB.

1. On the application of any parent, guardian, or next friend of any deaf mute of teachable age, and good mental capacity, (provided such parent, guardian, or next friend has been a *bona fide* resident of the city of Baltimore for at least three years continuously previous to such application,) ac-

No. 43, June 21, '69. Deaf mute. Proviso.

companied by the certificate of a practising physician, certifying to the deafness of the child, and at the same time the parent, guardian or next friend shall produce satisfactory evidence under oath, of their inability to pay for the maintenance and education of the same, it shall be the duty of the Mayor to authorize the admission of said child, for a term not exceeding seven years, into the institution for the instruction of deaf and dumb at the city of Frederick, Md., and pay for its maintenance, tuition and clothing, a sum not exceeding two hundred dollars per annum.

Certificate of physician.

When Mayor to authorize admission into Frederick Institution.

Appropriation.

Ibid, s. 2.

2. The sum of eight thousand dollars is hereby appropriated annually for the purpose of carrying out the provisions of this ordinance.

Annual appropriation.

Ibid, s. 3.

3. The Mayor shall annually appoint, as other city officers are now appointed, a person who shall be styled the agent of the city of Baltimore for the deaf and dumb institution at Frederick, who shall see that all applicants are examined, and certificates filed with the Mayor, in compliance with the provisions of the first section of this ordinance, and who shall have a general supervision of all matter connected with the interest of the city in connection with said institution, and who shall receive no salary.

Agent of the city of Baltimore.

Duties.

Ibid, s. 4.

4. The sum of two hundred dollars is hereby appropriated annually to pay transportation and other expenses incurred by the agent of the institution, in carrying out the provisions of this ordinance; and the Comptroller shall issue his warrant for the payment of the expenses incurred by the agent in carrying out the provisions of this ordinance, upon his filing the proper vouchers for the said expenditures, under affidavit, with the Comptroller.

Annual appropriation for transportation.

Comptroller to issue his warrant for expenses, &c.

ARTICLE XVII.

ELECTIONS.

STATUTES.

1. Redivision of wards into election precincts.
2. How numbered: numbers to be recorded and published.
3. Vote to be received only in precinct where voter resides.
4. Board of supervisors of elections: judges of elections: names of judges to be published: complaints to Board: proviso.
5. Vacancies among judges.
6. Judges to be conservators of the peace: to preserve order and suppress riot.
7. To select places of voting: what places shall not be selected: barriers to be erected at polls.
8. Power of judges to commit persons: power over sheriff and posse.
9. Penalty for refusing to obey summons of judge.
10. For refusing use of jail: proviso: reservation of powers to Board of Police.
11. Clerks of election: pay of judges and clerks: what expenses to be paid by Mayor and City Council.
12. Oaths of judges and clerks.
13. Notice of places of election to be given.
14. Hours of voting.
15. Ballots to be taken before examination of voters: box for rejected ballots to be kept: rejected ballots to be sealed and put in: box to be sealed and kept twelve months: when to be destroyed.
16. Drinking houses to be closed: penalty for selling liquor.
17. Judges to go before grand jury: penalty for neglecting to do so.
18. Grand jury not to be discharged without presentment of judges' appearance.
19. Grand jury to present judges failing to appear: on presentment warrant to issue for: presentment to go to next grand jury: charge to jury: penalty.
20. Penalty on judge of election failing to preserve peace.
21. Sheriff to give notice of elections: failure of notice: places of election: penalty: judges refusing legal or allowing illegal votes: imprisonment: penalty.
22. Penalty for preventing legal or procuring illegal voting: for voting illegally.

23. Penalty for conspiring to prevent legal or procure illegal voting: for assaulting or intimidating voters: for destroying ballots or ballot boxes: for violence to judges or clerks: for resisting officers: for destroying naturalization papers.
24. Power to seize arms.
25. Powers of Board of Police saved.
26. How above provisions to apply to elections in Baltimore: federal, State and municipal elections: Board of Police.
27. Want of notice not to invalidate election: proviso.

ORDINANCES.

1. Returns by judges.
2. Penalty for illegal voting.
3. Vacancy in City Council.
4. Fines and forfeitures.

STATUTES.

1876, c. 247.

Re-division of wards into election precincts.

1. The Board of Police of the City of Baltimore before July first, eighteen hundred and seventy-six, and before the holding of any election whatsoever in the said city, shall lay out and divide each and every of the wards of said city into election precincts,* each of which shall contain as nearly as may be six hundred voters, and shall from time to time, as changes of population or alteration of the metes and bounds of the wards in said city may require, alter and correct the said precincts, so that the voting population in each of said precincts shall be maintained as nearly as may be at six hundred voters, and shall give notice by publication of such division, and of all changes, alterations and corrections thereof, and shall record the outlines of said precincts in the mode provided in the next succeeding section.

P. L. L., art. 4, sec. 201.

How numbered; numbers to be recorded and published.

2. The Board of Police shall cause the said precincts in each and every ward to be numbered one, two, &c., and the description of each thereof to be recorded in a book to be kept by them for the purpose, and as soon as the said division shall have been so made and recorded, the said board shall

* See the re-division under Article I, p. 25, *ante*.

cause the said description of the several precincts, with their respective numbers, to be published daily three times in all the daily papers of the city of Baltimore, which shall be willing, for a proper compensation, to insert the same.

3. After the making of such several divisions or distributions into precincts, the votes of the citizens entitled by law to vote in any ward of the city of Baltimore, shall be given and received only at the place of voting in the precinct in which they shall reside at the time of such voting, or in which they may have last resided previously to their removal from the said ward, if they have so removed, and have not acquired a legal residence elsewhere. Ibid, s. 204. Vote to be received only in precinct where voter resides.

4. During the session of the Legislature, (of 1876,) and during each succeeding session thereof, the Governor of Maryland, by and with the advice and consent of the Senate, shall appoint three persons, residents and voters in the city of Baltimore, who shall be styled the Board of Supervisors of Elections in the City of Baltimore. The said board shall serve without compensation, and shall hold office for the term of two years from the first day of May next after their appointment, and shall exercise the powers and perform the duties hereinafter set forth, or which may from time to time be conferred or imposed upon them by law; in case of a vacancy occuring in said board when the Legislature is not in session, the vacancy shall be filled by the Governor. It shall be the duty of said board, or a majority thereof, not less than three weeks before every election to be hereafter held in the city of Baltimore, to appoint three discreet persons, no one of whom shall hold office or employment under the Government of the United States, or the State of Maryland, or of the city of Baltimore, to act as judges of election* 1876, c. 223. Board of Supervisors of Elections. Judges of Election.

* The office held by judges of election is judicial, and such officers cannot be held legally responsible for any thing more than an honest and faithful exercise of judgment, and are not liable for the consequences of mistakes

in each of the voting precincts of the said city, one of whom shall be of a political party different from that with which the other two are connected, and shall designate in said appointment one of said persons as presiding judge. The said judges shall be legal voters of the precincts for which they shall be appointed, and they and their successors in office shall hold office for the term of one year from and after the date of their appointment, subject, however, to removal by the said board, whenever the said board shall be convinced of the unfitness of any judge, or credibly advised of any misconduct on his part in his office of judge of election as aforesaid; and the said board shall publish the names of judges so removed in one daily paper published in the city of Baltimore, within one week after such removal; but each and every person so appointed to act as judge of election shall, unless excused or removed by the said board, or disqualified by ill health, or otherwise according to law, be bound to serve as such judge for the term of one year as aforesaid when appointed, once in every five years if required, and in case of refusal so to do, shall be liable to a penalty of five hundred dollars, recoverable by the said board by civil action in the name of the State; and a failure to attend at any election, during said term, unless prevented by sickness or other sufficient cause, shall be deemed a refusal within the meaning of this section; it shall be the duty of the said board before each election in said city, to publish in two daily papers published in said city daily for one week, the last insertion to be not less than two weeks before the day of election, the names of all the judges of election by them

Names of judges to be published.

honestly made. In an action against judges of election, for refusing to permit the plaintiff to vote, the declaration must allege that the act was done wilfully and fraudulently, or corruptly; for wrongs so done, these officers are liable both civilly and criminally. *Bevard* v. *Hoffman et al.*, 18 Md. 479; *Anderson* v. *Baker*, 23d Md. 621.

appointed, designating the wards and precincts in which they are to serve, and shall receive and consider all complaints in writing preferred against the fitness and qualifications of any one or more of the said judges of election; provided, however, that no publication of the names of substitutes for judges removed or disqualified by sickness or otherwise shall be required.

Complaints to Board.

Proviso.

5. The said board shall have power, and it shall be their duty to fill all vacancies which may be caused among said judges by death, disqualification or refusal to act, or otherwise, and from time to time to appoint successors to those judges whose term of service may be about to expire, or may have expired, and substitutes to fill vacancies as aforesaid, and every such substitute shall hold office until the end of the original term of one year for which his predecessor was appointed.

1876, c. 223.

Vacancies among judges.

6. The said judges of election, and each of them, are made conservators of the peace while they shall be acting as such judges, and shall have full power and authority, and are hereby respectively commanded to preserve the peace at and about the places of voting of their respective precincts from the time that the polls shall have been opened therein until the returns of the votes taken at any election therein shall have been made; and they, and each of them, shall have full power, and it shall be their duty to keep the polls of their respective precincts clear, or cause them to be kept clear, so that ingress thereto and egress therefrom shall be free and unobstructed to the voters; and to prevent and suppress riots, tumult, violence, disorder and all other improper practices, tending to the intimidation or obstruction of voters, or the disturbance or interruption of elections.

P. L. L., art. 4, sec. 207.

Judges to be conservators of the peace.

To preserve order and suppress riot.

7. The said judges, or a majority of them in each precinct, shall have power, and are hereby directed, to select the places of voting in and for their respective precincts, and

Ibid, s. 208.

To select places of voting.

to take care that the same be as near the centre of such precincts as may be, and upon an open, public street, in a free, accessible and convenient location, and that no tavern, liquor store, grog-shop, or other place at which liquor shall usually, or at the time, be sold, shall be by them taken or used as a place of voting; and they shall take all such measures, whether by the erection of barriers, or establishing limits around the polls or otherwise, as may be necessary and proper in their judgment, to prevent crowding at or near the polls, or the interruption of voters in approaching or returning from the same; and it shall be their duty, by proper precautions in advance and by such regulations and arrangements beforehand, or on the day of election, as may be suitable, to secure the peaceful conduct of such elections as may be held during their official terms, and the protection of the voters and the ballot-boxes from violence and fraud.

What places shall not be selected.

Barriers to be erected at polls.

Ibid, s. 209.

8. In order to enable the judges to discharge the duties imposed on them by this article, or any other law, they, and each of them, shall have full power and authority upon every day of election, and until they shall have made up the return of the votes polled, to commit to the jail of Baltimore city, upon their warrants respectively, all persons who shall, within their respective precincts, violate, or attempt to violate, any of the provisions of this article, or any section thereof, or of any other law touching elections now existing, or hereafter to be enacted, and they are authorized to call upon the Sheriff of Baltimore and his deputies, and all constables, policemen or other peace-officers, to serve the said warrants; and they are further authorized and directed at the times and for the periods aforesaid, to call upon the said Sheriff and his deputies and other officers last above mentioned, as well as all private citizens, and if need be to summon the *posse comitatus* to aid them in suppressing riot, violence, disturbance and disorder, and in preserving the public peace, pro-

Power of judge to commit persons.

Power over Sheriff and posse.

tecting themselves and other voters, and securing the quiet and freedom of the election and the safety of the ballots and ballot-boxes.

Ibid, s. 210.

Penalty for refusing to obey summons of judge.

9. Any person or persons whom the said judges or any of them may so summon, or on whom they may so call to execute the said warrants, or aid them respectively, as hereinbefore provided, and who shall refuse to obey such call or summons, shall be liable respectively to the penalties following for such refusal, to be recovered by the said board of police, by civil action, in the name of the State, that is to say: the said Sheriff to a penalty of five thousand dollars, any other peace officer aforesaid to a penalty of five hundred dollars, and any private citizen to a penalty of one hundred and fifty dollars; and each and every person so refusing shall be liable, moreover, to indictment, and such punishment for such refusal as is by law already or may hereafter be provided.

Ibid, s. 211.

Penalty for refusing use of jail.

Proviso.

Reservation of powers to Board of Police.

10. Any officer or person having control, command, or keeping of the jail of Baltimore city, who shall refuse to receive or detain, and any officer of the corporation of said city who shall prevent or forbid the reception or detention in such jail of any person so committed by said judges, or any of them, according to the exigency of such commitment, shall be liable to a penalty of one thousand dollars for every such offence, recoverable by said Board of Police, by civil action, in the name of the State, and likewise to imprisoment for not less than sixty days, upon conviction thereof in any criminal court of competent jurisdiction; provided, however, that nothing contained in this article shall be construed to impair or destroy the authority of the said board of police under the provisions of the article constituting the same, and prescribing their powers and duties, and especially under the provisions of the article authorizing them to control and com-

mand all conservators of the peace on the occasions and in the manner therein provided.

1876, c. 223.

Clerks of elections.

Per diem of judges and clerks.

What expenses to be paid by Mayor and City Council.

11. The said board of Supervisors of Elections shall likewise appoint for every election two clerks, of different political parties, for each election precinct, who shall respectively discharge the duties by law belonging or hereafter to be assigned to clerks of election, and who shall receive two dollars *per diem* each for their services as such. The said judges of election shall receive two dollars *per diem* each for their services; the compensation of such judges and clerks, and all expenses to be incurred by the said judges under this article or otherwise according to law, as well as all expenses to be incurred by the said Board of Supervisors necessary and proper for the performance of their duties as aforesaid, as well as all expenses incurred by the Board of Police in the divison of the wards into precincts, as provided by this article, and in recording and publishing the same or otherwise under this article, or in the execution thereof, to be paid and recoverable from the Mayor and City Council of Baltimore, and to be provided for by said Mayor and City Council by taxation or otherwise.

1868, c. 377.

Oath of judges.

12. Each of the said judges, as soon as may be after his appointment, and before proceeding to act as such judge of election, shall take the oath or affirmation prescribed by article thirty-five of the Public General Laws as amended by the act of the General Assembly, passed at the January session thereof, in the year eighteen hundred and sixty-seven, chapter three hundred and seventy-four, repealing and adopting a substitute for section nine of said article,* and every clerk

* The section cited is as follows:

Every judge of election, at every election to be hereafter held in pursuance of law, before he proceeds to take or receive any vote, shall take the following oath or affirmation: I. A. B., do swear (or affirm) that I will permit all persons to vote who shall offer to vote at the election now to be held for—— county, or —— city, whose names shall appear on the registry or list of voters

of said election, as soon as may be after his appointment, and before he enters any vote on the poll book, shall take the oath or affirmation prescribed in section ten of said article thirty-five of the Public General Laws;* and the said judges and clerks respectively, shall likewise make oath or affirmation well and faithfully to discharge the duties, by this article imposed on them respectively, or which may be assigned to them respectively, during their official term by law. Oath of clerk.

13. On the morning of each day of election in said city and on the day preceding, if practicable, the judges of each precinct shall give public notice by advertisement in all the daily papers of the said city, the proprietors whereof shall be willing for reasonable compensation to insert the same, of the places at which the polls shall be held in their respective precincts. P. L. L., art. 4, sec. 214. Notice of places of election to be given.

14. At every election in the city of Baltimore, the polls shall be open for the reception of votes from six o'clock A. M. until six o'clock P. M., and no longer. Ibid, sec. 215; 1872, c. 23. Hours of voting.

15. It shall be the duty of the judges of election in each of the precincts hereinbefore provided for, so soon as any person shall present himself to vote or offer to vote therein, to take from him the ballot which he shall tender, before they shall examine him or any other person touching his qualifications, and before they shall determine in regard thereto; and the said judges in each precinct in addition, to the ballot box or boxes, to be used for the reception of votes which they Ibid, sec. 216. Ballots to be taken before examination of voters.

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furnished to me according to law, as qualified voters under the Constitution and Laws of this State, and that I will not permit any person to vote at the same election whose name shall not be found upon the said registry or list of qualified voters; and I will in all things execute the office of judge of the said election, according to the best of my knowledge, without favor or partiality, so help me God.

*"That I will well and faithfully without favor, affection or partiality execute the office of clerk of the election now to be held," &c.

Box for rejected ballots to be kept.

Rejected ballots to be sealed and put in.

Box to be sealed and kept twelve months.

When to be destroyed.

shall receive as legal, shall provide another box, wherein all ballots which they shall reject shall be separately deposited by the said judges, each in a sealed or closed envelope, with the name of the party offering the same endorsed thereon; which said box shall be sealed up immediatey after the said election, and deposited with the Board of Police aforesaid, until the end of twelve months next ensuing, when, if the said ballots shall not have been or shall not be required for the purpose of any election contest or judicial investigation, (in which cases they shall be produced and opened if necessary,) they shall be destroyed by the said board without being opened.

Ibid, sec. 217.

Drinking houses to be closed.

Penalty for selling liquor.

16. It shall be unlawful to keep open in the said city on any election day, any drinking establishment or bar room, or any grog-shop whatsoever, or to furnish any spirituous or fermented liquor therein or therefrom, and any person or persons who shall be guilty of violating this section, or of retailing or dispensing any spirituous or fermented liquors on any election day in said city, shall on conviction thereof forfeit his or their license, if he or they shall have taken out any, and be disqualified from taking out any other license for the sale of such liquors for the space of five years thereafter, and shall moreover be liable to a penalty of five hundred dollars, to be recovered by said Board of Police by civil action in the name of the State; and it shall be the duty of said board and of the Sheriff and his deputies, and of all policemen, constables and other peace officers, to take care that the provisions of this section be complied with, and to inform upon all persons violating the same, of whose offences they shall have knowledge or information.

Ibid, sec. 218.

Judges to go before grand jury.

17. It shall be the duty of each and every of the said judges of election, immediately after each election at which they shall have acted as such, to appear before the grand jury of the Criminal Court of Baltimore, if in session,

and if not, before the grand jury of said court which shall next be in session thereafter, to be examined touching any and all violations of the provisions of the Constitution, or of this article, or of any other law relating to elections of which they may have personal knowledge, or which they may have reasonable ground to believe to have been committed at such election; and every judge of election in said city failing so to appear before the grand jury as aforesaid, prior to the adjournment of the same, and to give such information as aforesaid as he may possess in the premises, shall be liable to a penalty of five hundred dollars, to be recovered by the said Board of Police by civil action, in the name of the State, unless the judge or judges so failing to appear, shall have furnished to the said grand jury before their said adjournment, his or their certificate signed by him or them, and under oath made and certified before a justice of the peace of said city, that he or they did not know, and had no reason to believe, that any such offences had been committed at the said election; which certificates shall be returned by the grand jury to the said court, and preserved and recorded by the clerk thereof.

Penalty for neglecting so to do.

18. No grand jury sitting at the time of any election in said city, or assembling next thereafter, shall be discharged by the said court, until they have made written presentment, on their oaths, to the said court that they have diligently and to the best of their knowledge and ability, examined such judges of election as may have come before them, and inquired into and acted upon all complaints concerning alleged violations of the Constitution and laws touching elections at the election next preceding, and all matters concerning the same which have come to their knowledge, or concerning which they have had any information or reasonable ground for inquiry.

Ibid, sec. 219.

Grand jury not to be discharged without presentment of judges' appearance.

Ibid, sec. 220.

Grand jury to present judges failing to appear.

On presentment, warrant to issue for arrest.

Presentment to go to next grand jury.

Charge to jury.

Penalty.

19. It shall further be the duty of the said grand jury to make presentment to said court, on their said adjournment, of all judges of election who shall have failed to appear before or certify to them as aforesaid, who shall be at once arrested and held to bail to answer at the ensuing term of said court; and it shall be the duty of the State's Attorney immediately to apply for, and of the court to issue a bench warrant for such arrest, and the State's Attorney shall likewise lay the said presentment or presentments before the next grand jury, on the first day of their session, with the proper indictments thereupon, which it shall be the duty of the said grand jury to find on the said presentments; and the said court shall give the provisions of this article in relation to elections in charge to each and every grand jury which shall be in session at the time of any election held in said city, or next thereafter; and any failure so to do, and any neglect on the part of the judge of said court or of the State's Attorney for said city to perform the duties by this section imposed on them respectively, shall be, and the same are hereby, declared to be acts of criminal misbehavior in office on the part of said judge and State's Attorney respectively.

Ibid, sec. 221.

Penalty on judge of election failing to preserve peace.

20. Any judge of election who shall wilfully neglect, or shall when called on wilfully decline or refuse to exercise the power conferred on him by this article for preserving the peace on election days, and securing the tranquility and freedom of elections, and the safety and uninterrupted access of the voters to the ballot boxes, shall be liable for every such offence to a penalty of five hundred dollars, recoverable by civil action, by said Board of Police, in the name of the State.

1867, c. 141; 1878, c. 427.

Sheriff to give notice of elections.

21. The Sheriff of Baltimore City, under the penalty of one thousand dollars, shall at least two weeks previous to every election in said city, whether federal, State or munici-

pal, except special elections* otherwise provided for, hereafter to be held in the said city, cause public notice to be given by advertisement set up at the most public places in each precinct of the several wards of said city, and also by advertisement in all the daily newspapers printed in the said city, of the time of holding said election in the said city, but if from any cause said notice shall fail to be given, said failure shall not effect the validity of the said election, or of any election to be thereafter held, but it shall be the duty of the several judges of election in the said several precincts in the several wards of the said city, at the time prescribed by law, and at the place previously selected, and advertised by them as required by section seven of this article, and in default of any place having been selected or advertised as aforesaid, then at the usual places of holding elections in said several precincts, or at the place where the last preceding election was held in such precinct, under the penalty of five hundred dollars for each judge refusing or knowingly and wilfully neglecting to hold such election; and any judge of election who shall wilfully and knowingly refuse a legal vote when offered, or shall wilfully and knowingly receive an illegal vote, or conspire with any person or persons whatsoever to violate the provisions of this article, or of any other law, or of the Constitution of the State, touching elections,

Failure of notice.

Places of election.

Penalty.

Judges refusing legal or allowing illegal votes.

* Sections 49 and 51 of Article 35, P. G. L. are amended by the act of 1878, c. 427, as follows:

49. Warrants for all special elections shall be issued to the Sheriff of the county or city where the election is to be held, who shall appoint a day for the holding of the same, and shall give at least ten days' notice thereof, exclusive of the day of publication and day of election, by advertisements set up at the most public places within each district of the county, and by advertisements in two newspapers of general circulation in such county. In the city of Baltimore ten days' previous notice shall be given in the manner herein prescribed of all special elections, whether for federal, State or municipal officers.

51. Such elections shall be held within fifteen days after the warrant shall be received by the Sheriff.

Imprisonment. shall be guilty of a misdemeanor, and be subject to imprisonment for not less than six months for each and every such offence, upon indictment and conviction thereof in a court of Penalty. competent jurisdiction, as well as to a penalty of one thousand dollars for receiving an illegal vote as aforesaid, to be recovered in a civil action by the said Board of Police, in the name of the State; and to a penalty of one thousand dollars for refusing a legal vote as aforesaid, to be recovered in a civil action, in any court of competent jurisdiction, by the person whose vote shall have been refused as aforesaid.

P. L. L., art. 4, sec. 223. 22. If any person shall prevent or hinder, or attempt, or Penalty for preventing legal or procuring illegal voting. conspire with any other person or persons to prevent or hinder any voter from exercising his right of suffrage in the city of Baltimore, by threat, intimidation, violence, or any other unlawful means, whether before or during election time, or shall detain or imprison any person or persons with the view or intent of causing, procuring or forcing such person or persons to vote illegally, or against his or their will, or under compulsion, in any precinct in said city, such person so offending, and every person who shall be guilty of For voting illegally. wilfully voting or offering to vote illegally, or causing or procuring any other person to vote illegally, in any precinct of the said city, shall. on conviction thereof, be adjudged guilty of felony, and be sentenced to not less than two, nor more than six years imprisonment in the penitentiary; and Repeating. it shall be deemed illegal within the meaning of this article, to vote or offer to vote in more than one precinct, or more than once in any precinct, at any election, or without being constitutionally or legally qualified, or in violation of the Constitution, or of this article, or of any other law; and all acts made punishable under article thirty-five of the Code of Public General Laws, when committed within or with reference to any election district or districts of any county, are

hereby declared to be illegal when committed within or in reference to any election precinct or precincts aforesaid.

Ibid, sec. 224.

23. Any two or more persons who shall, during any election in the city of Baltimore, assemble, conspire or combine together for the purpose of driving any voter or voters from the polls, or preventing, or obstructing, or beating, injuring, or intimidating any voter or voters in coming to or returning from the polls; and any person or persons who shall assault, wound, beat or otherwise maltreat or injure, or shall offer to maltreat or injure, or shall by menace or violence, or otherwise, intimidate, overawe, or control any voter while at the polls, or going to or returning from the same; and any person or persons who shall wilfully destroy or mutilate, or attempt to destroy or mutilate, any ballot that may have been deposited in any ballot-box, or in any box for rejected ballots, in said city, or any election returns, clerk's book, tally list, poll book, list of voters, or certificate of election, or who shall steal or destroy, or attempt to steal or destroy, any box or boxes aforementioned, or withdraw, or attempt to withdraw, therefrom illegally any ballot or ballots which may have been deposited therein, or attempt or commit any violence against any person or persons having lawful charge of the same, or against any judge or clerk of election in the discharge of his duty as such; or who shall forcibly resist the execution of any lawful order of any judge or judges of election under the provisions of this article, or of any other law, or shall on election day, or while the returns of any election are being made up, forcibly resist any policeman or peace officer in the discharge of his duty at or about the polls, or under this article, or shall forcibly resist any private citizen acting lawfully under the lawful order of any judge of election given in conformity with this article, or any other law, for the purpose of securing the peace and freedom of any election in said city; or shall seize, take, steal, mutilate, or

Penalty for conspiring to prevent legal or procure illegal voting.

For assaulting or intimidating voters.

For destroying ballots or ballot boxes.

For violence to judges or clerks.

For resisting officers.

For destroying naturalization papers.

destroy the naturalization papers, or certificate, or written evidence of naturalization of any naturalized voter, or attempt so to do either at or near the polls, or while the said voter shall be proceeding thereto or returning therefrom, shall be deemed guilty of felony, and be sentenced, upon conviction thereof, to confinement in the penitentiary for not less than three nor more than six years.

Ibid, sec. 225.

Power to seize arms.

24. If the said Board of Police shall have reason to believe that in the neighborhood of any election polls in the said city or elsewhere, within any election precinct of the same, there is any depot or collection of fire arms or other weapons or ammunition intended to be used for the purpose of intimidating or injuring voters, or interfering with the freedom or peace of any election then pending or approaching, it shall be the duty of the said board to apply to the Criminal Court, or some justice of the peace of said city, for a warrant, on proper oath, to search the premises, and the said court or justice shall issue the same without delay, and shall cause the said arms, weapons and ammunition, if found, to be seized and delivered to said board, to be detained until the day after the returns of said election shall have been made, and until the same shall be disposed of by law.

Ibid, sec. 226.

Powers of Board of Police saved.

25. Nothing contained in this article shall be construed to deprive the said Board of Police of any police powers, or relieve them from any obligations imposed upon them by Article XXXVIII, relating to the Board of Police, and prescribing their powers and duties; but the said Board of Police may either carry out the orders of said judges of election, or themselves take command and control, if they deem necessary, of the persons and officers, and assume the conduct of the measures which may be required to promote the purposes of the preceding sections of this article relating to elections, and the security of the elective franchise.

1867, c. 141.

How afore provisions to apply to elections in Baltimore.

26. The provisions of the preceeding sections of this article shall apply to all elections in the city of Baltimore, whether federal or State, or municipal, and all elections to take place hereafter in the city of Baltimore, shall be by ballot, and shall be held and proceed, and the returns thereof made in conformity with the provisions of Article thirty-five of the Public General Laws, except in so far as the same may be modified by the provisions of this article, and no election to be held in the city of Baltimore, whether federal, State or municipal, shall be valid unless held under and in conformity with the provisions of this article, and under and subject to the provisions of the article establishing a permanent police in the city of Baltimore, and defining and enforcing its powers and duties, and under and subject to the control and command as to all police purposes of said Board of Police; and no judge of any court in this State shall have or exercise the power of preventing or delaying the qualification of any Mayor or member of the City Council, or the exercise and performance of their official duties by injunction, recognizance or any other proceeding.*

Federal, State and municipal elections.

Board of Police.

P. L. L., art. 4, sec. 228.

Want of notice not to invalidate election.

27. No election to be held under the provision of this article, and which shall be otherwise valid, shall be held invalid because of any failure of the said Board of Police, or the said judges, to make the advertisements hereinbefore required, or because of any disqualification or want of qualification of any judge or judges of election, or any member of said board; provided, however, that any wilful failure or neglect of said board or the said judges to make the said advertisement, or of the said board to appoint properly qualified judges, whether in the stead of any so disqualified

Proviso.

* As to Registration of Voters, see 1876, c. 249, and 1878, c. 352; *Hardesty* v. *Taft*, 23 Md. 526; *Anderson* v. *Baker*, *Ibid*, 615. 33 Md. 142.

or otherwise, shall be held and taken to be a misdemeanor, and shall be punishable by fine in the discretion of the court, on conviction thereof in a court of competent jurisdiction.

ORDINANCES.

No. 93, Oct. 11, '60.
Returns of judges.

1. The judges of elections for municipal officers, are hereby required to make return and deposit their polls with the Register of the City in the time prescribed in section 19 of Art. 4 of Public Local Laws, (sec. 20, statutes of Article I, p. 13, *ante.*)

No. 2, s. 1, R. O.
Penalty for illegal voting.

2. If any person at any election hereafter held for any corporation purposes, having voted once, shall offer to vote again in any precinct of the same ward, he shall be subject to a penalty of ten dollars for such offence; and if any person shall offer to vote in any name not his own, or in place of any other person of the same name, or shall offer to vote in any precinct of any ward, in which he does not reside, or residing out of the city, shall offer to vote at any such election, he shall forfeit twenty dollars; and in either case, it shall be the duty of the judges of election to cause his immediate arrest.

Ibid, s. 2.
Vacancy in City Council.

3. In case of any vacancy happening in the Council,* the Mayor is hereby authorized and directed immediately to notify the sheriff, who shall proceed as he is required by law in cases of special elections; and who shall give ten days public notice previous to said election, of the time and place in the ward in which such vacancy occurs of holding such election.

* See sec. 19, Art. 1, p. 13 and p. 259. *ante.*

Article XVII.—Ordinances.

4. All the fines and forfeitures imposed by the second section of this ordinance shall be for the use of the City.* Ibid, s. 4. Fines and forfeitures.

* See sec. 7, of Article XIX, Fines and Forfeitures.

NOTE.—A. being an aspirant for nomination to the City Council, B. agreed with C, a person claiming to have influence with the German voters of the ward, to secure the nomination of A. at a primary election. Under this contract C. did use his influence as agreed on, and also supplied, on the order of B., the German voters with beer and cigars. The nomination, however, was not obtained, and B. refused to pay for the refreshments; suit was brought by C. against B., and on the trial in the City Court, July 16, 1872, Brown, C. J. held that the contract was against public policy and consequently void: and that the principle of law governing such cases was as applicable to primary as to legal elections; each party was adjudged to pay his own costs.

On a case of contested Mayoralty election in the Superior Court of Baltimore City, under secs. 53 and 54 of Art. 35, P. G. L., it was held: That the jurisdiction of the Superior Court, in cases of this kind, is a special and exclusive jurisdiction, and there being no provision by the law for the right of appeal, its judgment in the premises is final and conclusive. *Warfield* v. *Latrobe*, 46 Md. 123.

ARTICLE XVIII.

FERRIES.

STATUTES.

1. Powers to Broadway and Locust Point Steam Ferry Company: wharf at foot of Broadway.
2. Wharf at foot of Haubert street.
3. All other ferry boats excluded: penalty.
4. Gates and ticket houses.
5. Ferry boats: hours of running.
6. Rates of fare.
7. Who to pass free.

STATUTES.

1867, c. 187, s. 2. Powers.

1. The Broadway and Locust Point Steam Ferry Company of Maryland* is created to establish a steam ferry, suitable to transport passengers, goods, wagons, carriages, live stock, or any other transportable article across, over

*The Broadway and Locust Point Steam Ferry Company of Maryland, was incorporated by act of 1868, c. 187, with the usual powers and limitations. Its charter was extended by the act of 1876, c. 301, on condition that the company places on the line two new steam ferry boats within four and nine years from date of act.

The act of 1868, c. 187, incorporating the Broadway and Locust Point Ferry company, after conferring general ferry rights, authorized and empowered the Company "to hold and use as a wharf or landing for the use of said ferry, the end of the wharf commonly known as the county wharf, together with a right of way in common with others, through the centre of said wharf, of the width of ten feet, as a thoroughfare for travel to and from the end of said wharf." It also imposed certain conditions, upon the performance of which, by the company, the privileges conferred by the act were made to depend. Held: That the act of incorporation was constitutional and valid, and conferred upon the company the exclusive right to hold and use the end of the wharf for ferry purposes. *B. & L. P. F. Co. v. Hankey*, 31 *Md.* 346.

and within the harbor of Baltimore, and the said corporation is hereby made capable of erecting wharves, buildings, or any other contrivances necessary or convenient for the conduct of the business of the ferry, for which purpose the said corporation is authorized to purchase, hold, sell, rent or lease land. And the said company is hereby authorized and empowered to hold and use as a wharf or landing, for the use of said ferry, the end of the wharf commonly known as the County wharf, together with a right of way in common with others, through the centre of the said wharf, of the width of ten feet, as a thoroughfare for travel to and from the end of said wharf; and all the remainder of the border sides and surface of the said wharf, except the end and right of way hereby granted, shall be and the same is hereby reserved exclusively for the landing of such fruits, vegetables, and other agricultural products as may be brought from the counties to the city of Baltimore for sale or otherwise.

County wharf.

Reservation.

2. The said corporation is hereby authorized and empowered to occupy and use the wharf at the foot of Haubert street, in the city of Baltimore, as a wharf or landing place for the ferry boats of said company, in exclusion of all other steam ferry boats plying in the harbor of said city.

1870, c. 436.

Exclusive right to use wharf in B. & L. P. S. F. Co.

3. It shall not be lawful for any steam ferry boat, other than one of those belonging to the said Broadway and Locust Point Steam Ferry Company of Maryland, to land at, or use either of the sides or the end of said wharf at the foot of Haubert street, nor the end or either of the sides of

Ibid, s. 2.

All other ferry boats excluded.

Ords. No. 3, Feb. 8, '62, No. 65, May 13, '64, No. 5, Nov. 11, '64, were impliedly repealed by act of 1868, c. 187. See *Hankey* v. *Abrahams*, 28 Md. 588. Ord. No. 172, May 28, '61, authorized the City Block Ferry and Towing Company to run a steam ferry boat from end of West Falls avenue to Great Hughes street. The Locust Point Steam Ferry Company of Maryland was incorporated by acts of 1849, c. 34, and 1852, c. 161.

the wharf at the foot of Broadway mentioned in the first section of this article; and any and every person or persons in charge, control or command of any steam ferry boat, other than a boat belonging to the said company, who shall use, or attempt to use, the ends or either of the sides, or any part of the wharves mentioned, for a landing place or wharf for the steam ferry boat so in his or their charge, control or command, shall each be subject to, and shall pay a fine of twenty-five dollars for each and every time the said steam ferry boat so in charge, control or command of such person shall touch at either of the wharves aforesaid, which fines shall be enforceable and collectable, according to the provisions of the fortieth article of the Code of Public General Laws of Maryland, [p. 270, *post.*]

Penalty.

Ibid, s. 4.

4. The said company is hereby authorized to erect gates and ticket houses on the wharves at the foot of Broadway and Haubert street in said city of Baltimore.

Gates and ticket houses.

1868, c. 187, s. 3; 1870, c. 436, s. 3.

5. The said corporation shall keep and run on their ferry routes two good and substantial steam ferry boats, staunch and seaworthy, and supplied according to the law in such cases made and provided; and the said corporation shall so manage the said ferry as that one of their ferry boats shall leave each end of said ferry at least every ten minutes, between the hours of six o'clock A. M. and eight o'clock P. M., and at intervals of twenty-five minutes between the hours of eight o'clock P. M. and twelve o'clock midnight.

Ferry boats.

Hours of running.

1868, c. 187, s. 4,

6. The said corporation shall not charge any greater sums than are contained in the following scale of prices, to wit: For one passenger, five cents; for one horse, mule or ass, and rider or driver, ten cents; for one cow and driver, ten cents; for every swine, three cents; for every sheep, two cents; for every calf, two cents; for every heifer, three cents; for one horse, cart and driver, fifteen cents; for two

Rates of fare.

horses, cart and driver, eighteen cents; for one horse, wagon and driver, fifteen cents; for two horses, wagon and driver, eighteen cents; for every additional horse to those above enumerated harnessed to a wagon or cart, three cents; for every two seated carriage and two horses, fifteen cents; for every four seated carriage and one horse, twelve cents; for every four seated carriage and two horses, twenty cents; for every additional horse to those above enumerated, harnessed to a carriage, five cents; for one lumber wagon and one horse or two horses, twenty-five cents.

7. The firemen in actual discharge of their duties, together with their apparatus, accoutrements and horses, police officers in the actual discharge of their duties, and all funerals, shall pass free. Ibid, s. 5. Who to pass free.

ARTICLE XIX.

FINES AND FORFEITURES.

STATUTES.

1. How collected under ordinances.
2. Right of appeal.
3. When suits in court to be tried.
4. Fines to whom payable.
5. Dispensaries.
6. No security to be taken for payment of fines and costs: person to be committed: provisos.

ORDINANCES.

1. City officers to commence suits before justices.
2. Suits: officers to report to Mayor.
3. Register to pay costs.
4. Mayor to make compensation: Register to pay: statement.
5. Mayor to take measures to recover money from justices, &c.
6. When informer to pay costs.
7. Informer not entitled to any part of fine or penalty.
8. Superseded judgments of justices: copies to be filed with Register.
9. When Mayor may remit fines: proviso: list of fines remitted, for Register.
10. When to pay costs and jail charges.

STATUTES.

P. L., L., art. 4, sec. 229. How collected under ordinances.

1. All fines, penalties and forfeitures imposed by the ordinances of the city, if not exceeding one hundred dollars, shall be recovered before a justice of the peace as small debts are, and if any fine, penalty and forfeiture exceed the sum of one hundred dollars, it shall be recovered by action of debt in the name of the corporation in the Criminal Court of Baltimore.*

* Art. 40, of P. G. L. is as follows:

1. All fines, penalties and forfeitures, where the law imposing them does not prescribe the mode of collecting or enforcing them, shall be collected as

2. An appeal shall lie from the judgment of a justice of the peace imposing any fine, penalty or forfeiture, under the ordinances of the corporation to Baltimore City Court, and shall be heard and decided at the session of the court next succeeding the appeal, unless the court shall then be in session, in which case the appeal shall be heard and decided at that session, unless the court, in its discretion, shall grant a continuance. Ibid, sec. 230. Right of appeal.

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follows: If not exceeding one hundred dollars, by action of debt in the name of the State before a justice of the peace; if exceeding one hundred dollars, by action of debt in the name of the State in the Circuit Court for the county where the offence was committed; or if in the city of Baltimore, in the Baltimore City Court; or if the fine, penalty or forfeiture exceeds twenty dollars, the same may be collected and enforced by indictment in the court having criminal jurisdiction in the county or city where the offence was committed.

2. No person shall be liable to an action of debt and to an indictment for the same offence, but whichever preceding is first instituted shall be prosecuted and the other abandoned.

3. All fines, penalties and forfeitures, when recovered, shall be paid to the county or city where the same may be imposed, unless directed to be paid otherwise by the law imposing them; but if there be an informer, he shall have half, unless otherwise provided; this section not to apply to fines or forfeitures for offences at common law.

The act of 1874, c. 59, adds the following section to Article 40, P. G. L.:

Any person who shall or may hereafter be committed to jail by the judgment of any court of justice, or by any justice of the peace of this State, for non-payment of any fine and costs not exceeding the sum of fifty dollars, who shall have remained in custody as aforesaid for the space of thirty days; or any person who shall or may hereafter be committed to jail in manner aforesaid, for non-payment of any fine and costs above fifty, and not exceeding one hundred and fifty dollars, who shall have remained in custody aforesaid for the space of sixty days, shall be discharged from further imprisonment on account of said fine and costs; provided, such person shall prove, to the satisfaction of the court imposing said fine and costs, or any judge thereof, or justice of the peace, as the case may be, that he or she is unable to pay said fine and costs.

The term "debt" in that clause of the Const., Art. 3, sec. 38, which provided that "no person shall be imprisoned for debt," does not embrace fines or penalties imposed by courts for a breach of the peace or the commission

Ibid, sec. 231. When suits in court to be tried.

3. All suits in the Criminal Court for fines, penalties and forfeitures under the ordinances of the city, shall stand for trial at the first session of the court to which they are brought, and in the event of an appeal to the Court of Appeals in any such cause, the same shall stand for argument at the term to which the appeal is taken.

Ibid, sec. 232. Fines, to whom payable.

4. One-half of all fines adjudged by and accruing in the Criminal Court of Baltimore, (except those mentioned in the next succeeeding section of this article,) when secured by the Sheriff of Baltimore City, shall be paid to the Mayor and City Council of Baltimore; and out of said fines, the judge of said court may order and direct to be paid to the States's Attorney for said city, such additional fees, in cases of extraordinary duration and trouble, as he may deem just and reasonable; but this section shall not have any effect upon the rights of informers.

Ibid, sec. 233. Dispensaries.

5. All fines imposed by said court on persons convicted of keeping houses of ill fame shall be divided equally between such Dispensaries of said city as shall have had under their charge during the year preceding at least fifteen hundred patients.

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of a crime. *State* v. *Mace*, 5 Md. 337; *Day* v. *The State*, 7 Gill, 322; *Broadbent* v. *The State*, 7 Md. 249.

Where a party was indicted under the act of 1817, c. 227, [P. L. L., Art. 2, sec. 115; Art. 5, sec. 33; Art. 9, sec. 53; Art. 16, sec. 79; Art. 18, sec. 61,] it was no objection to the judgment, of which the traverser could avail himself, that it adjudged the fine to the State, and did not award the one-half to the informer, as prescribed by the act. *Rawlings* v. *The State*, 2 Md. 201, and 1 Md. 127.

Sec. 21 of Art. 48, of P. G. L., entitled Insolvents, provides that, that article is not to apply to fines and forfeitures for violating the laws of this State, or the ordinances of any municipal corporation, but any person imprisoned for thirty days, for not paying a fine or forfeiture not exceeding fifty dollars, or for sixty days when the fine exceeds fifty dollars, may petition and be released from such fines as if they were common debts.

6. No person shall hereafter be allowed to give security for the payment of any fine and costs imposed by the Criminal Court of Baltimore, but any person who shall be sentenced by the court to the payment of any fine and costs shall stand committed until they are paid; provided, that if such fine and costs are less than ten dollars, the person so sentenced shall be discharged from custody at the end of thirty days from the date of their imposition, if no imprisonment has also been ordered by the court, or at the end of thirty days from the expiration of the time for which said person shall have been ordered to be imprisoned, upon sufficient proof shown to the court that the person imprisoned is unable to pay the said fine and costs; and provided also, that if the said fine and costs are more than ten and less than fifty dollars, the person so imprisoned shall be discharged from custody at the end of sixty days from the imposition thereof, if no imprisonment be ordered by the court, or at the end of sixty days from and after the expiration of the time for which said person has been ordered to be imprisoned, on proof shown of his inability to pay said fine and costs; and provided also, that if the said fine and costs exceed the sum of fifty dollars, the person so imprisoned shall be discharged from custody at the end of six months from the imposition thereof, or from the expiration of the term for which he was ordered to be imprisoned, on proof shown of his inability to pay.

Ibid, sec. 234.

No security to be taken for payment of fines and costs.

Persons to be committed.

Proviso.

Proviso.

Proviso.

NOTE.—In City Court, Dec. 10, 1874. *Spelleser* v. *Mayor, &c.*, Brown, C. J. When one is arrested and brought before a justice on a warrant for a criminal violation of an ordinance, the justice cannot give judgment against him for the penalty, which should be recovered by action of debt. In this case, Spelleser was arrested on warrant for using altered and condemned scales, contrary to section 31 of art. XXVIII. When he was brought before the justice, judgment was entered against him for $20 fine, and $1.40 costs, in favor of Mayor, &c. The defendant appealed, judgment was reversed and judgment of *non pros.* entered on the ground that there should have been a proceeding by the City in an action of debt, and not an arrest on a warrant for a criminal offence.

ORDINANCES.

No 71, s. 11, May 18, '64. City officers to commence suit before justices.

1. Any officer of the city shall have full power and authority to commence and institute before a justice of the peace any writ or action in the name of this corporation to recover any penalty or penalties incurred by the violation of any ordinances of this city.*

Ibid, s. 12. Suits. Officers report to Mayor.

2. It shall be the duty of every officer of the city, who shall cause any suit to be instituted for the recovery of any fine, penalty or forfeiture, if there should be a verdict or judgment for the defendant, to make a report thereof to the Mayor in writing, including in the report the names of all the witnesses in the case, and to file a list of the names of the witnesses among the papers in the cause, should an appeal be taken.

Ibid, s. 14. Register to pay costs.

3. The Register is hereby authorized to pay to any officer of the city, any sum of money for costs incurred, and paid by such officer in any suit for a breach of any ordinance, when required by the Mayor.

Ibid, s. 15. Mayor to make compensation. Register to pay. Statement.

4. The Mayor is hereby authorized to make any officer of the city an allowance, by way of compensation, for his trouble in enforcing the ordinances of the city, out of any fines or penalties which may hereafter be recovered and received; and the Register is hereby directed to pay the said allowance out of the said fines and penalties; and the Mayor shall annually lay before the City Council a statement of the amount so allowed by him to the several officers of the city.

Ibid, s. 16. Mayor to take measure to recover money from justices, &c.

5. In all cases where money due or payable to the corporation has been or shall be received by a justice of the peace, or other officer, who shall neglect or refuse to pay over such money to the proper officer of the city, the Mayor shall take

* See Art. XIII, Counselor and Solicitor.

speedy measures to recover the same, and also make a presentation of such conduct to the grand jury, or to the proper authority under which such officer may hold his appointment.

No. 71, s. 17, May 18, '64. When informer to pay costs.

6. In all cases of information before any justice of the peace, for any violation of any ordinance, where there shall be a judgment of *non pros.* or *non suit*, the informer, and not this corporation, shall be liable for the costs of the prosecution.

No. 36, Mar. 24, '71. Informer not entitled to any part of fine or penalty.

7. No informer shall be entitled to any portion of any fine or penalty imposed by virtue of any ordinance of the Mayor and City Council of Baltimore.

Ibid, s. 18. Superseded judgments of justices.

8. Whenever any judgment, which may be rendered by a justice of the peace, for any fine or penalty incurred by the violation of any ordinance, shall be superseded, it shall be the duty of the justice rendering such judgment to deliver to the officer who served the summons, a copy of such judgment, and the said officer, under the penalty of ten dollars, shall, within six days thereafter, file said copy with the Register of the City, who is hereby authorized and directed, when the stay of execution on any such judgment has expired, to have the same collected by execution or otherwise.

Copies to be filed with Register.

No. 19, Apl. 18, '61. When Mayor may remit fines. Proviso.

9. The Mayor is authorized and empowered to remit so much of any fine or penalty as to him shall seem just and reasonable; provided, that such power shall not extend to the costs of prosecution, and the Mayor shall hand over to the Register of the City a list of all such fines remitted by him, with the names of the person or persons to whom such fines were remitted.

List of fines remitted to Register.

No. 19, Apl. 18, '61. When to pay costs and jail charges.

10. The Mayor is authorized and empowered in all cases of actual confinement in jail of any person for a violation of the city ordinances, to pay all costs of prosecution and jail charges, in addition to the remission of the fine, in all cases where he may think it right and proper, and the Register is directed to pay the amount out of the city treasury upon the order of the Mayor.

ARTICLE XX.

FIRE.

STATUTES.

FIRE DEPARTMENT.

1. Corporation to establish.

FIRE INSPECTOR.

2. Appointment of Fire Inspector.
3. Duties of Fire Inspector: persons hindering Inspector: penalty.
4. Investigations into causes of fires: attendance of witnesses: proviso: report to State's Attorney.
5. Enforcement of fire ordinances: powers of Inspector.
6. Neglect to give notice of possession of property saved from fire: larceny: perjury.
7. Proof of ownership of property: expenses: justice of the peace to determine.
8. Deputies of Fire Inspector: powers of deputies.
9. Construction of this act.

FIRE CRACKERS.

10. Firing same.

GUNPOWDER AND COMBUSTIBLES.

11. Storage of gunpowder.
12. Storage of naval stores and combustibles.

INSPECTION OF OIL FROM PETROLEUM.

13. Oil or fluids from petroleum.
14. Mayor and City Council authorized to pass ordinances: fines and penalties.

ILLUMINATING OILS.

15. Fire test.
16. Barrels to bear name, &c., of manufacturer: warrant.
17. Penalty.
18. When purchaser may recover.
19. Accident from explosion: prosecution of seller.
20. When inspector to decide as to quality of oil, &c.
21. False report by Inspector: penalty.
22. To what not applicable.

ORDINANCES.

FIRE DEPARTMENT.

1. Fire Commissioners: terms of office: Mayor ex-officio member.
2. Mayor to fill all vacancies.
3. Powers and duties of Fire Commissioners: Fire Department: suitable rooms: appropriations.

Article XX.

4. Control at fires: proviso.
5. Of what the Fire Department shall consist: what officers appointed by Fire Commissioners: removal.
6. Salaries.
7. Property.
8. Alarms: fire alarm telegraph.
9. Destroying property of fire alarm telegraph: hindering or obstructing fire company: penalty.
10. False alarm: penalty.
11. Reward to be offered by chief engineer.
12. Keys to engine, alarm box, &c.: penalty.
13. Uniforms: penalty.
14. Duties of chief engineer and assistants at time of fire.
15. Chief engineer to command at fires: to examine engines.
16. Returns: to keep rolls.
17. Assistant engineers to act in absence of chief.
18. City divided into districts.
19. Rules and regulations: each member to have copy: to post same in office and engine houses.
20. Standard screw for steam fire engines.
21. All screws to conform to said standard.
22. Fire plugs.
23. Obstructing fire plugs: penalty.
24. Lamps.

CARE OF MEMBERS OF DEPARTMENT.

25. How long members Fire Department injured or disabled in discharge of duty to receive usual salary.
26. What sum Commissioners of Fire Department, in case of loss of life, to pay to widow, &c.: funeral expenses.

LIFE INSURANCE OF FOREMEN, FIREMEN AND LADDERMEN.

27. Fire Commissioners to insure lives of foremen, firemen and laddermen of department.
28. Authorized to apply a portion of amount appropriated for accident account to relief of substitutes.

SALVAGE CORPS.

29. Right of way to Salvage Corps.
30. Penalty for interfering with Salvage Corps in going to or returning from fires.

POLICE AND FIRE ALARM TELEGRAPH.

31. Appointment and control of employees of fire alarm telegraph.
32. Superintendent: salary.
33. Operators: salaries.
34. Lineman: assistant lineman: salaries.
35. Rules and regulations: proviso.
36. Charge of instruments, boxes and wires: test once a week: books: records of time: report: inspection: security to Mayor.
37. Duty of operators: security to Mayor.
38. Duty of lineman: security.
39. Officers at stations.
40. Scratching, defacing, posting placards on telegraph poles: penalty.

FIRE INSPECTOR.

41. His duties.
42. Duty of police: houses to be properly secured: owner to be notified: penalty: proviso.
43. Reward.

PREVENTION OF FIRES.

44. Lights in stables regulated.
45. Penalty for firing squibs, &c.
46. Sale of squibs, &c., prohibited: proviso: penalty.

47. Penalty for manufacturing squibs, &c.
48. Penalty for keeping ashes in certain places.
49. In what buildings hay and cut straw shall be kept: penalty.
50. When notice to be given: proviso: when no notice required.
51. Fires on board ships regulated: duty of police.

GUNPOWDER.

52. Keeper: his duties: rates of storage: proviso: keeper to collect storage: when and how gunpowder may be sold for storage: keeper's books and accounts regulated: monthly reports to Mayor and payments: bond.
53. Gunpowder brought into the city by land or water regulated: proviso: regulations for vessels landing or receiving gunpowder: penalty for violating regulations.
54. Gunpowder carried through city regulated.
55. What quantity of gunpowder may be kept: proviso.
56. How to be kept: penalty.
57. Duties of Mayor and justices of the peace.
58. Owners, &c., of ships: penalty.

MANUFACTURE OF OILS.

59. Manufacture of what oils regulated: ten days' notice: penalty.

STORAGE OF OILS, &C.

60. Storage of what oils unlawful.
61. How much may be kept for sale.
62. Distillers of oils, &c.: proviso: fire-proof building.
63. Refined petroleum, &c.
64. Naptha and benzone.
65. Crude rock or earth oil, &c.: refined rock, coal oil, &c.
66. Penalties.

DYNAMITE, NITRO-GLYCERINE, &C.

67. No explosive materials or compounds to be manufactured within limits of city: penalty.
68. Explosive compounds not to be stored or kept in any building or shed, or conveyed through the streets, without permit from Mayor: penalty.
69. Tin sign to be placed on door of building in which explosive material or compound is stored.

SHAVINGS.

70. Where shavings to be deposited and burnt: penalty.

STATUTES.

FIRE DEPARTMENT.

P. L. L., art. 4, sec. 236. Corporation may establish fire companies, &c.

1. The Mayor and City Council have power to establish and regulate fire wards and fire companies, and to pass ordinances for the prevention and extinguishment of fires.*

*Secs. 237 to 246, inclusive, of P. L. L., Art. 4, related to the Baltimore United Fire Department. The following sections, however, are here given as still applicable:

Article XX.—Statutes.

FIRE INSPECTOR.

2. There shall be a Fire Inspector for the City of Baltimore commissioned by the Mayor in such manner as may be prescribed by ordinance.

P. L. L., art. 4, sec. 247. Appointment of Fire Inspector.

237. Any person who shall wilfully destroy or injure any engine, hose, reel, or other apparatus whatever for the extinguishment of fires, belonging to any company in the city of Baltimore, or to the said city, shall be guilty of felony, and upon conviction thereof, shall be sentenced to confinement in the penitentiary for a period not less than two nor more than five years.

238. Any person who shall assault, beat, or otherwise intentionally hurt or injure any fireman of the city of Baltimore whilst in the discharge of his duties as fireman, (except in self-defence,) shall, upon conviction thereof, be sentenced to imprisonment in Baltimore city jail for a period not less than one month, and to the payment of a fine of not less than ten nor more than one hundred dollars.

The Baltimore United Fire Department was superseded (ordinance No. 5, approved Dec. 10, 1858,) by the paid fire department now in operation. The Baltimore United Fire Department, by virtue of ordinance No. 11, Mar. 29, '65, and Res. No. 115, June 22, '65, transferred as a donation the five per cent. stock of the city to the amount of $12,000, in its name, as a permanent fund for the relief of disabled firemen, their widows and orphans, to the Aged Men's Home, of Baltimore. 1865, c. 57, recites that, the Baltimore United Fire Department, incorporated by the Legislature of Maryland, at December session, 1833, c. 187, having subserved the ends of its organization, and there being no longer any necessity for its service as a fire department, desires to donate and transfer its properties and effects to the benevolent institution known as the Aged Men's Home of Baltimore City, and to dissolve its organization and surrender its charter; and it enacts, 1. That said Baltimore United Fire Department is authorized and empowered, after having cancelled by payment all of its liabilities, to donate to the institution known as the Aged Men's Home of Baltimore City, all of said Baltimore United Fire Department bonds, stocks, or other securities, and all other properties and effects of whatsoever kind, of which it may be the owner, as well as the interest accruing, or that may hereafter accrue on any of its stocks, bonds, and other securities. 2. That the said Baltimore United Fire Department, after having disposed of its properties and effects, as provided in the foregoing section, may dissolve its organization and surrender its charter. 3. That this act shall take effect upon its acceptance by the said Baltimore United Fire Department

See, as to origin of paid fire department, Res. No. 82, May 31, '58; No. 117, June 16, '58; No. 75, Mar. 12, '59; No. 251, Sept. 26, '59, and p. 285, *post*.

1872, c. 250, s. 1. Duties of Fire Inspector.

3. It shall be the duty of the Fire Inspector to attend all fires that may occur in the city of Baltimore, with a badge of office conspicuously displayed, upon which his title shall be legibly printed, and he shall take charge of and protect all property of any kind and description during such fires, or which may be imperiled thereby, and safely keep the same in his possession or under his control, until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent property from being injured at such fires, and regulate and direct, when in his opinion it is necessary or expedient, the removal of goods, merchandise, and other property to a place of safety. Any person or persons who shall wilfully hinder or obstruct said officer in the lawful discharge or performance of any of the duties of his office, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment in the city jail for not more than one month, or by a fine not exceeding five hundred dollars.

Persons hindering Inspector.

Penalty.

Ibid, s. 2. Investigations into causes of fire.

4. It shall be the duty of said Fire Inspector to institute investigations into the causes of such fires as may occur in the city of Baltimore, whenever, in his judgment, the occasion demands it, and for the purpose he shall have power to issue *subpœnas* and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise; all *subpœnas* issued by him shall be in such form as he may prescribe, and shall be directed to and served by any constable, police officer, Sheriff or coroner of Baltimore city; any witness who refuses to attend to testify in obedience to such *subpœna*, shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in civil cases; *provided* that said officer shall not have jurisdiction to try any person or persons charged with commission of a crime, for the purpose of inflicting punishment therefor, but shall make a written report of the testimony to the State's Attorney, and institute criminal prosecution in all cases where there appears to him to be reasonable and probable causes for believing that a fire has been caused by design.

Attendance of witnesses.

Proviso.

Report to State's Attorney.

5. It shall be the duty of said Fire Inspector to aid in the enforcement of the fire ordinances of said city, and for this purpose he is duly authorized to visit and examine all buildings in the progress of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of said city which relate to the erection, alteration, or repairs of buildings and the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of said city to enable him fully to carry out the object of this act, and the prevention of fires.

Ibid, s. 3.
Enforcement of fire ordinances.
Powers of Inspector.

6. Any person or persons who save from fires, or from buildings endangered by fire, any property, and who wilfully neglect for two days to give notice to the Fire Inspector or to the owner of such property, of his or their possession thereof, shall be deemed guilty of grand or petit larceny, as the case may be, according to the value of the property, and any person who shall be guilty of false swearing in an investigation under this act, shall be deemed guilty of perjury, and upon conviction thereof shall be punished as in any other case of perjury.

Ibid, s. 4.
Neglect to give notice of possession of property saved from fire.
Larceny.
Perjury.

7. No person shall be entitled to any property in the hands of the Fire Inspector saved from the fire until satisfactory proof of ownership be made, and until all expenses for the preservation and keeping of the same shall be paid to him by the owner or claimant of such property, and in case of a dispute as to the amount of such expenses, said dispute to be determined by a justice of the peace of said city.

Ibid, sec. 5.
Proof of ownership of property.
Expenses.
Justice of the peace to determine.

8. The said Fire Inspector is hereby authorized and empowered to appoint one or more persons to act as deputies during his absence, or to assist him in discharge of his duties; and the said deputies shall have all the authority invested in the Fire Inspector by this act and the ordinances of the Mayor and City Council of Baltimore, and the said deputies shall act

Ibid, sec. 6.
Deputies of Fire Inspector.
Powers of deputies.

during the pleasure of the Fire Inspector; and each deputy shall wear while in discharge of his duty, conspicuously displayed on his person, such badge or device as the Fire Inspector shall designate.

Ibid, sec. 7.

Construction of this act.

9. This act shall not be so construed or understood as to authorize the Fire Inspector to interfere with or disregard the authority now vested in the Board of Fire Commissioners of the City of Baltimore during the time of fire by the ordinances of the city.

FIRE CRACKERS.

P. L. L., art. 4, sec. 249.

Firing same.

10. The Mayor and City Council of Baltimore may pass all such ordinances as they may deem necessary and proper to suppress the evil and pernicious practice of firing and discharging crackers within the limits of said city, either by prohibiting the sale of crackers or otherwise.

GUNPOWDER AND COMBUSTIBLES.

P. L. L., art. 4, sec. 29.

Storage of gunpowder.

11. The Mayor and City Council may erect and provide magazines for the storage of gunpowder brought to the city, and compel the storage thereof therein, and regulate the price of such storage.

Ibid, sec. 30.

Storage of naval stores, &c.

12. They may prevent the storage of naval stores or other combustible matter in such quantities or places within the city as may be deemed dangerous.

INSPECTION OF OIL FROM PETROLEUM.

1878, c. 120.

Inspection of oil or fluids from petroleum.

13. The Mayor and City Council of Baltimore are hereby authorized to provide for the inspection of oil or fluids made from petroleum or its products, used for illuminating purposes, offered for sale in the city of Baltimore, and for the appointment of inspectors for that purpose.

14. The Mayor and City Council shall have full authority to pass all ordinances necessary to carry into effect the powers granted by the preceding section, and to impose by said ordinances such fines and penalties as they may deem necessary and proper for the enforcement thereof. Ibid, sec. 2. Mayor and City Council authorized to pass ordinances. Fines and penalties.

ILLUMINATING OILS.

15. All oils or fluids manufactured from petroleum or its products, used for illuminating purposes in this State, which shall be manufactured or kept for sale therein, shall be required to stand a fire-test of one hundred and ten degrees fahrenheit before it shall burn, to be ascertained by Tagliabue's coal oil tester, or some other instrument constructed upon the same principle. 1874, c. 504, s. 2. Fire test.

16. Every person manufacturing or selling illuminating oils or fluids, manufactured from petroleum or its products, by the barrel, shall be required to have stamped upon the head of the barrel the name of the manufacturer thereof and his place of business, together with the words "warranted to stand a fire-test of one hundred and ten degrees fahrenheit before it shall burn." Ibid, s. 3. Barrels to bear name, &c., of manufacturer. Warrant.

17. Whoever manufactures for illuminating purposes, or sells in quantities not less than a barrel, oils or fluids made from petroleum or its products, which does not sustain the fire-test provided for in section fifteen hereof, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the jail or penitentiary not more than two years, in the discretion of the court. Whoever sells in quantities less than a barrel, for illuminating purposes, oils or fluids made from petroleum or its products, which does not sustain the fire-test provided for in section fifteen hereof, shall forfeit said oil, and be fined not less than five nor more than twenty dollars; said fine to Ibid, s. 4. Penalty.

be collected as other fines are now collected, one-half to go to the informer, the other to be paid into the treasury of the State.

Ibid, s. 5.

When purchaser may recover.

18. Any purchaser of oils or fluids made of petroleum or its product, for illuminating purposes, bearing the stamp required in section sixteen hereof, and which does not stand the fire-test required in section fifteen hereof, may recover from the seller in an action for debt an amount equal to double the purchase money of said oil.

Ibid, s. 6.

Accident from explosion. Prosecution of seller.

19. Any accident by reason of explosion, occurring with any oil or fluid manufactured from petroleum or its products, shall subject the seller thereof to prosecution for a misdemeanor, and upon conviction thereof in a court of competent jurisdiction, to a fine not exceeding one thousand dollars, nor less than five hundred dollars; one half of said fine to be paid to the informer and the other half to the State.

Ibid, s. 7.

When Inspector to decide as to quality of oil, &c.

20. In case of seizure or confiscation of oils or fluids manufactured from petroleum or its products, as provided in section fifteen hereof, the party or parties who have sold such oils or fluids, shall have the privilege of referring the same to some commissioned inspector, recognized by the oil trade of Baltimore, whose decisions shall be *prima facie* evidence of the quality of said oil or fluid.

Ibid, s. 8.

False report by Inspector.

Penalty.

21. If any inspector of oils shall be convicted in a court of competent jurisdiction of furnishing a false report of the fire-test of any oil submitted to his inspection, he shall be liable to a fine of not less than five hundred dollars, nor more than two thousand dollars, at the discretion of the court; said fine to be paid into the treasury of the State.

Ibid, s. 9.

To what not applicable.

22. The provisions of this act shall not apply to oils or fluids manufactured from petroleum or its products, for the purpose of exportation, or for use in street lamps.

ORDINANCES.

FIRE DEPARTMENT.

1. There shall be appointed in the same manner as other city officers are appointed, five citizens of Baltimore, of good character, to serve as Fire Commissioners, and who shall be styled the Fire Commissioners of the City of Baltimore, and said commissioners shall draw for their respective terms of office, say two for the term of four years, and three for the term of two years; and every second year thereafter in the month of February, there shall be appointed in the same manner two or three persons, as the case may be, who shall serve for the term of four years.* And the Mayor shall be a member *ex-officio* of the Fire Commissioners.

No. 7, Feb. 21, '68; No. 5, Dec. 10, '58.

Fire Commissioners.

Terms of office.

No. 24, April 17, '77.

Mayor a member ex-officio of board.

2. In case of death, resignation, disqualification or removal of, or the neglect or refusal to perform the duties incumbent upon their office, by any or all of said commissioners, the Mayor shall proceed at once to fill such place or places by a new appointment in the usual manner.

Ibid, s. 2.

Mayor to fill vacancies.

3. Said fire commissioners shall have the appointment of, and entire control over all other employees and property of the fire department, in conformity with this ordinance, and are held strictly accountable therefor to the Mayor and City Council, by whom, upon conviction of dereliction of duty, malfeasance in office, or violation of any of the provisions of this ordinance, they shall be removed from office; they shall keep a correct record of their proceedings, subject at all times to the inspection of the Mayor and City Council, and shall annually in the month of January, prepare an accurate report of the state of

Ibid, s. 3.

Powers and duties of Fire Commissioners.

Fire department.

* This ordinance of Feb. 21, 1868, No. 7, entitled, An ordinance to provide for the re-organization of the Fire Department of the City of Baltimore, superseded in part, Ords. No. 5, Dec. 10, '58; No. 48, Mar. 30, '59; No. 18, Apl. 18, '61; No. 16, Apl. 16, '62; Res. No. 80, May 28, '58; No. 229, Sept. 15, '59.

the department; two hundred and fifty copies of which shall be printed for the use of the said Mayor and City Council; they shall have authority to fit up, and appropriate to the use
Suitable rooms. of themselves and the engineers, suitable rooms, centrally located, the necessary expenses of which shall be defrayed out of the funds appropriated for the use of the department, and they shall have authority to draw upon the City Register for such sum or sums of money as they may from time to time
Appropriations. require, not exceeding the appropriations which may be made for the use of the department.

Ibid, s. 4. 4. The fire commissioners shall, during the occurrence of
Control at fires. fires or alarm of fires, have authority for themselves, and the power to delegate to the chief engineer or his assistants, the authority to control all persons and property in the vicinity of
Proviso. a fire, during the continuance thereof; provided, that the exercise of such authority does not conflict with any law of the United States, or of the State of Maryland.

Ibid, s. 5. 5. The fire department of the city of Baltimore, shall con-
Of what the fire department shall consist. sist of five fire commissioners, one chief engineer, two assistant engineers, one clerk, seven engine companies, each consisting of one foreman, one engineman, one assistant engineman, one hostler, and eight firemen, and two hook and ladder companies, each consisting of one foreman, one tillerman, one hostler, and ten laddermen, all of whom shall be of good character, and except those especially provided for in section
What officers appointed by Fire Commissioners. first of this ordinance, shall be appointed by the fire commissioners, and shall be entitled to retain their respective positions for such time as they evince willingness and capacity to discharge the duties pertaining thereto efficiently, harmoniously with their associates, and satisfactorily to the fire commissioners; said employees shall not be subject to removal on account
Removal. of any political, religious or other sentiments entertained by them, so long as said opinion or sentiment does not interfere

with the faithful and efficent discharge of their respective duties as employees of the fire department.

6. The salary of the chief engineer of the Baltimore City Fire Department shall be two thousand dollars per annum, payable monthly; and the salaries of the assistant engineers shall be each fourteen hundred dollars per annum, payable monthly; the salaries of the foremen of the several engine and hook and ladder companies of the city fire department shall be each five hundred dollars per annum, payable monthly; the salaries of the enginemen in the fire department shall be each eleven hundred dollars per annum, payable monthly; the salaries of the assistant enginemen, the tillermen and hostlers of the city fire department shall be each nine hundred dollars per annum, payable monthly, and the salaries of extramen shall be each four hundred dollars per annum, payable monthly.

No. 35, Apl. 8, '72. Salary of Chief Engineer. Of Assistant Engineer. No. 66, May 23, '70. Of Foremen. Enginemen. No. 65, May 28, '70; No. 50, Apl. 25, '70. Assistant Enginemen, Tillermen, Hostlers, Extramen.

7. The property of each engine company shall consist of not less than one steam fire engine, one hose carriage, one thousand feet of hose, and four horses, together with all the minor accessories for effectual service; and the property of each hook and ladder company shall consist of not less than one ladder truck, with all necessary ladders and implements, and three horses.*

No. 7, s. 7, Feb. 21, '68. Property.

*By ordinance No. 50, July 9, '69, the fire department was increased by addition of one company to be located west of Paca and north of Baltimore street, to consist of one foreman, one engineman, one assistant engineman, one hostler and eight firemen; the property of said company to consist of same number of engines, &c., as provided in section 7, above, to be purchased by fire commissioners; and by ordinance No. 103, November 7, 1870, it was increased by the addition of two engine companies, one for the northwestern, and the other for the southwestern section of the city, and one hook and ladder company; each of the engine companies to consist of one foremen, one engineman, one hostler, and eight firemen; and the hook and ladder company to consist of one foreman, one tillerman, one hostler, and ten laddermen; each of said engine companies to consist of same number of engines, &c., as is provided in section 7, and each of said hook and ladder companies to consist of same truck, &c., as is provided in said section.

Ibid, s. 8.

Alarms.

8. It shall be the duty of the members of the police department, in the district in which the fire may occur, to communicate the fact to the central station, by means of the signal box in the district in which the fire may be, in accordance with the rules and regulations governing the signal boxes, and the number of the signal box from which the alarm proceeded; and when a police officer has an alarm bell in his district, it shall be his duty to ring the same by striking the location as indicated by the fire alarm telegraph.

Fire alarm telegraph.

Ibid, s. 9; No. 94, s. 8, June 24, '59; No. 19, s. 8, Apl. 17, '63.

Destroying property of Fire Alarm Telegraph.

Hindering or obstructing fire company.

9. Should any person or persons injure, deface, or in any manner destroy, any fire apparatus or property of the fire alam telegraph, or should any person or persons hinder or obstruct any city fire company, or hook and ladder company, or any member thereof, from freely passing along the streets of the city to or from a fire, or in any manner hinder or prevent any of the said fire companies, or any member of the same from operating at any fire, or prevent a person properly authorized from using the signal boxes of the police and fire alarm telegraph, each and every person or persons so hindering, obstructing, or preventing, shall be fined not less than twenty dollars nor more than fifty dollars, to be recovered as other city fines are recoverable.

Penalty.

Ibid, s. 10; No. 34, May 5, '68; No. 18, Apl. 18, '61.

False alarm.

Penalty.

10. Should any person or persons knowingly give, or cause to be given, any false alarm of fire by means of the telegraph boxes connected with the fire alarm telegraph, he, she or they, shall be subject to a fine of not less than three hundred dollars, nor more than five hundred dollars, to be recovered as other fines are recoverable.

By resolutions No. 388, July 8, '73, and No. 38, February 11, '74, a new company, &c., was formed in south Baltimore, and one for the northwestern section, and also one at Canton.

By resolution No. 125, April 21, '77, a new hook and ladder company in the northwestern section of the city was authorized, located at corner of Fremont street and Myrtle avenue.

Article XX.—Ordinances.

11. Authority is hereby given to the chief engineer of the fire department, in his discretion, and with the approbation of the Mayor, to offer a reward of one hundred dollars or less for the apprehension and conviction of any person or persons who shall knowingly give, or cause to be given, any false alarm of fire by means of telegraph boxes connected with the Fire Alarm Telegraph. Ibid, s. 11; No. 18, Apl. 18, '61. Reward to be offered by Chief Engineer.

12. Should any person or person unauthorized have in his, her, or their possession, or make, or cause to be made, any key or keys of any fire engine or truck house, or fire alarm telegraph box, or use, or cause to be used, the same, except the Mayor, fire commissioners and chief engineer, without the consent of the proper authority, he, she or they shall be subject to a fine of not less than one hundred dollars, and not more than two hundred dollars; to be recovered as other fines are recoverable. Ibid, s. 12; No. 15, Apl. 18, '62. Keys to engine, alarm box, &c. Penalty.

13. Should any person or persons not a member of the City Fire Department use the uniform determined upon by the fire commissioners, or any part thereof, without their permission, such person or persons shall each be fined not less than five dollars, nor more than twenty dollars, for each and every offence, to be recovered as other city fines are recoverable. Ibid. Uniforms. Penalty.

14. It shall be the duty of the chief engineer, and his assistants, whenever a fire shall break out in the city, to immediately repair to the place of such fire, and to take proper measures that the several engines and other apparatus be arranged in the most advantageous situations. No. 5, s. 12, Dec. 10, '58. Duties of Chief Engineer and Assistants at time of fire.

15. The chief engineer shall, under the fire commissioners, have command at fires, over all other officers, and all other persons who may be present at fires, and shall take all proper measures for the extinguishment of fires, and for the protection of property, preservation of order, and observance of laws of the State, ordinances of the city, and regulations of the fire No. 16, s. 1, Apl. 18, '62. Chief Engineer to command at fires.

commissioners respecting fires; and it shall be the duty of said
To examine engines. engineer to examine into the condition of the engines and all other fire apparatus, and of the engine and other houses belonging to the city, used for the purposes of the fire department, and the companies attached, as often as circumstances may render it expedient, or whenever directed to do so by the fire commissioners, and whenever the engines or other fire apparatus, engine or other houses used by the fire department require alteration, additions or repairs, the chief engineer shall report the same to the fire commissioners, and on their order, such alterations, additions or repairs shall be made.

Ibid, s. 1. 16. It shall be, moreover, the duty of the said chief engi-
Returns. neer to receive and transmit to the said fire commissioners, for the use of the Council, all the returns of the officers, members and fire apparatus, made by the respective companies, and all other communications relating to the affairs of the fire depart-
To keep rolls ment; to keep fair and exact rolls of the respective companies, specifying the time of admission and discharge, and age of each member, which he shall report in writing to said fire commissioners, who shall safely file such reports.

No. 5, s. 14, Dec. 10, '58. 17. In case of the absence of the chief engineer the assist-
Assistant Engineers to act in absence of chief. ant engineer in whose district the fire may occur, shall exercise the duties of his office with the full power of the chief engineer.

Ibid, s. 15. 18. The city shall be divided into two fire districts, the first
City divided into districts. comprising all that part of the city lying west of Calvert street, the second district all that part of the city lying east of the same.

Ibid, s. 16. 19. The fire commissioners shall prepare rules and regula-
Rules and regulations. tions for the government of the fire companies and the mem-
Each member to have a copy. bers thereof, and furnish each member of the fire department
To post same in office and engine houses. with a copy of said rules, and have said rules posted conspicuously in the office of the department, and in and about the several engine houses belonging to the department.

20. The standard screw of the suction tubes of the steam fire engine, and the large openings in the steam fire plugs, shall be five and one-half inches in diameter, with five threads to the inch, and the standard screw for the hose shall be three inches in diameter, with seven threads to the inch. No. 37, Mar. 23, '59. Standard screw for steam fire engines.

21. The water engineer is hereby directed to cause the screws of all fire plugs hereafter inserted by him to conform to the above section of this ordinance. Ibid. All screws to conform to said standard.

22. The chief engineer of the fire department, or his assistants, shall have the use and control of any and all fire plugs belonging to the city of Baltimore on the occurrence of fires. No. 48, s. 8, Mar. 30, '59. Fire plugs.

23. Any person or persons who shall place, or cause to be placed, around or near any of the fire plugs of the city, any goods, structure or other thing, in such a manner as to obstruct the free access to any of said plugs, shall be subject to a fine of twenty dollars, and a further fine of ten dollars for each and every day that such obstruction may continue, to be recovered as other fines and penalties are recovered. No. 67, Oct. 12, '69. Obstructing fire plugs. Penalty.

24. The superintendents of lamps are hereby directed to have the lamps lighted in front of the different engine and hook and ladder houses every night during the year. Res. No. 318, Sept. 18, '60. Lamps.

CARE OF MEMBERS OF DEPARTMENT.

25. Any member of the fire department of the city of Baltimore, receiving injury or becoming disabled, while in the discharge of his duties, so as to prevent him from following his daily occupation or attending to his duties as a member of said department, such member shall, for the space of twelve months, provided his disability shall last that time, receive his usual salary. No. 35, Mar. 24, '71. How long member of Fire Department injured or disabled in discharge of duty to receive usual salary.

Ibid, s. 2.

What sum Commissioners of Fire Department in case of loss of life to pay to widow, &c.

26. If any member of said fire department shall lose his life while in the discharge of his duties, it shall be the duty of the commissioners of the fire department (as soon as may be convenient after such death) to cause to be paid to the wife or family, including father and mother, depending on the deceased member, the sum of five hundred dollars; and if said member shall leave neither wife or children, father or mother, surviving him, then said commisioners shall, and they are hereby authorized to, defray the proper funeral expenses of said member, the same to be taken out of the appropriation for the fire department for the current year.*

Funeral expenses.

LIFE INSURANCE OF FOREMAN, FIREMEN AND LADDERMEN.

No. 140, s. 1, July 30, '75.

Fire Commissioners to insure lives of foreman, firemen and laddermen of Department.

27. The Board of Fire Commissioners are hereby authorized to effect an insurance on the lives of the foreman, firemen and laddermen of the department, so that in case of injury at fires, or alarms of fires, while engaged in the performance of their duties, they shall receive from the insurance company the sum of five dollars per week during the continuance of such disability as may prevent them from following their usual business, and in case of death resulting from any accident to them whilst engaged in the discharge of their duties, the sum of five hundred dollars shall be paid by said insurance company to the wife of such foreman, fireman or ladderman, if she be living, or in case there be no wife living, then to his children, or if there be no wife or children living, then to their father or mother, or other members of their family depending on him for support, or if there be no one dependent upon him for support, then the amount shall be paid to the fire commissioners for the benefit of the fire department, and the sum of fifteen dollars shall be applied by the said board of fire commissioners out of the appropriation to their department for such insur-

*For ordinance for protection of lives of firemen from hoistways, see p. 122, *ante*.

ance on the life of each member above mentioned of the fire department.

28. The Board of Fire Commissioners are hereby authorized to apply to the relief of the substitutes of the fire department, who may be injured in the performance of their duties in connection with the department, such portion of the amount annually appropriated for the accident account of the fire department as the board may deem proper and just. Ibid, s. 3. Authorized to apply a portion of amount appropriated for accident account to relief of substitutes.

SALVAGE CORPS.

29. The apparatus and wagons of the Baltimore City Salvage Corps shall be entitled to the right of way upon the streets, lanes and alleys in the city of Baltimore in going to and returning from fires, and shall enjoy the same privileges in going to and returning from fires as are now enjoyed by the Baltimore City Fire Department. No. 110, s. 1, June 9, '75. Right of way to Salvage Corps.

30. Any person or persons interfering with or hindering the apparatus and wagons of said salvage corps in passing along any of the streets, lanes or highways in the city, in going to and returning from fires, shall upon conviction thereof pay a fine of fifty dollars, to be recovered as other fines are recovered.* Ibid, s. 2. Penalty for interfering with the Salvage Corps in going to or returning from fires.

POLICE AND FIRE ALARM TELEGRAPH.†

31. The Fire Commissioners of the City of Baltimore shall have the appointment of, and entire control over, all the employees and property of the Police and Fire Alarm Telegraph, in con- No. 18, s. 1, Mar. 29, '77. Appointment and control of employees of Fire Alarm Telegraph.

*By resolution No. 6, Dec. 12, '77, the Superintendent of the Police and Fire Alarm Telegraph was directed to connect the lines of said telegraph with the head quarters of the Salvage Corps, so that all alarms of fire shall be struck at their headquarters.

† See, for origin of Police and Fire Alarm Telegraph, Res. No. 11, Dec. 7, '58; No. 123, July 6, '58.

The alarm telegraph was first established by Ord. No. 94, June 24, '59, entitled An ordinance to provide for the care and management of the Police

formity with this ordinance, and under such other rules and regulations as they may adopt.

Ibid, s. 2; No. 104, June 19, '71. Superintendent.

32. There shall be appointed by the said fire commissioners annually, or at such other time or times as they may determine, one person, who shall be a practical telegrapher and skilled electrician, to be called the Superintendent of the Police and Fire Alarm Telegraph, whose duties shall be to give a general superintendence of the Police and Fire Alarm Telegraph; to examine all the stations from time to time, and as often as may be necessary, and see that everything is in good working order; and perform such other duties as may be prescribed by said fire commissioners; and who shall receive a salary of fifteen hundred dollars per annum, payably monthly

Duties.

Salary.

No 18, s. 3, Mar. 29, '77. Operators.

33. There shall also be appointed by the said fire commissioners, in the same manner as the superintendent is appointed, four other persons, who shall be practical telegraphers, whose duty it shall be to operate the machinery of the Police and Fire Alarm Telegraph, under the direction of the said superintendent; and each of whom shall receive a salary of twelve hundred dollars per annum, payable monthly.

Duties.

Salaries.

Ibid, s. 4; No. 29, Apl. 3, '72. Lineman.

34. There shall also be appointed in the same manner by the said fire commissioners, one competent person, to be called a lineman; and also, one other competent person, to be called

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and Fire Alarm Telegraph, and for the protection of the same, superseded by Ord. No. 19, April 17, '63.

By ordinance No. 132, November 9, 1874, the Superintendent of Police and Fire Alarm Telegraph was authorized and directed to extend his telegraphic connection from the nearest telegraphic terminus, to the Marine Hospital, and the Police and Fire Alarm Telegraph Department was authorized to make rules and a tariff of prices, for the use by citizens of the line.

By ordinance No. 163, Nov. 1, 1876, the Superintendent of the Police and Fire Alarm Telegraph, with the approbation of the Mayor, Comptroller and Register, was authorized and empowered to reconstruct the Police and Fire Alarm Telegraph, according to the most improved system in use, and to purchase all necessary machinery and apparatus for its proper equipment.

an assistant lineman, whose duties shall be the care and repair of the lines and batteries of the Police and Fire Alarm Telegraph, under the direction of the said superintendent; and the salary of the lineman shall be twelve hundred dollars per annum, payable monthly; and the salary of the assistant lineman shall be nine hundred dollars per annum, payable monthly.

Assistant Lineman. Duties. Salaries.

35. The said fire commissioners are hereby authorized and empowered to make and adopt all rules and regulations that they may deem necessary for the proper control and government of the said Police and Fire Alarm Telegraph; provided that such rules shall not conflict with any law of the United States or the State of Maryland.

No. 18, s. 5, Mar. 29, '77. Rules and regulations. Proviso.

36. The superintendent of the Police and Fire Alarm Telegraph shall have the general superintendence of the same, under the direction of the fire commissioners; he shall have charge of all the instruments, alarm boxes and wires; see that they are at all times in good order, and promptly repaired, when reported out of order; it shall be his further duty to test all the instruments and alarm boxes at least once a week; see that the operators and the lineman and his assistant promptly perform their duty as hereinafter provided; he shall keep such books as may be necessary, in which shall be recorded all such matters as may be necessary for a full understanding of the operations of the telegraph, and a book in which he shall record all instruments, alarm boxes or wires reported out of order, with the date and a record of the time the same was repaired, and shall annually, on the first day of January, make a report of the operations of his office to the fire commissioners. All books and papers connected with the office shall at all times be open to the inspection of the Mayor and City Council. He shall enter into good and sufficient security to the Mayor and City Council, in the sum of two thousand dollars, for the good and faithful performance of the duties of his office.

No. 19, s. 2, April 17, '63, Res. No. 145, Oct. 2, '62. Superintendent. Charge of instruments, boxes and wires. Test once a week. Books. Record of time. Report. Inspection. Bond.

Ibid, s. 3.

Duty of operators.

37. The operators shall attend at the central police and fire alarm station, at least two of whom shall be on duty at all hours, day and night; they shall promptly reply to all messages from any of the police stations, and should a message be received from any of the city departments, they shall cause the same to be promptly delivered; it shall be their further duty, immediately on the receipt of an alarm of fire, to transmit the same over the wires, and do and perform all such duties appertaining to their office as may be required of them by the superintendent; they shall each of them enter into

Bond.

good and sufficient security to the Mayor and City Council, in the sum of eight hundred dollars, for the good and faithful performance of the duties of their office.

Ibid, s. 4.

Duty of lineman and assistant lineman.

38. It shall be the duty of the lineman and assistant lineman to attend personally at the central office of the Police and Fire Alarm Telegraph station; they shall take charge of the lines and batteries of the Police and Fire Alarm Telegraph, keeping the same at all times in good working order; do all the repairing to the same, and attend to the repairs of all the lines, keeping them in perfect working order and free from obstructions, and do and perform all such other duties appertaining to their office as may be required of them by the superintendent; they

Bond.

shall each of them enter into good and sufficient security to the Mayor and City Council, in the sum of eight hundred dollars, for the good and faithful performance of the duties of their office.

Ibid, s. 6.

Officers at stations.

39. The batteries at the other station houses shall be in charge of and operated by the officers in charge of the stations; all, however, under the control and direction of the superintendent.*

* The alarm telegraph boxes, &c., were provided for by Ord. No. 108, Sept. 15, '59, and Res. No. 155, Apl. 28, '60.

By Res. No. 145, Oct. 2, '62, the police commissioners were requested to have the clocks at the several police stations regulated by the clock at the telegraph office, and to instruct the police to set their watches each day by

40. Any person or persons who shall scratch, stencil or post placards or bills on any of the poles of the Police and Fire Alarm Telegraph, or in any other manner deface the same, shall be subject to a fine of not less than one dollar, or more than twenty-five dollars; to be collected as other fines are collected for violation of city ordinances.

No. 82, Oct. 10, '77. Scratching, defacing, posting placards, &c., on telegraph poles. Penalty.

FIRE INSPECTOR.

41. The Mayor, at his discretion, may commission as Fire Inspector, such person as may be named and appointed by the Fire Insurance Companies of the City of Baltimore, or a majority thereof—such inspector to be paid by said companies. And it shall be the duty of said inspector to examine into, report upon, and keep a record of all fires occurring in said city, and the origin thereof, and a brief description of the premises wherein the fire may have originated, whether of brick or frame, and how occupied, whether as dwelling, store, workshop, or otherwise, of all which a report shall be made to the Mayor on the first of each month; and he is further authorized to examine all buildings hereafter to be erected or altered in said city, as to whether the same are built, erected or altered in conformity to the ordinances of said city, and any person or persons interfering with (for the purpose of preventing) said inspector in the discharge of his duties, as herein mentioned, shall be liable to a fine of not less than five nor more than twenty dollars; provided, that the city authorities shall not,

No. 30, s. 9, R. O. Appointed. His duties. Proviso.

the clock at the police station to which they may be attached, before going on duty, and that they hereafter promptly repair to the telegraph box on their several "beats" at 12 o'clock, noon, and if the bell in the box does not ring, that they be required to report the fact immediately in their respective police stations, and the officer in charge shall forthwith communicate the fact to the central office; and further, the police commissioners are requested to require the police, in case a fire should occur on the "beat" assigned them, and the nearest telegraph box fail to give the necessary alarm, to immediately repair to the next nearest box, and if that should also be out of order, to visit the boxes next in location until the alarm is given.

in any manner, be liable for the payment of the salary of said inspector, nor for any of the expenses incidental to such office; and that the Mayor may revoke and annul the said commission at such time or times as he may deem proper.

No. 20, Apl. 25, '62.

Duty of police.

Houses to be properly secured.

To be notified.

Penalty.

Proviso.

42. It shall be the duty of the police, whenever they shall learn or know, or have cause to believe, that any unoccupied house, or houses, are not properly secured, to inform the Fire Inspector, who shall immediately visit the premises, and notify the owners, agent or agents, by a written or printed notice delivered at their residence or place of business, of the condition of such unoccupied house or houses, to have it or them properly secured, so as to prevent evil disposed persons from gaining access, and in case of such owner or owners, agent or agents neglecting or refusing to have the same properly secured within twenty-four hours after notice, he, she or they shall incur a penalty of one dollar for each refusal or neglect, and two dollars per day for each day he, she or they may refuse or neglect, until such notice is complied with, to be recovered as other fines and forfeitures are recoverable; provided, that this ordinance shall not be construed to apply to houses in the course of construction.

No. 907, May 30, '68.

Reward.

43. The Fire Inspector is hereby authorized and empowered to offer a reward of five hundred dollars for the arrest and conviction of any party or parties who have been guilty of setting fire to any house or tenement in the city—the money to be expended and paid under the direction of the Mayor.

PREVENTION OF FIRES.

No. 33, s. 44, R. O.

Lights in stables regulated.

44. No person or persons shall carry a lighted candle or lamp into any stable, or make use of it there, unless the same is well secured in a tin, horn, or glass lantern, under a penalty of five dollars.

45. No person shall cast, throw or fire any squib, rocket, cracker, torpedo, granade, or other combustible fire works or explosive preparation, within the city; and every person, for every such offence, shall forfeit and pay a sum not exceeding five dollars. Ibid, s. 45. Penalty for firing squibs, &c.

46. It shall not be lawful for any person or persons to sell, or offer for sale, within the limits of the city, any crackers, squibs, rockets or other combustible fireworks; provided, however, that this section shall not apply to the sale of any such article when sold in the original package as imported, and every offender against any of the provisions of this section shall pay for each and every offence two dollars. Ibid, s. 46. Sale of squibs, &c, prohibited. Proviso. Penalty.

47. It shall not be lawful for any person or persons to manufacture, within the limits of the city, any crackers, squibs, rockets, or any other combustible fireworks, and every offender against the provisions of this section shall forfeit and pay the sum of twenty dollars for each and every offence. Ibid, s. 47. Penalty for manufacturing squibs, &c.

48. No person shall keep ashes in any barrel, box or other wooden vessel, or on any wooden floor in any building, under a penalty of five dollars for each offence. Ibid, s 58. Penalty for keeping ashes in certain places.

49. Hay and cut straw may be kept on the premises of any person or persons, provided, and on condition, that the building in which the hay and straw shall be kept shall be constructed of brick or stone, with walls not less than eight and a-half inches thick, and if the building be of but one story, the roof shall be covered with gravel, slate or metal, and the doors and windows shall be covered on the outside with sheet iron; and for any violation of this section the person or persons so offending shall forfeit and pay ten dollars, to be recovered as other city fines are recoverable. No. 20, Apl. 25, '74. Hay. In what buildings hay and straw shall be kept. Penalty.

59. Parties shall not be liable for the fines and penalties imposed by the preceding sections 44, 48 and 49, unless reasonable notice has been given to the said party or parties so offending, No. 35, May 2, '62. When notice to be given.

and the necessary time has been allowed for a compliance with the requirements of said sections; provided, however, that the provisions of this section shall not be applicable to a party or parties who may commit the same offence a second time, or fail to comply with the requirements of said sections, after the notice aforesaid has been given, or when the offence was knowingly or wilfully committed.

Proviso.

When no notice required.

No. 23, s. 13, R. O.

Fires on board ships regulated.

51. No person in charge of any ship or vessel shall permit any fire to be kept on the deck thereof while lying at any wharf or dock within the city, between the hours of ten o'clock at night and five o'clock in the morning, from the first day of April to the first day of October, and between the hours of nine o'clock at night and six o'clock in the morning, from the first day of October to the first day of April; and it shall be the duty of the police officers to visit the bay craft within their respective districts, and give information of this regulation to some person on board.

Duty of police.

GUNPOWDER.

No. 5, s. 1, R. O. No. 47, s. 1, R. O.

Keeper.

His duties.

52. There shall be annually appointed, as other city officers are, a superintendent or keeper of gunpowder, who shall receive a salary of four hundred dollars a year, and who shall attend at the public magazine intended for the storage of gunpowder within the city of Baltimore, every day (Sundays excepted,) from the hour of nine o'clock in the morning until four o'clock in the afternoon, and shall receive and store within said magazine, all gunpowder delivered there for that purpose, and shall give a receipt for the same, mentioning the marks thereof; he shall be entitled to the following storage for all gunpowder thus received by him, to wit: for every barrel or quantity of one hundred pounds weight, in whatsoever description of vessel contained, twelve cents; for every half barrel, or quantity of fifty pounds weight, in whatsoever vessel contained, ten cents; and for every quarter barrel or

Rates of storage.

twenty-five pounds weight, in whatsoever vessel contained, eight cents per month, and in like proportion for any intermediate or less quantities, or any shorter time; provided, nevertheless, that all gunpowder thus stored in quantities of less than one hundred quarter barrels, shall be charged at least one month's storage, at the above rates, whether it shall actually have been stored so long or not. And the said superintendent shall collect the storage thus authorized to be charged from the person storing the gunpowder as aforesaid, or the owner thereof, every three months; and in case any gunpowder thus stored shall remain twelve months or upwards in said magazine, without said storage having been paid thereon, the said superintendent, with the approbation of the Mayor, shall, after public notice for that purpose, cause the same to be sold at auction, or so much thereof as may be sufficient to discharge the storage due thereon. The said superintendent shall enter, in a book or books which shall be the property of the Mayor and City Council of Baltimore, and which it is hereby made the duty of the Register to furnish him, all gunpowder stored as aforesaid in said magazine, and by whom stored; and shall, on receiving it, credit the person storing the same, with the quantity thereof, and shall charge the same, or any portion thereof, as it may be removed from said magazine; and shall in like manner, note all transfers of said gunpowder of which he may be apprised, in the book or books aforesaid; and he shall make returns once in every three months, on oath, to the Mayor, of all gunpowder thus stored in said magazine, and of his receipts of money for such storage, and pay over the same to the Register; he shall also cause all the powder stored in said magazine to be turned upside down at least once in every month. The said superintendent or keeper shall, before he enters upon the duties of his office, give bond with security, to be approved by the Mayor, to the Mayor and City Council, for the faithful discharge of his duties, in the sum of two thousand dollars.

Proviso.

Keeper to collect storage.

When and how gunpowder may be sold for storage.

Keeper's books and accounts regulated.

Monthly returns to the Mayor and payments.

Bond.

No. 47, s. 2, R. O.

Gunpowder brought into city by land or water regulated.

53. All gunpowder brought within the limits of the city by land, or into the port or harbor, in any ship or vessel, other than a ship or vessel of war, shall be stored in the said magazine as aforesaid; if brought by land as aforesaid, within seventeen hours thereafter; if brought into the port or harbor as aforesaid, within forty-eight hours after the ship or other vessel thus bringing it shall have broken bulk; provided, the quantity thus brought in shall exceed the weight of one quarter barrel as above defined; or being of such weight and no more, shall be well secured in tin canisters; nor shall it be lawful for any ship or vessel, other than a ship or vessel of war, bringing gunpowder into the port or harbor of Baltimore, or having gunpowder on board, in a greater quantity than the weight of the quarter barrel as aforesaid; or being of such weight and no more, not secured as above provided, to approach, lie at anchor, or moor nearer than two hundred yards to any wharf, or land within the limits of said city, or discharge, land or deliver gunpowder in a greater quantity or otherwise secured than as aforesaid, at any other place within the said city, than at the wharf of the magazine aforesaid, or such other wharf or place as the Mayor and Harbor Board may designate for that purpose; nor shall any gunpowder be delivered or received on board of any ship or other vessel from the magazine aforesaid or elsewhere, in a quantity above the weight of one quarter barrel as aforesaid, or being of such weight and no more, not secured as aforesaid, while the said vessel shall be or remain within two hundred yards of any land or wharf within the limits of the city; and for any violation of any of the provisions of this section, the owner of the gunpowder in question, the person who shall bring it into the city, the person who shall receive or take charge of it when brought in, and the owner, master and consignee of the ship or other vessel concerned in said violation, as the case may be, shall be severally liable to a penalty of twenty dollars for each twenty-five pounds of gunpowder, in whatsoever vessel or ves-

Proviso.

Regulations for vessels landing or receiving gunpowder.

Penalty for violating regulations.

sels it may be contained, which shall be the subject matter of such violation.

54. All gunpowder carried or conveyed to or from any place in or through the city, shall be first well secured with a good bag or bags, or covered with a sail or other cloth under and around it, so as effectually to secure the same from scattering or sifting out, under a penalty of ten dollars for every quarter barrel, or twenty-five pounds weight, carried or conveyed otherwise than is herein provided, to be recovered of the owner of said powder, or the person having charge of the same, or of the person actually conveying or carrying the same, or any of them. Ibid, s. 3. Gunpowder carried through city regulated.

55. No person or persons shall have or keep in his, her or their possession, within the limits of the city, whether in any building or shed, or in the street, or upon any lot or premises whatever, or in any wagon, cart, dray or other carriage, any quantity of gunpowder exceeding fifty pounds in weight, (which shall be well secured in tin canisters or wooden kegs,) under a penalty of twenty-five dollars for every violation of this section, by having above the quantity hereby allowed; provided, that this penalty shall not apply to gunpowder being conveyed and actually *in transitu*, without stoppage, (except sufficient time for the purpose of delivery,) through the streets of the city of Baltimore, for the purpose of shipment or transportation beyond the city. No. 73, Aug. 28, '60. What quantity of gunpowder to be kept. Proviso.

56. Any person or persons keeping gunpowder in their store or warehouse, shall have it kept in a tin canister near one of the front doors, and a tin sign placed on the outside of the door marked "gunpowder." Any person or persons failing to comply with the provisions of this section, shall forfeit ten dollars to the use of the city of Baltimore; to be collected as small debts are, before a single justice of the peace, in the name of the Mayor and City Council of Baltimore. No. 16, Apl. 5, '60. How to be kept. Penalty.

No. 47, s. 5, R. O. Duties of Mayor and justices of peace.

57. The Mayor or any justice of the peace, is hereby, authorized as often as he shall be informed upon oath, of probable cause to suspect any person or persons of concealing or keeping within the said city, any quantity of gunpowder over and above fifty pounds as aforesaid, to issue a search warrant to examine into the truth of such allegation or suspicion, and search any place whatever therein.

Ibid, s. 6. Owners, &c., of ships.

58. The owner and owners, consignee and consignees, master and acting master at the time of any ship or other vessel which shall approach any part of the city, lie at anchor, or moor in the port or harbor of the same, or from which gunpowder shall be discharged, landed or delivered, or which shall deliver or receive any gunpowder in violation of this ordinance, shall each of them be severally liable for the penalties provided by this ordinance. Penalty.

MANUFACTURE OF OILS.

NO. 20, s. 2, Apl. 25, '62. Manufacture of what oils regulated.

59. It shall not be lawful for any person or persons to erect, build or have put up or use any building or buildings for the manufacture of camphine, pine, ethereal or coal oil, refined petroleum oil, kerosene or carbon oil, and all oils manufactured from coal, rock or earth oil and petroleum within the limits of the city, without first obtaining the sanction of the Mayor and City Council; and ten days' notice immediately preceding the application to the Mayor and City Council shall be given by at least four insertions in two or more of the daily papers of the city, setting forth the purpose of said application, the street, alley or court and square of ground on which the contemplated manufactory is to be erected or put up; and every person or persons violating this section shall be subject to the penalty of not less than twenty dollars nor more than fifty dollars, and the further penalty of twenty dollars for each and every day such manufactory shall remain, to be recovered as other fines are recoverable; provided that nothing in this Ten days' notice. Penalty.

section shall apply to manufactories of coal and other oils now erected and in use in said city.*

STORAGE OF OILS, &c.

60. It shall not be lawful for any person or persons to keep on storage or for sale, within the limits of the city of Baltimore, any crude rock or earth oils, petroleum, kerosene, naptha and benzone, except as hereinafter provided. No. 63, s. 1, '62. Storage of what oils unlawful.

61. Crude rock or earth oils, coal oil, and petroleum oil may be stored or kept for sale in stores or buildings, other than dwelling houses, in quantities not more than one barrel in any one building, provided it be kept in metallic packages. Ibid, s. 2. How much may be kept for sale.

62. Manufacturers, refiners or distillers of coal or rock oil, naptha or benzone, may keep or store in their factories such quantities of oil, naptha or benzone as they desire; provided always that the said manufactory is carried on in a brick, stone or fire proof building or buildings, not nearer than fifty feet to any other building, and if in a frame building, not nearer than one hundred feet to any other building. Ibid, s. 3. Distillers of oils, &c. Proviso. Fire proof building.

63. Refined petroleum, earth or rock oil, or coal oil or kerosene oil, for illuminating purposes, may be kept on sale in stores, dwelling houses or other buildings. Ibid, s. 4. Refined petroleum, &c.

64. Naptha and benzone may be kept on storage or for sale in quantities not to exceed fifteen gallons in any one building, the same to be kept in metallic packages. Ibid, s. 5. Naptha and benzone.

65. No crude rock or earth oils, petroleum, kerosene, naptha or benzone shall be placed in any lot or yard and remain therein over twenty-four hours, without first obtaining the consent of the Mayor, and all the property holders within two hundred feet; provided that this section shall not apply to Ibid, s. 6, No. 98; Oct. 27, '64. Crude rock, or earth oils, &c. Proviso.

* See further under Art. XXIII.—Health.

manufacturers, refiners or distillers. It shall not be lawful for any person or persons to keep stored within the limits of the city of Baltimore, more than one hundred barrels of refined rock, earth or coal oil in any one building at one time, without having obtained the permission of the Mayor and City Council.

Refined rock, coal oil, &c.

Ibid, s. 7; No. 98, Oct. 27, '61. Penalties.

66. Any person, persons or corporation, who shall violate any of the provisions of this ordinance, shall forfeit and pay a fine of fifty dollars for each and every offence, and ten dollars for each and every day thereafter the said violation continues, to be recovered as other fines and forfeitures are now recoverable.

DYNAMITE, NITRO-GLYCERINE, &c.

No. 24, s. 1, Mar. 9, '76. No explosive material or compound to be manufactured within the limits of city.

67. It shall not be lawful for any person, persons, or body corporate, to manufacture within the limits of the city any explosive material or compound, to be used for the purpose of blasting or mining, or for any other purpose, the manufacture of which would be dangerous to life and property, under the penalty of one hundred dollars, and a further penalty of fifty dollars for each and every day that such explosive material or compound may be manufactured, after proper notification for discontinuance thereof by the Fire Inspector.

Penalty.

Notice from Fire Inspector.

Ibid, s. 2. Not lawful to store or keep in any building or shed, or convey through the streets explosive material or compound without a permit from Mayor.

68. It shall not be lawful to store or keep in any building or shed, or deposit upon any vacant lot, or convey through any of the streets, lanes or alleys of the city, any dynamite, nitro-glycerine, or any other explosive material or compound other than gunpowder, unless a permit in writing for such purpose or purposes be first obtained from the Mayor, under a penalty of fifty dollars for each and every offence, and a further penalty of fifty dollars for each and every day that such explosive material or compound may remain stored, kept, deposited or

Penalty.

conveyed, as the case may be, after the proper notification from the Mayor or Fire Inspector for a compliance with the provisions of this section. Notice.

69. In all buildings in which any explosive material or compound, as regulated by the preceding two sections, stored or kept under a permit obtained from the Mayor, it shall be the duty of the person or persons so storing it, to place a tin sign on the door, or some other conspicuous place on the outside of the first story of such building, on which shall be painted in legible letters, the name of the material or compound so stored or kept, under a penalty of twenty dollars, and a further penalty of ten dollars for each and every day after proper notification from the Mayor or Fire Inspector until such sign as above designated shall be posted. Ibid, s. 3. Tin sign to be placed on door of building in which explosive material or compound is stored. Penalty. Notice.

SHAVINGS.

70. It shall not be lawful for any person or persons to deposit in any street, lane or alley, or any vacant lot, except at the distance of at least three hundred feet from any building, or lumber yard, any shavings, chips or other combustible matter; and it shall be the duty of every person or persons, who shall remove such combustible matter to such place as is hereby permitted, to burn them or cause them to be burnt, before five o'clock in the evening of the day on which they are so deposited; and every person offending against the provisions of this section shall forfeit and pay a sum not exceeding twenty dollars. No. 35, s. 12, R. O. Shavings to be deposited and burnt. Penalty.

ARTICLE XXI.

GAMING.

ORDINANCE.

1. Penalty for fraudulent gaming and betting.
2. Penalty for gaming in ordinaries: liability for keeping of ordinaries.
3. Penalty for keeping gaming tables, &c.
4. Police to give information and suppress gaming: mode of proceeding: penalty for refusing to open rooms to police.
5. Horse racing prohibited.
6. Long bullets prohibited.

ORDINANCE.

No. 36 s. 1, R. O.

Penalty for fraudulent gaming and betting.

1. If any person or persons shall, within the city of Baltimore, by any fraud, cozenage, deceit, unlawful device, or evil practice whatsoever, in playing at or with cards, dice or any other game or games, play for, win, obtain or acquire to him or themselves, or others, any sum or sums of money or other valuable thing, or shall, knowing of such fraud, bear a share or part in the wager, stake or adventure so played for, or shall, with the like knowledge, bet on the side or hand of such gamesters, every such person being thereof convicted, shall for every offence forfeit and pay twenty dollars.*

* P. G. L., Art. 30, secs. 56 to 66, relating to gaming, is as follows:

56. No person shall keep any gaming table, or any house, vessel or place, on land or water, for the purpose of gambling.

57. Every faro table, E. O. table, equality, or any other kind of gaming table, (billiard table excepted,) at which any game of chance shall be played for money or any other thing, shall be deemed a gaming table.

Article XXI.—Ordinance.

2. If any person or persons shall at any time, in any ordinary or licensed house of entertainment within the city, or in any house attached thereto, or upon the lot or premises whereon such licensed house is or may be situate or erected, win or lose one cent or upwards, or the value thereof, at cards or any other game, every such person or persons on conviction thereof, shall forfeit and pay one hundred dollars for every offence; and if any ordinary keeper shall suffer or permit any person or persons to lose one dollar or upwards, or the value thereof, at any time in his house, at any game or games whatsoever, knowing the same, he shall forfeit and pay for every such offence the sum of one hundred dollars.

Ibid, s. 2.

Penalty for gaming in ordinaries.

Liability of keepers of ordinaries.

58. No person shall lease or rent any house, vessel or other place to be used for gambling.

59. Any person keeping a gaming table, or other place for gambling, shall be deemed guilty of a misdemeanor, and on conviction thereof, fined or imprisoned at the discretion of the court, not exceeding five hundred dollars or six months.

60. If the owner, tenant or occupier of any house, vessel or other place, shall knowingly permit any gaming table to be kept therein, he shall be guilty of a misdemeanor, and on conviction thereof, shall suffer the penalties prescribed in the preceding section.

61. Any person who may lose money at a gaming table, may recover back the same as if it were a common debt, and may be a competent witness to prove the sum he lost, but no person shall recover any money or other thing which he may have won by betting at any game, or by betting in any manner whatsoever.

62. All games, devices and contrivances at which money or any other thing shall be bet or wagered, shall be deemed a gaming table within the meaning of the preceding sections.

63. Any person who shall win any money or other thing by the thimbles, or what is called the little joker, or by any other device, or fraudulent trick whatsoever, on conviction thereof, shall be imprisoned not less than six months nor more than two years, and fined not exceeding one hundred dollars.

64. The courts shall construe the preceding sections relating to gambling and betting liberally, so as to prevent the mischiefs intended to be provided against.

65. No person shall refuse to testify concerning any gaming or betting because his testimony would implicate himself, but when any such person is

Article XXI.—Ordinance.

Ibid, s. 3.

Penalty for keeping gaming tables, &c.

3. If any person or persons shall within the city set up, keep or maintain any E. O., A. B. C., rooley pooley or faro table, faro bank or device, or game of hazard or address, (except games licensed under Article XXXIII, Licenses,) for the purpose of public gaming, such person or persons shall for each and every offence forfeit and pay fifteen dollars on conviction thereof; and the occupier or occupiers of the house, out house or place in which such public gaming takes place, shall forfeit and pay twenty dollars for each and every day such game is played, or such E. O., A. B. C., rooley pooley or faro bank, faro table or other device for the purposes aforesaid, shall be set up, kept or maintained on his or their premises.

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required to testify in behalf of the State, he shall not be prosecuted for any offence to which his testimony relates.

66. All constables and police officers are required to visit all places where they shall have reason to suspect gaming tables are kept, and to have all persons prosecuted offending against the laws prohibiting gambling.

If a billiard table, excepted from the penalties of an act, were in fact used as a faro table *ipso facto*, it would lose its privilege. *The State* v. *Price*, 12 G. & J., 260.

It is not indispensable that an indictment for keeping a gaming table, framed under the act of 1826, c. 88, [sec. 57,] should set forth an express negation of the exception of billiard tables. And if the indictment be in the language of the statute, it is sufficient; and if the indictment charges for keeping a gaming table, "called a faro table," these last words are unnecessary. That a faro table is not a billiard table, is a fact within the knowledge of the community at large; and there is no presumption of law or fact to prevent the court from judicially knowing what a faro table is. *The State* v. *Price*, 12 G. & J., 260. See *Rawling* v. *The State*, 2 Md. 201.

Money lost by gaming may be recovered under Stat. 9 Anne, c. 14, [sec. 61,] in an action for money had and received, though the winner received payment of the sum won in goods. Held, that evidence that the plantiff gave the defendant orders for goods to the amount of the money won, which goods the defendent obtained and the plaintiff afterwards paid for, was sufficient to support the declaration. *Hook* v. *Boteler*, 3 H. & McH., 348.

The Stat. 9 Anne, c. 14, making void all securities given for gambling considerations, is in force in this State; there is nothing in the act of 1813, c. 84, [sec. 61,] or any previous law, which either in express terms, or by

Article XXI.—Ordinance.

4. It shall be the duty of the police officers to give information to the Mayor or other magistrate, of each house or other place within the city wherein such games or devices or tables for the purpose of gaming are, or may be set up, kept or maintained; and the said police officers shall take all lawful means to suppress and prevent the playing at the tables, games or devices as aforesaid; and for this purpose, when and as often as any one of them shall have reasonable cause to suspect that any such table, game or device is set up, kept and maintained as aforesaid, he shall apply to a justice of the peace for a warrant, and shall state under oath the cause of such suspicion, whereupon the said justice may, in his discretion, grant a warrant to any police officer or officers, authorizing him or them to enter such house, houses or place, or any room within the same; and the said police officer or officers shall thereupon have authority to demand entry therein; and any person who shall refuse or neglect

Ibid, s. 4.

Police to give information.

And suppress gaming.

Mode of proceeding.

necessary implication repeals it. Equity will grant relief against a judgment at law upon a bond given for a gambling consideration, though no such defence was made in the suit at law, and it makes no difference that the judgment was recovered by a *bona fide* assignee for value and without notice. If, when executed, the bond was intended by the obligor, to secure the payment of money won of him by the obligee, who took and held the security for that purpose, it was void when given, and a subsequent discovery, by the obligor, that he was the winner instead of loser, will not make it less obnoxious to the laws against gambling. *Gough* v. *Pratt, adm. Thomas* v. *Watson, in note*, 9 Md. 526.

P. G. L. Article 30, sec. 56, provides, that, "no person shall keep any gaming table, or any house, vessel or place, on land or water for the purpose of gambling," and by section 59, any person keeping a gaming table, or other place for gambling, shall be deemed guilty of a misdemeanor, and on conviction thereof, &c. A count in an indictment under this article which avers that the accused, at a certain time and place did, for gambling purposes then and there keep a certain place, to wit: a certain room in his hotel for gambling then and there, contrary to the statute, sufficiently charges the offence within the statute. The offence is not confined to keeping a gaming table, but the keeping of any house or other place, for the purpose of gambling, is within the letter of the law. *Wheeler* v. *The State*, 42 Md. 563.

to open the door or entrance to such house, houses or place, or any room within the same, upon application of any police officer having such a warrant, for every offence shall forfeit and pay twenty dollars.

Penalty for refusing to open rooms to police.

Ibid, s. 13.

5. No person or persons shall within the city of Baltimore, enter, start or run any horse, mare or gelding, for any plate, prize, sum of money or thing of value; and in case any person or persons shall enter, start or run any horse, mare or gelding within said city, for any plate, prize or sum of money or other thing of value, each and every such person, and each and every owner of such horse, mare or gelding, knowing and consenting to the same, shall severally forfeit and pay the sum of five hundred dollars for each and every offence.

Horse racing prohibited.

Ibid, s. 15.

6. It shall not be lawful for any person or persons to play at the game commonly called long bullets, or by whatever name the same may be hereafter called, within the limits of the city, under a penalty of two dollars for each and every offence.*

Long bullets prohibited.

* See Licenses, Art. XXXIII, and Sabbath Breaking, Art. XLII.

ARTICLE XXII.

HARBOR, DOCKS AND WHARVES.

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HARBOR.

1. Corporation to provide for preservation of navigation in basin and Patapsco.
2. Throwing obstructions in river, &c.
3. Penalty.
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5. Power to survey harbor and rivers and erect buoys.
6. To remove obstructions from harbor: to levy tonnage.
7. To pass ordinances to protect wharves and harbor.
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50. Annual statements of receipts and expenditures: reports to Legislature and Mayor and Council: what to be paid into treasury, &c.
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9. Appointment of civil engineer, clerk and supervisors of dredges, &c.: oath: duties: salaries: assignments to work: bonds to be approved by Mayor.
10. Soundings of harbor.
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14. Building or repairing wharves: examination of private wharves: notice to rebuild or repair: penalty: expense of owner.
15. Repairing below high water mark: injunction: penalty.
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24. Persons landing lumber, &c.
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26. Tonnage duty.
27. Penalty for refusing to exhibit license of vessel.
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30. Propellers, barges and canal boats to pay tonnage.
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63. Goods placed on the public wharves, when to be removed: articles excepted.
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69. Fire wood, &c., on Light street wharf.
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71. How long cord wood to remain on that wharf.
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74. Not more than one-third to be occupied: penalty.
75. Vessels not to remain more than four days: penalty.
76. Goods on public wharves regulated.
77. Wharves reserved for tobacco warehouses.
78. When fishermen to have exclusive use of wharf.
79. Goods belonging to unknown persons to be removed.
80. When and how said goods may be sold.
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82. Carts, &c., at public wharves.
83. Harbor masters to collect penalties: to account monthly and pay to Register: booths, &c., regulated.
84. Goods in transition not to be charged wharfage for less than one day.
85. Gang planks at wharves.
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STATUTES.

HARBOR.

1. The Mayor and City Council have power to provide for the preservation of the navigation of the basin and Patapsco river, within the limits of the city, and within four miles thereof, and for cleaning and deepening the basin and docks, and for regulating the stationing, anchoring and moving of vessels.

P. L. L., art. 4, sec. 793. Corporation to provide for preservation of navigation in basin and Patapsco.

2. No person, his servant or agent, shall put or throw into the Patapsco river, or any of the navigable branches thereof, any earth, sand or dirt, or lay out on the beach or shore of said river below common high water mark, any earth, sand or dirt, unless such earth, sand or dirt be first well secured by stone walls, dovetailed log pens or otherwise, so that no part thereof may wash into said river or the navigable branches thereof.

Ibid, sec. 794. Throwing obstructions in river, &c.

3. Any person offending against the provisions of the last preceding section, shall forfeit and pay the sum of fifteen dollars, to be recovered before a justice of the peace, as in case of small debts, one-half to the State and the other half to the person who shall sue for the same.

Ibid, sec. 795. Penalty.

4. The Mayor and City Council shall have full power and authority to make such rules, regulations and ordinances from time to time, respecting the mooring and safe stationing of all vessels arriving in said port, as they shall deem necessary.

Ibid, s. 796. Power to regulate mooring of vessels.

5. The Mayor and City Council may make an exact survey and chart of the basin, harbor and river Patapsco, and may ascertain the depth and course of the channel of the same, and if necessary affix buoys or water marks for facilitating and rendering more safe the navigation thereof.

Ibid, sec. 263. Power to survey harbor and river and erect buoys.

Ibid, sec. 264.

To remove obstructions from harbor.

6. They may cause the basin and harbor, or such parts thereof as they may deem proper, to be cleansed, scoured, cleared, and ballasted, and all obstructions and annoyances in and upon the same, whether from vessels sunk or from any other cause, to be removed, and may levy a tonnage duty of two cents per ton on every vessel entering or clearing at said port.

To levy tonnage.

Ibid, sec. 265.

To pass ordinances to protect wharves and harbor.

7. They may pass such ordinances as they may deem proper respecting wharves and wharfage, and the keeping of wharves in repair so as to prevent their injuring the harbor or basin, and for preventing vessels from casting filth or ballast into the same, and to prevent filth, earth or soil from being thrown from the wharves or land into the said basin or harbor so as to fill up the same or obstruct the navigation thereof.

Ibid, sec. 266.

Fines.

8. They may impose fines for the breach of any ordinance passed under the preceding section not exceeding one hundred and fifty dollars.

Ibid, sec. 267.

Limits of wharves.

9. No wharf shall be run out, made, altered, enlarged or extended so as to divert the course of the channel, obstruct the harbor or basin, or to the injury of the same; and no person shall make, alter or extend any wharf without laying before the Mayor and City Council, or some officer by them for that purpose appointed, a plan of said wharf, and obtaining the consent of the Mayor and City Council to carry the same into effect.*

*By resolution No. 185, April 22, 1876, the law officers of the City were directed to give the proper legal notice to all persons, firms or corporations, engaged in erecting piers, platforms, wharves, bulkheads or warehouses which extend into the waters of the harbor, to discontinue all operations in that direction until plans, plats or diagrams of the proposed structures shall have been filed by said individuals, firms or corporations, and examined and approved by the Mayor and City Council, and permission be granted to erect the same in accordance with section 9. See sec. 97, ordinances of this article.

10. If any person shall violate the provisions of the last preceding section, the Mayor and City Council may recover, by warrant before a justice of the peace, a sum not exceeding two hundred and fifty dollars, and may forthwith cause the said wharf to be demolished. Ibid, sec. 268. Penalty.

11. The harbor master of the port of Baltimore may demand from the captain or commander of every foreign vessel coming into said port for the purpose of trade and commerce, the sum of five dollars, as an additional compensation for his care and diligence in the regulation of the harbor, and providing a proper station for said vessel. Ibid, sec. 269. Pay of harbor master from vessels.

12. He may, in case of delay or refusal to make such payment, sue for and recover the same before a justice of the peace, as small debts are recovered. Ibid, sec 270. Mode of enforcing.

13. The Mayor and City Council shall have full power and authority to assess, levy and collect on every thousand feet of lumber floating into or arriving at the port of Baltimore and washed therein, a sum not exceeding thirty cents per thousand feet board measure, and not less than fifteen cents per thousand feet board measure, (excepting all timber floating into or arriving at said port for the purpose of being sawed in said city, or its vicinity, and all timber to be used for masts, spars and wharfing timber,) to be appropriated and applied by the Mayor and City Council to carrying into effect the rules and regulations which they may from time to time make respecting the said harbor and port. Ibid, sec. 271. Tonnage duty on lumber. Exception.

14. The Mayor and City Council may appoint as many harbor masters, port wardens, or other officers or agents as may be necessary to execute the powers conferred by the preceding nine sections. Ibid, sec. 272. Power to appoint harbor masters, port wardens, &c.

DOCKS.

15. The Mayor and City Council shall have power to pass ordinances for cleaning and deepening the basin and docks, P. L. L., art. 4, sec 192.

Corporation to have control of docks.

and for regulating the station, anchoring and mooring of vessels.

Entitled to land made by improvements.

16. The Mayor and City Council are vested with the right and title to any land made or to be made by them out of the water in making and completing the improvements of the city dock, according to the plan heretofore adopted by them ;

Proviso.

provided, that nothing contained in this section shall be construed to interfere with the vested rights of individuals.

1872, c. 408.

Obstructing passage in Smith's dock or a private dock.

17. If any vessel shall be lying in Smith's dock, or in any other private dock in said city, or the entrance thereof, so as to obstruct any vessel that shall be coming into the same, or moving from one place to another therein, or going out of the same, the vessel so obstructing, unless *bona fide* loading or unloading, shall be removed to such place as shall be necessary to give room to the passing vessel, under a penalty at the rate of five dollars an hour for the delay which shall be occasioned to the passing vessel, to be paid by the master or owner of the obstructing vessel, unless in cases where some unavoidable casualty or accident may make it impracticable to remove the said obstructing vessel; and if a vessel when moving to make room for another be obstructed by any vessel, the master or owner of such obstructing vessel,

Penalty.

unless when loading or unloading, shall forfeit at the rate of five dollars an hour during the continuance of such obstruction, to be recovered by the master or owner of the passing vessel aforesaid.

P. L. L., art. 4, sec. 195.

What, term vessel to include.

18. The term vessel in the preceding section shall include boats, scows and arks.

1872, c. 408.

Vacant place.

19. No vessel shall enter Smith's dock, or any other private dock in said city, without first ascertaining whether there is a vacant place at a wharf therein where she can lie,

Penalty.

under a penalty of five dollars, to be paid to the Mayor and City Council of Baltimore.

20. All vessels which shall be found obstructing the passage of said docks shall, unless *bona fide* loading or unloading, remove when requested by the master or agent of the passing vessel, in such manner as will give a free and unobstructed passage to such passing vessel, under a penalty of five dollars an hour for each hour they shall obstruct such passage, to be paid to the master or owner of such passing vessel, after one notice shall have been given to the master, owner or person in charge of such obstructing vessel. 1872, c. 408. When vessels obstructing passage to make room. Penalty.

21. The penalties imposed by the three preceding sections may be recovered as small debts before any justice of the peace for the city of Baltimore from the master, owner or person in charge of the obstructing vessel, for the use of the master, owner or person in charge of the vessel obstructed, but such penalty shall not be recoverable where the obstruction proceeds from any unavoidable cause. P. L. L., art. 4, sec. 198. Penalties, how recovered.

WHARFINGER AND WHARVES.

22. The Governor, by and with the consent of the Senate, shall biennially appoint one or more persons of integrity as Wharfingers in the City of Baltimore. P. G. L., art. 97, sec. 1. Appointment of wharfinger.

23. The person so appointed shall, before proceeding to act, enter into bond to the State of Maryland, with two securities to be approved by the Governor, in the penalty of five thousand dollars, conditioned for the faithful and impartial discharge of the duties of State Wharfinger in the City of Baltimore, according to law. Ibid, sec. 2. Bond.

24. The bond executed by said Wharfinger shall be filed by the Secretary of State among the papers and documents in his charge, and a copy thereof certified under his hand and seal shall be evidence of the execution and approval thereof, and shall be good evidence in any court of law or equity in this State. Ibid, sec. 3. Where bond to be filed.

Ibid, sec. 4.

Duties of wharfinger.

To take charge of wharves.

To collect wharfage.

25. It shall be the duty of the State Wharfinger so appointed to take charge of the wharves which he may be directed and authorized to take charge of belonging to, or rented by the State within said city, and to charge and collect from all vessels and persons resorting to or using any of said wharves that he may have charge of, the rates of wharfage as are now authorized by any law or ordinance within said city, or may hereafter be established by the Mayor and City Council of Baltimore.

1865, c. 12.

His power over wharves, vessels &c.

Fines.

26. He shall be vested with the same powers in regard to the care of said wharves, or such part thereof as may be under his care and direction, and the regulating of vessels and persons resorting to and using them, as any harbor master or other officer within the city of Baltimore; and any of said persons who shall refuse or neglect to obey his orders, given in the execution of his said powers, shall pay and forfeit to this State the same fine that in the like case a person who should refuse or neglect to obey the orders of any harbor master within the said city, would by virtue of the ordinances of the city of Baltimore, pay and forfeit to the said city. He shall also be vested with the same powers in regard to the collection of wharfage and of fines and penalties as any harbor master within the said city.

P. G. L., art. 97, sec. 6.

To deposit receipts, and where and how.

Compensation.

27. He shall deposit monthly, in such banks as the Treasurer shall designate, to the credit of the Treasurer, four-fifth part of the amount of all moneys which he shall collect from time to time for wharfage, retaining one-fifth as a compensation for collecting the same.

Ibid, sec. 7.

To account to treasurer, and when.

28. He shall, on the first day of May and November in each year, render upon oath to the Treasurer, an account of all money collected by him for wharfage during the preceding half year.

29. He shall take care of, and preserve from injury, all wharves placed under his direction belonging to, or rented by, or for the State, and shall have all necessary control of the same for that purpose. Ibid, sec. 8. To preserve wharves from injury.

30. He may collect all wharfage accruing to the State in the name of the State of Maryland, before any justice of the peace of said city. Ibid, sec. 9. How wharfage to be collected.

31. He shall demand and collect for wharfage on all vessels lying at or opposite to any of the public wharves in said city, a tonnage duty of one cent per ton burthen for the first tier, two-thirds of a cent per ton for the second tier, and half a cent per ton for all vessels beyond the second tier, for each day or part of a day they shall so lie or remain; and if any vessel laden with wood shall so lie without landing any part of her cargo, no duty other than the tonnage duty above specified shall in that case be demanded by the State Wharfinger. Ibid, sec. 10. What wharfage to collect.

32. Whenever wood shall be landed on the wharves belonging to the State, the wood inspector (if any such there be, authorized by law to act,) measuring the same shall forthwith report to the State Wharfinger the number of cords so landed, with the name of the vessel from which the same was landed. Whenever lumber shall be landed on said wharves, the inspector of lumber (if any such there be, authorized by law to act,) shall report to the State Wharfinger the quantity thereof, and he shall exact and collect for wharfage thereon ten cents for every thousand feet superficial.* Ibid, sec. 11. Wood inspector to report to wharfinger wood landed on wharves. To collect wharfage on, and what.

33. He shall, in addition to the compensation allowed him by section twenty-seven, be allowed an annual salary of two hundred and fifty dollars. Ibid, sec. 12. Salary of wharfinger.

34. The wharf forming the south side of Pratt street shall be deemed a public wharf, subject to the regulations of the corporation of Baltimore relative to public wharves, and Ibid, sec. 13. Pratt street wharf, or public wharf.

*The laws authorizing inspection of wood and lumber were repealed by act of 1870, c. 418. See Inspections, Art. XXVIII.

shall be under the charge of the State Wharfinger, and subject to the same regulations as other State wharves in said city.

Ibid, sec, 14.

What wharf wharfinger may rent.

Proviso.

The State Wharfinger may rent any part of the wharf fronting the south end of the State tobacco warehouse, lying between Dugan's and O'Donnell's wharves; provided, the said renting will not in his opinion interfere with and delay the landing of tobacco at said warehouse, and that no contract for said renting shall be for a longer time than one year, and shall be approved by the Governor.*

Ibid, sec. 15.

Wharfage not chargeable on vessels at tobacco warehouse with tobacco.

36. No vessel shall be charged any wharfage whilst landing any tobacco at the State tobacco warehouse mentioned in the preceding section for inspection; provided, that if any

*The act of 1870, c. 255, grants to James S. Morsell, Jr., of Calvert county, Mason L. Weems, George F. Needham, of Baltimore city, and William B. Hill, of Prince George's county, the use, privilege and right of the State tobacco wharf at No. 3 Tobacco Warehouse, in Baltimore city, free of charge, for the term of ten years from the date of the passage of this act, for the purpose of building a pier to be used for landing tobacco and other county produce, other than cord wood, brought to the city of Baltimore by the Patuxent line of steamers owned by the aforesaid Mason L. Weems; provided, that but one steamer of said line shall lie at the pier at the same time; and

That thirty feet of the aforesaid wharf, and eighty feet of said pier on the south side of said pier, and one half the length of the same, shall be set aside and left exclusively for the use of sail boats bringing tobacco to the State warehouse, and other country produce, other than cord wood, on which said produce or other articles the State Wharfinger shall collect wharfage according to the rate of charges established by the laws of the State, the same to be governed and regulated as the entire wharf is now regulated by the laws of Maryland, and nothing herein contained shall prevent sail vessels from landing tobacco and other country produce, other than cord wood, upon any part of said pier set apart for the use of vessels carrying tobacco, in the absence of said steamers; provided, said sail boat shall not interfere with the free ingress and egress of said steamers to and from her side of the pier, and, further, it shall be the duty of the State Wharfinger to enforce the provisions of this section; and

That the said pier shall be built of good and substantial material, with a good shed thereon, under the supervision of the superintendent of labor and agriculture, and at the expiration of ten years from the date of this act shall revert to the State of Maryland in good condition and repair.

thing other than tobacco is landed, or any cargo is taken on board, wharfage shall be charged; and no vessel shall lie at said wharf for a longer time than the tobacco inspectors shall deem reasonable. Proviso.

37. The boats having on board tobacco for the inspection houses aforesaid, shall have a preference given to them over all other boats. Ibid, sec. 16. Boats with tobacco to have preference.

38. No person shall land any wood or lumber on Pratt street wharf between Light street and Franklin lane, and the Mayor of the City of Baltimore shall enforce the provisions of this section. Ibid, sec. 17. Wood and lumber, where not to be landed.

39. If any person shall violate the provisions of the last preceding section, he shall be subject to a fine of twenty dollars, one half to the informer and the other half to the State. Ibid, sec. 18. Penalty.

40. The said fine may be sued for and recovered in the name of the State before any justice of the peace for said city, in the same manner as small debts. Ibid, sec. 19. How recovered.

41. It shall be the duty of every justice of the peace for said city to make an annual return to the Treasurer of all fines imposed under the provisions of the aforegoing section, and to receive and pay over the same at the time of making said return. Ibid, sec. 20. Duty of justice of the peace.

42. The Mayor and City Council shall not collect or impose any tax, duty, toll or wharfage upon any goods, wares or merchandise, or other articles for passing the same over any of the public wharves within the said city, but the said corporation may regulate by ordinance the time during which any goods, wares, merchandise or other articles may remain on said public wharves, or the time which the vessels, boats or scows taking in or discharging such goods, wares or merchandise, shall remain at said wharves. P. L. L., art 4, sec. 944. Power of corporation to regulate wharves.

43. The Mayor and City Council may regulate, establish and collect, for the use of the city, such rate of wharfage as they may think reasonable from all vessels resorting to or Ibid, sec. 945. Rate of wharfage.

lying at, landing, depositing or transporting goods or articles other than the productions of this State on any wharf belonging to the city, or any public wharf in the said city other than wharves belonging to or rented by the State, and that part of Pratt street wharf reserved for the use of the State.*

WOOD ON WHARVES.

P. L. L., art. 4, sec. 951.
Penalty for excessive wharfage on wood.

44. Any person who shall charge, exact or receive more than six and a quarter cents upon each cord of wood landed upon any wharf in the said city shall, upon complaint and conviction thereof before any justice of the peace for said city, be fined not less than five nor more than ten dollars in each case; one-half to the informer and the other half to the State, to be recovered as fines imposed by the courts of this State.

Ibid, sec. 952.
Wood may be landed on State wharves: not to interfere with tobacco.

45. Any person carrying wood to Baltimore for sale may land the same upon the State wharves whenever permitted to do so by any tobacco inspector in the warehouse to which the wharf is attached, but such permission shall not interfere with that portion of the public wharves set apart for the use of boats laden with tobacco.

* The collection of wharfage upon the public wharves is a fit subject of legislation, and by 1827, c. 162, s. 4, (sec. 43, above,) the city of Baltimore may charge, collect and recover by suit such wharfage. *City of Balt.* v. *White*, 2 Gill, 444. Over wharfage collected at private wharves, or wharves other than those owned by the city of Baltimore, or made at the ends or sides of public streets, lanes or alleys, the city officers have no control. Its imposition and collection is the exclusive privilege of the wharf owners. It is otherwise with wharfage collected at wharves owned by the city, or at the ends or sides of the streets, lanes or alleys; all these are called public wharves. *Dugan* v. *Mayor, &c.* 5 G. & J. 374. As to wharves at the port of Baltimore, &c., see *Harrison* v. *Sterrett*, 4 H. & McH., 540; *Giraud's lessee* v. *Hughes*, 1 G. & J., 249; *Dugan* v. *Mayor, &c. of Balt.*, 5 G. & J., 357; *Wharf case*, 3 Bl., 361; *Balt.* v. *McKim, ibid*, 453; *Wilson's lessee* v. *Inloes*, 11 G. & J., 351, and 1 Gill, 430; *Hammond's lessee* v. *Inloes*, 4 Md. 138, and *Patterson* v. *Gelston*, 23 Md. 433.

46. The person landing wood upon the public wharves under the preceding section shall pay to the tobacco inspector the sum of six and a quarter cents a cord, to be by the said inspector paid into the treasury, and the inspector shall be allowed twenty per cent. upon the money so received and paid into the treasury. Ibid, sec. 953. Wharfage on wood.

HARBOR AND RIVER RELIEF BOARD.

47. The president of the Board of Trade of the city of Baltimore, and the president of the Corn and Flour Exchange of the city of Baltimore, for the time being, together with one other person, to be from time to time delegated therefor, by a majority of the presidents of the several Marine Insurance Companies, incorporated by or under the laws of the State of Maryland, and having their offices in the city of Baltimore, are hereby created and constituted a board of commissioners to be styled the Harbor and River Relief Board of Baltimore. 1867, c. 248, s. 1. Incorporated.

48. It shall be the duty of the said board, and they are hereby authorized and directed to contract for and cause to be constructed in the city of Baltimore, on the most advantageous terms according to their judgment, a first class steam vessel of such model and with such machinery and equipment as they may deem most suitable for the purpose of keeping open and free from ice, the harbor of the city of Baltimore and the access thereto in all weather and under all circumstances. Ibid, s. 2. Duty of board. Vessel to keep harbor free from ice.

49. The said board are further authorized and directed to appoint a suitable superintendent of the construction and management of the said steamer, as well as suitable officers and crew for her navigation, at such reasonable salaries as the said board may determine, subject to removal, in the discretion of said board, and also to make, and cause to be obeyed and executed, all such rules and regulations as they Ibid, s. 3. Superintendent and officers, &c. of vessel.

may consider necessary and proper for the control and direction of the said steamer and all persons connected with her in and about the service aforesaid. And the said board

How vessel to be employed.

are further required to cause the said steamer to be employed, so far as they may deem prudent and proper, during the season when the said harbor may be unobstructed, in towing vessels and aiding and promoting the ingress and egress of the same to and from the said harbor, and in and upon the Chesapeake bay and Patapsco river, at such moderate rates as they may establish, regard being had to the in-

Proviso.

terests and facilities of commerce; provided, always, that said steamer shall not be so employed in anywise during the season when her services as an ice breaker shall be needed, except in the case of vessels in distress bound to or from said city, in which service she may be employed by the board at any time when her services, if any, shall be compensated only as in the nature of towage, and not salvage services.

Ibid, s. 4.

50. A majority of said board shall constitute a quorum,

Reports to Legislature and Mayor and Council.

and determine the action of the same; they shall report their proceedings to the General Assemly and the Mayor and City Council of Baltimore, at the regular sessions thereof, and

Annual statements of receipts and expenditures.

shall render an annual account of their receipts and disbursements to the accounting officers of the State and city respectively, as soon as may be after the first of January in each and every year, and pay over into the respective treasuries

What to be paid into treasury, &c.

of the State and city, one-half to each, of all the surplus from appropriations and earnings which may be in their hands and may not be required for the efficient discharge of the duties by this act imposed upon them in their judgment.

Ibid, s. 5.

51. The said board are authorized and required, from

Requisitions for money upon Comptroller of State and city Register.

time to time, as may be necessary, to make requisition upon the Comptroller of the Treasury of the State and the Register of the City of Baltimore, respectively, for such amounts, not

exceeding one hundred and fifty thousand dollars in all, and to be paid by the State and city equally, as the construction of the said steamer may require, and to be expended in and about the same, and in like manner to make requisitions for the annual amount of ten thousand dollars, to be paid by the city as aforesaid, or so much thereof as may be required for the efficient navigation and use of the said steamer for the purposes aforesaid in each and every year; and the Comptroller is hereby authorized and directed, upon receiving such requisitions from the said board, from time to time, in conformity herewith, to issue his warrant to the Treasurer for the payment of the moneys so required, and hereby appropriated on the part of the State; and the Register of the City of Baltimore is hereby authorized and required to answer and pay the said requisitions, when made in conformity herewith, from time to time, for which end the Mayor and City Council of Baltimore are hereby required and authorized to make provision for the same by proper assessment and levy, from time to time, in the usual way.*

*The Register was directed by Res. No. 121, April 8, '68, and No. 146, April 24, '68, to pay all sums within above provisions, on requisition of the commission.

Ord. No. 40, June 10, 1867, recited that by the act of Assembly of 1867, c. 243, it is made the duty of the Comptroller of the Treasury of the State and the Register of the City, to pay over to the board, authorized and constituted by said act, such amount, not to exceed the sum of one hundred and fifty thousand dollars in all, said sum to be paid by the State and city equally, as the same may be required, for the purpose of constructing in the city of Baltimore a first-class steam vessel, for the purpose of keeping open and free from ice the harbor of said city, and the access thereto, in all weather and under all circumstances; and that the board authorized by said act has been organized by the selection of A. Schumacher, Israel M. Parr and Francis W. Wilson, as commission under said act, who have made an application to the Mayor and City Council for an appropriation to carry into effect said act of assembly; then, it enacts that the sum of seventy-five thousand dollars be appropriated, and placed in the hands of the Register of the City, to be by him set apart as a special fund for the purpose of meeting such requisitions as may be made upon him from time to time by the

Use of city wharf property.

If at any time the said board shall deem it necessary or proper to use any of the wharf property belonging to the city of Baltimore for the purpose of the said steamer and her operations, they shall be entitled to the use of the same free of all charge.

Ibid, s. 6.

Powers of board.

52. This act shall not fail or cease to have operation and effect because of any failure or neglect on the part of the presidents of the Marine Insurance Companies of the city of Baltimore aforesaid to delegate or appoint a person to act as a member of the said board, as in section forty-seven hereof provided; and in case the said presidents shall fail or neglect to make such delegation or appointment within thirty days from the passage of this act, the remaining members of the said board shall be clothed with and entitled to exercise the powers hereby on said board conferred until such appointment, or delegation shall have been made, and if after the making of such appointment or delegation, there should be

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Board of Commissioners authorized to act under said law, in the construction of the steam ice boat in said act mentioned; provided, before the City Register shall pay the said Board of Commissioners, or to their order, any part or portion of the money hereby appropriated, he shall first be satisfied, by the written certificate of said board, that an amount equal to the amount required at the hands of said Register has already been paid to said board on the part of the State of Maryland, by the Treasurer, or other proper officer of the State, as provided in said law, it being intended that the City Register shall in all cases be satisfied that the Treasurer of the State has paid to said board an amount equal to the demands made on the Register, before he shall be authorized to pay to said board any part or portion of this appropriation. And that in order to meet the disbursements required by this ordinance, the Commissioners of Finance be authorized and directed to issue from time to time, in such sums as the Register may require, seventy-five thousand dollars, or so much thereof as may be necessary, of the six per cent. stock of the City of Baltimore, interest payable quarterly on the first days of January, April, July and October, in each and every year, and redeemable at the pleasure of the Mayor and City Council of Baltimore, after the first day of July, in the year eighteen hundred and ninety; and should said stock command a premium, the amount received for premium shall be paid over by the Register to the Commissioners of Finance, to be added to the general sinking fund for the redemption of the city debt.

a failure or neglect to re appoint at any time thereafter, the person then a member of said board, by reason of such appointment or delegation, shall hold until his successor shall have been appointed, and in case of his death, resignation, refusal or failure to act, or removal from the State, the said remaining members of the board shall constitute and act as said board until some person shall have been appointed, as aforesaid, in his stead, a majority of said board to control, as hereinbefore provided.

53. No member of the said board shall have or receive any salary or compensation, directly or indirectly, for his services as such, or be interested in any contract made by or under said board in any way, and before acting under the provisions hereof, each and every member of the said board shall make and sign an oath before some person duly authorized by law to administer oaths and affirmations, that he will in no case and under no pretext, appoint or remove any person under the said board, or give to or take from any person whatsoever any contract or advantage under the same, for or on account of the political opinions of such person, or for any other cause or reason than the fitness or unfitness of such person so appointed or removed, or so having or receiving such contract or advantage to discharge or perform the duty connected therewith, or the fidelity of the said person in discharging or performing the same; said oath duly subscribed shall be recorded in the office of the clerk of the Superior Court of the City of Baltimore, who shall be entitled to the usual fees for recording the same, and whose certificate thereof, under his seal, shall be due evidence thereof at law and in equity.

Ibid, s. 7.

Members to receive no salary, &c.

Oath.

Oath to be recorded.

Fees.

Evidence.

BASIN NUISANCE.—The Act of 1876, c. 176, recites that it has been represented to the General Assembly that the sewage of the city of Baltimore has been for many years discharged into the waters of the harbor thereof, and that the said waters have thereby become so polluted as to endanger the

ORDINANCES.

HARBOR BOARD.

No. 28, Mar. 24, '76.

Appointment of Harbor Board.

Of whom to consist.

1. There shall be appointed, as other city officers are appointed, a board of six commissioners, who shall serve without pay, and who shall be residents of the city of Baltimore, who, with the Mayor,, shall be styled the Harbor Board of Baltimore, said commissioners to be men of undoubted character, and selected with a view to skill and efficiency. The said commissioners, immediately after their

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health of the good people of said city as well as of others resorting thereto for business or pleasure; it then enacts:

1. That the Mayor and City Council of Baltimore are hereby authorized and required, as soon as possible, to cause all that part of the harbor known as the basin and docks to be thoroughly cleansed by dredging the same to such a uniform depth as may be necessary for the removal of all sediment, and to cause the sewage of the said city to be diverted from the waters of the harbor by the construction of one or more intercepting sewers of sufficient capacity to conduct the sewage of the city to some point so remote from the said harbor as not to be liable to be returned thereto by the operation of the tide-water, or otherwise.

2. That before the dredging of the said basin and the construction of the said sewer shall be begun, the Mayor and City Council shall appoint some competent and skillful person, educated and accredited as a civil engineer, under whose direction the said work shall be executed, and who shall receive for his services payment as may be determined by the Mayor and City Council of said city during the time he shall be employed.

3. That it shall be the duty of said engineer, after due surveys and examinations, to make an estimate of the costs of executing said work, with detailed explanations and specifications of the kind of work required both for dredging the basin and constructing the sewer or sewers; which estimates and specifications shall not provide for a work to exceed in cost the sum of money hereinafter authorized to be expended.

4. That as soon as the said estimates and specifications shall be completed and reported to the Mayor by the said engineer, it shall be the duty of the Mayor, Register and Comptroller of the City of Baltimore to invite proposals for the execution of the various kinds of work required, by advertisement thereof in all the daily papers published in the city of Baltimore, giving at least thirty days' notice of the time and place of opening said pro-

appointment, shall draw for their respective terms of office, three for the term of four years and three for two years, and every second year thereafter, in the month of February, there shall be appointed in the same manner three persons, who shall serve for a term of four years. The Mayor shall be the president of said board, and any four members of said board shall constitute a quorum for the transaction of business.

Terms of office.

President and quorum.

2 The Board of Commissioners are authorized to receive and disburse all moneys received from the State from auction duties, under the provisions of sections 43 and 44 of Ar-

Ibid, sec. 2. Authorized to receive and disburse moneys received from auction duties.

posals, and the said proposals shall be publicly opened by the Mayor in the presence of the Register and Comptroller, and of all the bidders for such work who may choose to attend; and the said work shall be awarded to the lowest responsible bidder or bidders therefor, who, before he or they shall be permitted to begin said work shall enter bond for the faithful performance of their respective contracts, in such penalty and upon such conditions as the Mayor, Comptroller and Register may prescribe.

5. That if, in the execution of said work, it shall become necessary to use or take possession of the property of any person or corporation, and the owner or owners thereof shall refuse to grant the use of the same for a price to be agreed upon by the Mayor, Register and Comptroller of the City of Baltimore, it shall be lawful to condemn the property so needed for the construction of the said work in the name and on behalf of the Mayor and City Council of Baltimore, in the same manner as has been provided for the condemnation of lands needed for the use of the Baltimore and Ohio Railroad Company, by the act of the General Assembly incorporating said company and its supplements.

6. That in order to provide the means for the execution of the said work, the Mayor and City Council of Baltimore are hereby authorized to issue the bonds of the said Mayor and City Council for an amount not exceeding one million of dollars, from time to time as the same may be required in the course of the work; the said bonds to be issued in sums of not less than one hundred dollars each, to be redeemable in forty years, and to bear interest at the rate of six per cent. payable quarterly, and to be transferable as other city bonds now outstanding are transferred; provided however, that such bonds shall not be issued until an ordinance providing for the issue thereof shall be submitted to the legal voters of the city of Baltimore, at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place.

How such moneys applied

ticle VI, entitled Auctions, [p. 105, *ante*,] the same to be applied to deepening and improving the channel of the Chesapeake bay and Patapsco river below Fort McHenry and the harbor of Baltimore city, according to their best skill and judgment.

No. 121, June 8, '76; No. 101, s. 7, June 2, '76.

Advertisements for proposals for work in harbor and channels of Chesapeake bay and Patapsco river below Fort McHenry.

3. The Harbor Board shall annually advertise for not less than ten days in two of the daily papers having the largest circulation published in Baltimore city, for proposals for all the necessary work in the harbor and in the channels of the Chesapeake bay and Patapsco river, below Fort McHenry, for the ensuing year, specifying the probable number of cubic yards of solid matter to be removed by dredging, and the character of all other works of the department, that all mud and sediment is to be removed to a point distant from the city, so that it or any portion thereof, shall not flow into any of the channels of the Chesapeake bay, or Patapsco river; and that none but Baltimore labor shall be employed by the contractors; all bids shall be opened in public, on the day and hour named in the advertisement; any bidder of known capacity, responsibility and integrity, shall have the privilege of handing in his bid and of being present at the opening and reading of the said bids, and the contract awarded to the lowest responsible bidder. The board may reserve the right to reject any or all bids, and in the event of such rejection the board shall advertise as before for proposals for a period of ten days in two of the daily newspapers published in the city of Baltimore, and in the event that no acceptable bid shall be obtained, the said board shall proceed to have the work necessary to be accomplished done in such manner as in their judgment may be most conducive to the interests of the city.

Bids to be opened in public.

To whom contracts awarded.

When no acceptable bid obtained.

Ibid, s. 3.

Avoidance of obstruction or interference to vessels on business.

4. The said Harbor Board in giving out by contract any portion of the work in their department, shall reserve to themselves the right to control and regulate the manner of performing such work or carrying out such contract, so as

to guard against giving any unnecessary obstruction or interference to the ingress or egress of vessels or other legitimate business carried on in the harbor.

5. All bids must be accompanied with the names of at least two responsible sureties, with their affidavits that they will become sureties in the event of the bid being accepted. In all cases where a contract shall be awarded, the board shall require a good and sufficient bond in double the amount of the award for the faithful performance of the work, and in addition shall retain twenty per centum of all moneys due before the completion of the contract, to be forfeited to the city of Baltimore in the event of the contractors' non compliance with all the terms of the contract. No contract shall be binding on the city until the bond is approved, and it shall be the duty of the City Solicitor to certify to the board that the bond is in due legal form before the approval thereof.

No. 28, s. 3, Mar. 24, '76.
How bids to be accompanied.
Bond
What *per centum* to be retained.
City Solicitor to certify to bond.

6. It shall be the duty of the said board to meet once in each month, and oftener if required, to mature and decide upon all plans in reference to the general policy, details and management of all matters of the department.

Ibid, s. 4.
Meetings of board.

7. The board shall provide suitable books, in which the general accounts shall be regularly entered and posted, showing in detail all the transactions of the department. A statement of said general accounts shall be made at each monthly meeting of the board, and the board shall, on or before the twenty-fifty day of January, annually, present to the Mayor and City Council a full statement of the work of the department for the year, and of the condition of the harbor, and all matters connected therewith, and a statement of the general accounts, and of all receipts and disbursements for the preceding year, together with any information or suggestions the board may deem important.

Ibid, s. 5.
Annual report to Mayor and City Council.

Ibid, s. 6.

No member of board to be interested in contracts, &c. in relation to work on the harbor, &c.

8. No member of the said board, and no person appointed to office under this ordinance, shall be interested under any contract, bargain, sale or agreement in relation to the work on the harbor or channels of the Chesapeake bay and Patapsco river, or any matter or thing connected therewith, wherein the city is interested; and any contracts, bargains, sales or agreements made in violation of this section shall be utterly void as to the city, and the office vacated by the party interested in any of said matters in violation of this section.

When contracts void and office vacated.

Ibid, s. 7.

Appointment of civil engineer, clerk and supervisors of dredges, &c.

9. That said Harbor Board shall have power to appoint, (and at their pleasure to remove and discharge) one civil engineer, one clerk, and the necessary number of supervisors to superintend the work of the dredges or machines, and the removal of the mud and sediment; all of said employees to be sworn to a faithful performance of their work; the clerk to keep a just and true account of all the transactions of the department, and of work done by the contractors; the engineer to direct and supervise the work of the department under the direction of the board; the supervisors to see that the scows are filled with solid matter, and to keep a just and true account of the number of cubic yards of solid matter removed by the contractors each day, and report the same to the clerk daily, and render a monthly account of the same to the board under oath; and the said board shall name the respective salaries to be paid to all employees under their control and supervision, said salaries to be paid monthly; and the said board may assign any employee under their control to any other work than that above mentioned, and at their pleasure remove and discharge the same. The said board shall require bonds of the engineer, clerk and supervisors, to be approved by the Mayor, in such penal sum as they may deem sufficient to protect the public interests.

Oath.

Duties.

Salaries.

Assignments to work.

Bonds to be approved by Mayor.

10. It shall be the duty of the engineer to make monthly reports under oath of the work of the department, and he shall annually make soundings of the harbor, and report the condition of the same, with the depth of the water at all points, to the said Harbor Board, the same to be transmitted to the Mayor and City Council. Ibid, s. 8. Duty of the Engineer. Soundings of harbor.

11. All the property, machinery and effects belonging to the Port Warden's department and City Yard shall be under the charge and control of the said Harbor Board, but with no power in the said board to sell the same, except by the direct authority of the Mayor and City Council.* Ibid, s. 9. Property of Port Warden's department.

12. The Harbor Board of Baltimore is hereby empowered and directed to cause to be removed, in such time as they may think reasonable, all vessels which now are, or may hereafter be sunk in the harbor or port of Baltimore; and in case the owner or owners of such sunken vessels shall refuse or neglect to remove the same, when directed to do so by the said Harbor Board, he or they shall forfeit and pay a fine of ten dollars per day, for the use of the corporation, for every day the said vessel shall remain, after due notice as aforesaid; and in case the owner or agent of such sunken vessel cannot be found, then the Harbor Board are hereby authorized and directed to proceed to remove said vessel, and draw on the Register for the sum necessary to perform that duty, said sum of money to be taken out of any money in the treasury not otherwise appropriated, and as soon as the owners or agent of such sunken vessel so removed shall be found, the City Counselor shall be directed by the Mayor to proceed and recover by law the amount expended for the No. 101, s. 1, June 2, '76. Authority of board as to vessels sunk in harbor. Fine on owner or agent of vessel not removing same. When board to remove. When City Counselor to bring suit.

* By this ordinance No. 28, Mar. 24, 1876, the office of Port Warden was abolished; also the commission for deepening and improving the channel of Chesapeake Bay and the Patapsco River, and the Patapsco River Improvement Board; these trusts being now reposed in the Harbor Board.

removal of said vessel, and also such fines as they may be liable to under the provisions of this ordinance.

Ibid, s. 2.

Encroachments on harbor.

13. If on examination by the said Harbor Board, it shall be discovered that encroachments have been made upon the harbor by any person or persons who have or have not obtained, or may or may not hereafter obtain permission to make, build or extend a pier or wharf, it shall be the duty of said board to report the same to the Mayor, who shall notify such person or persons to discontinue said encroachment, and in the event of failure to discontinue, shall direct suit to be instituted against such person or persons, or shall report the same to the Council.

Duty of Mayor.

Suit.

Ibid, s. 3.

Building or repairing wharves

14. It shall be the duty of said Harbor Board to cause all public wharves to be rebuilt and repaired, when in their opinion the same may be necessary; to cause to be built solid and substantial wharves, of durable materials, at the end or termination of all streets, lanes or alleys leading to or binding on the harbor or Jones' Falls, when the same may be proper and necessary; to examine all private wharves, especially those constructed of wood, and should any be found, or hereafter become, decayed or defective, or from any other cause likely to be injurious to navigation or to health, the said Harbor Board shall require the same to be rebuilt or repaired within a reasonable time, to be prescribed by them in a written notice, to be served on the owner, agent or occupiers of such wharf, and they shall also require the owners, agents or occupiers of lots binding on or running to the harbor, to cause the same to be secured in such manner as the said Harbor Board shall think proper, so that no injury can result therefrom to navigation or to health, giving therefor a reasonable time, to be prescribed in said notice, (not less than thirty days,) to be served on the agent, owner or occupier of such lot or lots, and if the said requisition or requisitions shall not be complied with, he, she or they shall forfeit and pay ten dollars for every day he, she

Examination of private wharves

Notice to rebuild or repair.

Penalty.

or they shall so neglect, and if the owner is a minor, or cannot be found, it shall be the duty of the Harbor Board to have the wharf or lot secured at the expense of the owner, to be recovered by the Mayor and City Council in due course of law. Expense of owner.

15. Whenever any of the present wharves, at which there is at common tides ten feet of water, shall require a thorough repair, or to an extent below what is usually considered high water mark, it is hereby required to be done of stone, under the superintendence of the engineer of the Harbor Board, and at the expense of the owner or owners thereof, and any person or persons neglecting to comply with the provisions of this section, shall be reported by the said Harbor Board to the Mayor, who in such case is hereby required to proceed forthwith, through the aid of the City Counselor, to obtain an injunction; and any person or persons neglecting to comply with the provisions of this section shall moreover be subject to a penalty of two hundred dollars. Ibid, s. 4. Repairing below high water mark. Injunction. Penalty.

16. No person shall, without the permission of the Harbor Board, throw or deposit dirt, mud, gravel, stones or other materials in, or on the shores or banks of the Basin, Jones' Falls, Gwynn's Falls, Patapsco river or any other stream of water within the limits of the city, or within four miles thereof, under a penalty of twenty dollars for each offence.* Ibid, s. 5. No dirt, stones, &c., to be thrown in basin or any stream within city limits without permission. Penalty.

17. The Harbor Board, with the approbation of the Mayor, shall have exclusive control over all affairs connected with the Harbor, and all money appropriated for the same shall be expended under their direction, and be paid by the Register to their order, approved by the Comptroller. Ibid, s. 6. Exclusive control. Appropriations.

18. It shall be the duty of the Harbor Board from time to time, when the same shall be necessary, to remove the deposits of sediment at the mouths of sewers entering into the basin, No. 43, June 4, '77. Board to remove sediment at mouths of sewers.

* See Sections 46 and 54 of this Article, p. 347, &c.

in order to prevent the accumulation thereof from injuring the property or impeding the business operations of all persons contiguous thereto.

HARBOR AND HARBOR MASTERS.

No. 23, s. 1, R. O.; No. 18, s. 1, Feb. 18, '59; No. 32, May 5, '77.

Harbor masters.

Their duties.

19. There shall be appointed, annually, as other city officers are, six Harbor Masters, the first of whom shall perform the duties appertaining to the office on the east side of Jones' Falls; the second on the west side of Jones' Falls, including Block street to the Drawbridge, extending to Commerce street dock, inclusive; the third from Commerce street dock west, to the east side of Bowly street; the fourth from the east side of Bowly street to Light street, including Pratt street wharf, and all wharves on the south or west side of the Basin, on which the city has authority to collect wharfage; the fifth, whose particular duty it shall be to collect tonnage on vessels

ICE BOAT.—By Ordinance No. 33, May 5, 1877, the Harbor Board of Baltimore is authorized and directed to have constructed as soon as practicable, an ice boat, of such power, capacity and approved plan, as in the judgment of the said board will best accomplish the object required. The sum of one hundred and forty thousand dollars, or so much thereof as may be necessary, is appropriated for the purpose of constructing such a first-class ice boat, of iron or wood, as in the judgment of said board may be best adapted to the purpose of the navigation of the waters of the river and bay during the season of obstruction by ice, and of sufficient strength and power to break or crush any ice that would be ever likely to form in our harbor or river. The said board shall, without unnecessary delay, proceed to have constructed, by Baltimore mechanics and laborers, the said ice boat, and the ice boat, when completed, shall be under the control and management of said board, subject to the provisions of such ordinances as may hereafter be enacted by the Mayor and City Council; and shall be used in aid of the commerce and navigation of the port, and for the purpose of keeping the harbor of Baltimore, and the approaches thereto, free from obstruction by ice in such manner as said board may deem best; and in all cases of special use of the boat, in the way of relief or otherwise, the board shall have power to make such charges for her services as may seem to them just and reasonable; and the board shall keep a record of all its proceedings in suitable books, and make a full report thereof annually, in the month of January, to the Mayor and City Council.

and wharfage on merchandise, &c., on all that part of the city wharf property known as the City Dock and Jones' Falls, the same lying inside of the drawbridge; and a sixth, who shall perperform the duties of the office of harbor master, in that portion of the harbor known as the south, west and middle branches of the Patapsco river.

No. 32, s. 2, May 5, '77. Return from sixth harbor master to Register.

20. It shall be the duty of the six harbor masters, to make a monthly return under oath, and to pay all money collected by him to the City Register, who shall be authorized and directed to pay to the said harbor master, as compensation for his services, twenty per cent. on all wharfage and tonnage due and collected by him; the amount thus collected to be kept separate from that collected by the other harbor masters; and the compensation hereby authorized to be allowed to him to be twenty per cent. of his collections, and in no wise to interfere with the amount of compensation received by the five harbor masters aforementioned.

His compensation.

No. 18, s. 2, Feb. 18, '59; No. 58, s. 1, '66. Rates of wharfage. Lumber and firewood.

21. The rates of wharfage shall be such as are provided in this article, and upon lumber, firewood, &c., they shall be as follows within the limits prescribed for the said fifth mentioned harbor master. On lumber and timber one cent per thousand feet for each and every day the same shall remain on the wharf; shingles one-half of a cent per thousand for each and every day; laths one-fourth of a cent per thousand for each and every day; firewood one cent per cord for each and every day.

Ibid, s. 3. Notice to remove lumber, &c. Penalty.

22. Whenever the said fifth mentioned harbor master shall require the owner or agent of any lumber, timber, shingles, laths, or firewood to remove the same, he shall give five days notice to remove the same, and if the same is not removed within the time specified, the owner, consignee, or agent shall be subject to the fines imposed by this article.

Ibid, s. 4.

Rates to be charged when landed sixteen feet from wharf front.

23. The rates named above, shall be charged on all articles occupying the front of the wharf, and for all lumber, firewood, shingles and laths, landed sixteen feet or more from the front of the wharf, one-half of the above rates shall be charged and collected.

No. 36, Mar. 23, '59.

Landing lumber

24. All persons landing lumber and firewood on the City Dock or Jones' Falls, shall use and occupy such parts of said wharf as the said fifth harbor master may direct.

No. 23, s. 2, R. O.

Harbor master or deputy not to deal in firewood

25. It shall not be lawful for any harbor master or his deputy to be directly or indirectly concerned or engaged in selling firewood, or purchasing it for sale, under a penalty of fifty dollars for each offence.

Ibid, s. 3.

Tonnage duty.

Proviso.

26. A tonnage duty of two cents per ton shall be and is hereby assessed and levied upon every vessel of sixty or more tons arriving at the port of Baltimore; provided, nevertheless, that the sum of money assessed and levied by this section, shall be collected from each vessel but once a month, although she may arrive more frequently, and the harbor masters are hereby authorized to collect the same.

Ibid, s. 4.

Penalty for refusing to exhibit license of vessel.

27. It shall be the duty of the captain or commander of any vessel arriving at the port of Baltimore, and subject to the payment of tonnage duties, to exhibit to the harbor master, at his request, the enrolment or license of said vessel, in order to ascertain the proper tonnage thereof; and if the captain or commander of such vessel shall refuse to comply with the request of the harbor master, such captain or commander shall forfeit and pay the sum of twenty dollars, and the like sum of twenty dollars for every time such vessel may arrive at the port of Baltimore, until the request of the harbor master is complied with.

Ibid, s. 5.

Penalty for obstructing ingress and egress of vessels.

28. The captain or commander of any sailing vessel, or vessel propelled by steam, lying at any wharf, adjoining any public dock, who shall place or caused to be placed, the vessel

under his command, so as to obstruct the free ingress or egress of vessels in and out of such public dock, shall forfeit and pay the sum of twenty dollars, and the further sum of ten dollars for each and every hour such obstruction may continue, after notice to remove such vessel has been given to such captain or commander by the harbor master.

Ibid, s. 6.

Penalty for neglecting to pay wharfage.

29. It shall not be lawful for any vessel landing or receiving cargo at any of the wharves within the limits of the city, which is required to pay wharfage on cargo or vessel to the harbor masters of the city of Baltimore, to leave the wharf where said vessel receives or discharges her cargo, without furnishing said harbor master, upon application, with his manifest or bills of lading of cargo, and paying the wharfage on the same, together with wharfage and port charges on the vessel, under a penalty of twenty dollars, to be collected as other small debts are collected, from the captain, commander, owner or consignees of said vessel so offending.

Ibid, s. 7.

Propellers, barges and canal boats to pay tonnage.

30. All propellers, barges and canal boats of sixty tons or more, in any way engaged in carrying freight, are subject to, and by this ordinance required to pay tonnage duties and wharfage, as other vessels are, and the harbor masters are hereby authorized to collect the same.

Ibid, s. 8; No. 17, Mar. 19, '64; No. 18, Feb. 18, '59.

Monthly returns to Register.

Harbor masters' compensation.

31. It shall be the duty of all the harbor masters to make monthly returns, on oath, and pay all money collected by them to the Register, who shall be authorized and directed to pay to the several harbor masters, as a compensation for their services, twenty per cent. on all wharfage and tonnage duties collected by them, that they are now required by law to collect, to be paid monthly by dividing the same equally amongst them.

Ibid, s. 9.

Vessels lying at the public wharves.

32. The harbor masters are hereby authorized so to regulate the manner in which all vessels shall lie at any of the public wharves, that the facilities of discharging and receiving cargoes may be afforded as generally as possible, and the

public interest most promoted; and any person having charge of any vessel, refusing or neglecting to obey the harbor master in carrying out the above provision, shall forfeit and pay a fine of five dollars for each and every offence.

Ibid, s. 10.

Yards, &c., regulated.

33. It shall be the duty of the person having in charge any vessel lying at any of the public wharves or docks, to top the yards, rig in the jib-booms, and place the anchor or anchors on the deck of said vessel, whenever required so to do by the harbor master or the occupier of any wharf or his agent; and any person having charge of any vessel, who shall neglect or refuse to obey directions as aforesaid, shall forfeit and pay a fine of five dollars for each and every offence.

Ibid, s. 11.

Wharfage, how collected.

34. The harbor master shall collect all wharfage daily, and whenever two days' wharfage is due, and the payment not secured to their satisfaction, they shall enforce the payment thereof in the same manner as other city dues are collected.

Ibid, s. 12.

Harbor masters' books.

35. The Register of the City is hereby authorized to furnish to the harbor master such books as may from time to time be necessary, to keep accounts therein of each vessel, her tonnage, and the name of the master and consignee, which, when filled, or a change of officers takes place, shall be returned to the Register, to be kept in his office.

Ibid, s. 13.

Fires on board of vessels regulated.

36. No person in charge of any ship or vessel, shall permit any fire to be kept on the deck thereof, while lying at any wharf or dock within the city, between the hours of ten o'clock at night and five o'clock in the morning, from the first day of April to the first day of October, and between the hours of nine o'clock at night and six o'clock in the morning from the first day of October to the first day of April; and it shall be the duty of the police officers to visit the bay craft within their respective districts, and give information of this regulation to some person on board.

37. No vessel shall remain at anchor for a longer period than one hour in that part of the harbor lying northwest of a line drawn from the terminus of Hull street at the port warden's line on Locust Point, to the building on the end of Hughes street, formerly occupied as a turpentine distillery; and the person in charge of any vessel so remaining at anchor, shall forfeit and pay two dollars for every hour such vessel may so remain. Ibid, s. 14. Limits in which vessels may not remain at anchor.

38. It shall not be lawful for any vessel drawing more than eight feet water, to enter any of the public docks of the city of Baltimore, without first obtaining permission from the harbor master, whose duty it shall be to provide a suitable berth for such vessel; and any master or skipper of such vessel, entering any of the aforesaid docks without such permission, shall forfeit and pay, for every such offence, ten dollars, and one dollar for each and every hour he shall obstruct the free passage of said dock thereafter. And it shall be the duty of the harbor master to keep a free passage in such docks for vessels and scows moving in and out of the same. Ibid, s. 15. Vessels not to enter public docks without permission. Penalty.

39. The harbor masters are hereby authorized and directed, in pursuance of section 34, statutes, of this article, to put all the ordinances of the corporation relative to the public wharves in the city in full force on that part of Pratt street wharf heretofore reserved as a free wharf for Maryland vessels, to all intents and purposes as the said ordinances are now enforced on all public wharves, and vessels coming thereto, within the city; provided, that nothing herein contained shall be construed to exact wharfage from any vessel or vessels belonging to citizens of Maryland, regularly engaged in the bay trade thereof; and provided also, that no boat or vessel shall be permitted to remain at said wharf more than six days at one time, or for the disposal of any one cargo. Ibid, s. 16. Public wharf on Pratt street. Provisos.

Ibid, s. 17.

Retailing goods prohibited on said wharf.

40. No vessel shall ever be permitted to remain at the said part of Pratt street wharf, for the purpose of retailing any wares or merchandise whatsoever purchased in the city of Baltimore.

Ibid, s. 18.

Retailing goods at public wharves regulated.

41. No vessel shall remain at any of the public wharves for the purpose of retailing any goods, wares or merchandise other than the products and manufacture of the State of Maryland, more than three whole days; and no vessel shall lie at any of the city wharves for the purpose of retailing dry goods, wares, merchandise or produce, except the same has been brought into port by said vessel, under a penalty of ten dollars, and a further penalty of one dollar for every hour it remains after the master thereof shall have been notified by the harbor master to haul off.

Ibid, s. 19.

Certain vessels not to enter dock without permission.

42. No vessel loaded with lumber projecting over the sides shall enter any dock whatever, without the master thereof having first obtained the consent of the harbor master so to do, under a penalty of twenty dollars.

Ibid, sec. 20.

Vessels not to lie in second tier without permisssion.

43. No vessel without the permission of the harbor master or his deputy, shall lie in the second tier in any public dock, unless for the purpose of discharging cargo into another vessel, under the penalty of five dollars, and one dollar per hour for every hour said vessel shall remain after the master thereof shall have been notified to remove by the harbor master or his deputy, and any vessel thus discharging into another shall remove, in order to let any other vessel pass in or out of the dock, whenever required by the harbor master, under the same penalty for non-compliance.

Ibid, s. 21.

Vessels to be pumped out once a week.

44. It shall be the duty of each harbor master to notify the owners or consignees of all vessels lying within his district, to have the same pumped out at least once in each week, between the first day of June and the first day of November, and should such owners or consignees refuse or neglect so to

do, he, she or they so refusing or neglecting, shall forfeit and pay a sum not exceeding twenty dollars, and shall morever defray and pay the expenses incurred, should the harbor master have the same done, which he is hereby directed to do.

45. The harbor master shall serve or cause to be served, a printed notice on all masters of vessels, except bay craft, within twenty-four hours after the arrival of such vessel at the port of Baltimore, which shall contain all the principal regulations of the port, and it shall be the duty to see the same complied with, and the Comptroller is hereby required to furnish the harbor masters with such notices. Ibid, s. 22. Notices of regulations to be served on masters of vessels.

46. It shall not be lawful for any person to heave down or clean a vessel at any public wharf within any part of the basin or harbor of the port of Baltimore, or land or put on shore on any of the said wharves any stones, bricks, ballast, oyster shells, dirt or filth, or to make any fire thereon, without the permission of the harbor master; and if any person shall be guilty of any of the offences aforesaid, such person shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 23. Vessels not to be hove down, or wharves obstructed without permission.

47. Stone, ballast, sand, manure, oyster shells, ashes, or dirt of any kind whatsoever, shall not be taken on board any vessel lying at a city or public wharf, under a penalty of twenty dollars, unless the master of said vessel first obtain the consent of the harbor master or his deputy thereto, and they are hereby directed, before either of them grant permission as aforesaid, to see that the master of said vessel has taken all necessary precaution to prevent the navigation being injured by any such articles falling therein. Ibid, s. 24. Ballast, &c. not to be put on board without permission.

48. No ballast shall be landed from any vessel between the months of May and October, without permission therefor first obtained from the harbor master, under a penalty of twenty dollars. Ibid, s. 25. Nor landed without permission.

Ibid, s. 26.

Vessels in ballast to haul to a wharf.

49. All vessels hereafter arriving in the port of Baltimore, (public vessels and bay craft only excepted,) having sand, dirt or gravel for ballast on board, shall, within forty-eight hours after their arrival, unless prevented by some unavoidable casualty, haul to some public wharf, and continue at such wharf during the time that they retain any such ballast on board; and every vessel offending herein shall forfeit, for every day this regulation shall be disregarded, the sum of twenty dollars, to be recovered from the captain or consignee of such vessel; provided, that the provisions of this section shall not extend to any vessel while subject to the quarantine or health regulations, nor to any vessel having emigrants on board, until such vessel shall have been in port fifteen days.

Proviso.

Quarantine.

No. 85, Oct. 6, '74.

Ashes, shells, &c. not to be thrown in harbor.

50. It shall not be lawful for any owner, captain, mate or any other person, to throw overboard into the harbor, from any ship, barque, brig, schooner, sloop, pungy, steamboat, barge or canal boat, above the Lazaretto, any ashes, shells, coal, decayed fruit, dead fish, or such carbage as accumulates on any of the above enumerated vessels, or any other kind of filth; and if any person or persons shall violate the provisions of this section, he shall, after conviction before a justice of the peace, forfeit and pay a fine of twenty-five dollars.

Penalty.

Ibid, s. 2.

Duty of harbor masters and police.

51. It shall be the duty of the harbor masters of the several districts of the city, and the day and night police, to lodge information before a justice of the peace of the city of Baltimore for the violation of any of the provisions of the preceding section, that may come under their personal observation.*

*By this ordinance No. 85, Oct. 6, '74, all owners of private wharves, wherever situate on the basin above the mouth of Jones' Falls, on which there are no wooden platforms raised at least four inches above the bed of the streets, were directed to place in front of such private wharf or wharves a log of the diameter of not less than seven inches, such log to be securely fastened to the wharf in such a way as might be directed by the port warden;

52. If any person shall cast or throw any ballast, dirt, oyster-shells or filth into the water, in any part of the basin or harbor of the port of Baltimore, above the Lazaretto, or on the shore of said basin or harbor below high-water mark, or in Jones' Falls within the limits of the city, unless for the making of a wharf after permission obtained for that purpose, and which wharf shall be well and sufficiently enclosed and secured, so as to prevent injury to the navigation, such person or persons so offending shall forfeit and pay for every such offence, a sum not less than twenty nor more than fifty dollars.

No 8, s. 16, Feb. 17, '63.
Ballast, dirt, oyster shells, &c. not to be thrown in harbor.
Penalty.

53. It shall not be lawful for any person or persons, company or corporation, to cast, throw or cause to flow, any fish, crabs, animal or vegetable matter, gas tar, offal of houses, privies, or filth of any kind, into the waters of Jones' Falls, Harford run, Chatsworth run, Schroder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, within the limits of the corporation; and if any company or corporation shall violate any of the provisions of this section, they shall forfeit and pay for the first offence, the sum of twenty dollars, and a further sum of twenty dollars for each and every day thereafter, until the nuisance is abated; and if any person or persons shall violate

No 8, s. 18, Feb. 17, '63.
Fish, crabs, gas tar, offal, &c.
Penalty.

and the port warden was directed to notify all the owners of private wharves, as described in above section of this ordinance, as soon after its passage as practicable, to place logs on said wharves as therein directed; any owner or owners, trustees, guardians, agent, or any other person having possession, control or management of any private wharves, as hereinbefore described, who should refuse or neglect, thirty days after being notified by the port warden, as herein directed, to place such log on his, her or their wharf or wharves, to pay a fine of twenty-five dollars for such refusal or neglect, and five dollars a day for each and every day thereafter that said wharf or wharves remain without the log, as required by this ordinance; and the port warden was required and directed to have placed on all the wharves owned by the City of Baltimore, above the mouth of Jones' Falls, where there were no wooden platforms raised above the bed of the street, logs similar to those above required for private wharves.

any of the provisions herein contained, he, she or they shall
Penalty. forfeit and pay the sum of ten dollars for the first offence, and five dollars for each and every offence thereafter.

No. 8, s. 19, Feb. 17, '63.
Gas light company not to discharge tar or dregs.

54. If the Gas Light Company of Baltimore, or any other company or person shall discharge or cause any water to flow into Jones' Falls, Harford run, Chatsworth run, Schroeder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, within the limits of this city, in which water there may be any gas tar or other lees or dregs, unless the water so discharged shall be so filtered or strained as to prevent an accumulation of said tar, lees or dregs, in the channel or bed of said Jones' Falls, Harford run, Chatsworth run, Schroeder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, the company or person so offending shall forfeit and
Penalty. pay a fine of twenty dollars for the first offence, and a further penalty of twenty dollars for each and every day the said water shall be discharged, without being filtered or strained as aforesaid.

Res. No. 96, Apl. 25, '71.
Anchorage buoy.
Where vessels to anchor.
Penalty.

55. All vessels are compelled to anchor to the northeast of the anchorage buoy placed in the northeast part of the harbor of Baltimore, on a line from the foot of Fell street to the Lazaretto light-house, or be subject to a fine of ten dollars per hour for every hour they may remain at any other anchorage in the harbor after having been duly notified in writing by the harbor master of said district to anchor inside the above
Proviso. prescribed limits; provided, in the event of the prescribed space being insufficient to accommodate said vessels, the harbor master shall provide in his discretion other suitable places.

No. 6, Mar. 14, '78.
Vessels not to anchor in channels of harbor between Fort McHenry and Light street wharf.

56. It shall not be lawful for any steamship, steamboat or sailing vessel of any description to anchor in the channel of the harbor between Fort McHenry and Light street wharf, and any person in charge of any vessel who shall violate the provisions of this section, after having received three hours'

notice from the harbor master to remove, shall forfeit and pay a penalty of twenty-five dollars, and a further penalty of twenty dollars for every day such violation shall be continued, to be recovered in the same manner as other fines and penalties are now recoverable. Penalty

WHARVES.

57. All vessels resorting to or lying at, landing, depositing or transporting goods or articles on any wharf or wharves belonging to the Mayor and City Council, or any public wharf in the city of Baltimore, other than the wharves belonging to or rented by the State, and that part of Pratt street wharf heretofore reserved for the use of the citizens of this State, shall pay wharfage according to the following rates, viz: there shall be charged upon all vessels lying at any of the city wharves, of ten and not exceeding fifty tons measurement, one dollar per diem; all vessels of fifty and not exceeding one hundred tons measurement, one dollar and fifty cents per diem; and all vessels over one hundred and fifty tons measurement, one cent per ton per diem; and all vessels outside of first tier, half price. Twelve and a half cents per cord shall be charged upon all firewood landed upon any of the city wharves; said wood, however, not to remain upon the wharf over five days: and all vessels, except those laden with firewood, resorting to or lying at, landing, depositing or transporting goods or articles on any wharf or wharves belonging to or rented by the State, shall pay dockage according to the following rates, viz: those occupying the first tier, shall pay one cent per ton per day; those occupying the second tier, two-thirds of a cent per ton per day; and all beyond the second tier, half a cent per ton per day. No. 24, s. 1, R. O.; No. 58, May 26, '66. Wharfage. Charge upon vessels. Charge upon fire wood.

58. All vessels occupying the first and second tiers shall pay double the above rates for every day above six, and treble for every day more than twelve, that they shall remain at any of the said public wharves, unless authorized to remain longer No. 24, s. 2, R. O. Further rates of wharfage.

by the harbor master, detained by ice, or being aground; in which cases, they shall pay only single wharfage; and the harbor master is hereby authorized to extend the time for all vessels lying at public wharves over the six days mentioned in this section, in all cases when he may think the public interest promoted thereby, when it does not operate injuriously to individuals; and if two or more vessels, owned or employed by the same person or persons, shall occupy the same berth successively, they shall pay wharfage as if they were one and the same vessel.

Two or more vessels belonging to the same person.

Ibid, s. 3.

59. All goods, wares or merchandise landed on the public wharves from on board any vessel or vessels lying at said wharves, or placed thereon for the purpose of shipment or exposure for sale, shall pay the following rates of wharfage for each and every day the same may remain thereon, or any less time, excepting however, firewood and lumber, the rates of which are to be accounted for the whole time allowed by ordinance* for the same to remain on the wharves, to be paid by the owner or consignee, or in event of there being none the master of the vessel, and all goods shipped from one vessel to another, one-half price to be paid by the shipper; bags of coffee, ginger, pepper, or any other articles in similar bags, each one cent; bales of merchandise, cotton, dry goods, &c., each four cents; barrels of every description containing merchandise or otherwise, each two cents; boxes of sugar, dry goods and foreign drugs, gums, &c., each three cents; boxes of raisins, soap, tin, candles, &c., each one-half cent: castings of all kinds, per ton, fifteen cents; carriages, wagons, or carts, each twelve and one-half cents; coal, per ton of twenty-eight bushels, plaster, &c., five cents; cord wood, per cord, six and one-quarter cents; cordage, per ton, fifteen cents; crates of ware, or hampers of bottles, &c., each four cents; dyewoods of

Rates on goods landed on or, shipped from public wharves.

* See p. 341, *ante*.

all kinds, per ton, fifteen cents; grain, per bushel, and all other articles sold by the bushel, other than the product of the State of Maryland, one-half cent; grindstones, each one cent; hides, per hundred, thirty cents; leather per hundred sides, fifteen cents; hogheads and pipes of every description, containing merchandise or otherwise, each six and one-quarter cents; hemp, iron or steel, per ton, five cents; kegs of nails, shot, raisins, butter, lard, &c., each one cent; mill stones, each twenty-five cents; salt, in sacks, each one cent; shingles and laths, per thousand, two cents; tierces of every description, containing merchandise or otherwise, each four cents; all other goods not enumerated in the above list, to pay in proportion.

Ibid, s. 4.

Harbor masters to make returns.

60. It shall be the duty of the harbor masters to make their returns to the Register of all money collected by them, so as to designate that received from vessels for wharfage or tonnage, and that received from goods, and the names of the vessels from which the same may be collected.

Ibid, s. 5.

Vessels which are chargeable with city wharfage.

Master or owner responsible.

61. All vessels resorting to or lying at, landing, depositing or transporting goods or articles other than the production of this State, on or from any wharf or wharves belonging to the Mayor and City Council, or any public wharf in the said city other than the wharves belonging to or rented by the State, shall be chargeable with the wharfage as fixed by this ordinance, upon all goods or articles landed or deposited on any wharf or wharves belonging to the said Mayor and City Council; and the master or owner of the vessel so depositing, landing or transporting said goods or articles, shall be responsible for the same.

Ibid, s. 6.

Power of the Mayor.

62. The Mayor is authorized and empowered, if he should at any time find that it would promote the interest of the city and the convenience of the public, to receive from the owner or consignee of goods or articles so landed and deposited, the amount of wharfage which may be due thereon by the vessel,

master or owner thereof, in lieu of any charge upon said vessel, to the amount or rate paid by the owner or consignee of said goods, and the said Mayor is further empowered to make such agreements in relation to said wharfage as may be found necessary to secure the collection thereof.

Ibid, s. 7.

Goods placed on the public wharves, when to be removed.

Articles excepted.

63. All goods, wares and merchandise, except articles subject to inspection, which may be placed on any public wharf, shall be removed on the same day, under a penalty of twenty cents for every foot the same may occupy of the length of the wharf, and twenty-five cents per foot for every day which the said goods, wares or merchandise, or any part thereof, may remain on said wharf.

Ibid, s. 8.

Firewood, lumber, &c., on the public wharves regulated.

64. It shall not be lawful for firewood to remain on any public wharf more than ten days, under the penalty of twenty-five cents per day per front foot of the wharf which it may occupy, and it shall not be lawful for any lumber, timber, posts, hoop poles, staves, laths or shingles, to remain on any of said wharves, city dock, or the landing on Jones' Falls south of Pratt street, more than twenty days, under a penalty of twenty-five cents per day per foot of said wharf or landing.

Ibid, s. 9.

Firewood and lumber not to be landed on Bowly's wharf without permission.

65. It shall not be lawful for any person or persons to land on Bowly's wharf, any firewood or lumber, without the permission, in writing, of the harbor master of the district first had and obtained, under a penalty not exceeding twenty dollars for every load or part of a load of firewood or lumber so landed, and at no time shall more than one-third of the width of said wharf be occupied or used for the deposit of articles unladen from any vessel.

No. 58, s. 1, May 26, '66.

Rates of wharfage on lumber.

66. The following rates of wharfage shall be charged and collected by the several harbor masters: on all lumber landed upon any of the city wharves, fifteen cents per thousand feet, and for every ten days said lumber shall be kept upon the wharf, an additional fifteen cents per thousand feet shall be charged and collected.

67. No ship or other vessel, boat or scow, shall be permitted to occupy with cargo, loading or discharging, a greater length of wharf than the hull of said vessel, without the special permission of the harbor master or his deputy, under a penalty of ten dollars, and all scows or other open boats used for carrying cargo, shall pay twenty-five cents for each time the said boat or scow shall load or discharge at any of the public wharves; provided, the same shall not remain at the wharf more than one day, and if more than one day twenty-five cents for each day, and all open boats or scows shall be subject to and regulated by the harbor master, with the approbation of the Mayor. Ibid, s. 10. Space vessels may occupy. Scows regulated. Proviso.

68. It shall not be lawful for any person to encroach further on Pratt or Light street wharf, with any articles landed thereon, than eighteen feet, measuring from the inner edge of the logs or stones of which the said wharves are formed, nor shall any article not subject to inspection be permitted to remain on said wharves longer than forty-eight hours, under a penalty of ten dollars for each and every offence, and five dollars for each and every day it shall remain thereafter, nor shall any cart, dray, wagon or other vehicle, stand on said wharves longer than shall be absolutely necessary to load and unload, and all wagons loading and unloading, shall be drawn up close to and parallel with the kerbstones, under a penalty of five dollars for each and every offence.* Ibid, s. 11. Encroaching on Pratt and Light street wharves.

*The acts of 1796, c. 45, 1801, c. 92, and 1805, c. 84, authorized the owners of lots binding on Light street in Baltimore to extend wharves into the basin to a certain line, and provided that sixty feet "of said wharves, when so made out and extended at the end thereof, parallel with the line of Forrest street, shall be deemed taken and considered as a public highway forever thereafter, reserving, nevertheless, to the proprietors of said wharves the benefit and advantage of the wharfage thereof, under the limitations aforesaid." The ordinance of 1826, No. 12, section 3, [section 68 above,] declared that it should not be lawful to encroach upon these wharves with any article landed thereon further than eighteen feet, measuring from the inner edge of the logs or stones of which they are formed. But it did not appear that this

Article XXII.—Ordinances.

No. 30, Apl 5, '66.
Firewood, &c., on Light street wharf.

69. It shall not be lawful for any person or persons to rank, pile, or place any fire wood, lumber, or any article of goods or merchandise, on Light street wharf within twenty-five feet of the kerb-stone, under a penalty of ten dollars for each and every offence, and five dollars for each and every day it shall remain thereafter.

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ordinance was ever enforced. By the ordinance of 1869, No. 7, the street commissioners were directed "to condemn and widen all that part of Light street, between Pratt and Lee streets, the said widening to be made twenty feet eastwardly from the eastern side of said street." The powers and duties of the street commissioners are defined in the ordinance of 1866, No. 26, the 17th section of which provided that they shall be allowed ninety days to complete any proceedings commenced by them under that or any further ordinance, and if they cannot so complete the same, they shall report the fact to the Mayor and City Council, and shall suspend all further proceedings until otherwise directed. On a bill for an injunction to restrain the collection of an assessment for the condemnation of the wharfage rights of the proprietors along Light street, made under ordinance of 1869, No. 7, it was held:

1st. That the acts of 1796, c. 45, 1801, c. 92, and 1805, c. 84, established an incomplete, limited and qualified highway over the wharves, leaving to the proprietors thereof the right to use as much of it as was necessary for the fair and just enjoyment of the privileges granted and reserved to them by those statutes, and it was competent for the city authorities to condemn the rights still remaining in the proprietors, and to assess the benefits arising from such condemnation on the neighboring proprietors.

2d. That a court of equity will not interfere, on the ground that the damages allowed and benefits assessed in the condemnation were excessive, the remedy of parties objecting on this ground being an appeal.

3d. That in determining what was the eastern line of Light street in the phrase "the widening to be made twenty feet easterly from the eastern side of said street," occurring in the ordinance of 1869, No. 7, reference must be had to the state of things existing at the passage of the ordinance, and not to the highway described in the acts of 1796 and 1805.

4th. That a court of equity will not interfere, on the ground that the street commissioners failed to comply with ordinance of 1866, No. 26, section 17, [now repealed by ordinance No. 54, May 10, '70,] by not completing their work in ninety days, and by completing it afterwards, without first obtaining direction from the city authorities; the remedy of parties objecting on this ground being an appeal from the action of the street commissioners. *Hazelhurst et. al.* v. *Mayor, &c.*, 37 Md. 199; *Dashiell* v. *Mayor &c.*, 45 Md. 626.

70. It shall be unlawful for any person or persons to pile or place cord wood on Light street wharf in ranks of a greater height than six feet. No 39, s. 1, Mar. 24, '75. Piling cord wood on Light street wharf.

71. It shall be unlawful for any person or persons to suffer or allow any cord wood to remain on any portion of Light street wharf, in his or their occupancy or possession, for a longer period than three days after the same shall have been placed thereon. Ibid, s. 2. How long cord wood to remain on that wharf.

72. Any person or persons violating any of the provisions of the preceding two sections, shall forfeit and pay for every such violation the sum of twenty dollars, and ten dollars for each and every day thereafter until the provisions thereof are complied with, to be collected as other fines and penalties are collected. Ibid, s. 3. Penalty.

73. It shall not be lawful for any person or persons to land on McElderry's or Dugan's wharves, or at the head of McElderry's dock, fronting on Pratt street, any firewood or lumber, without permission, in writing, of the harbor master for the district first had and obtained, under a penalty of twenty dollars for every load or part of a load of firewood or lumber so landed, to be levied on any vessel or vehicle from which said wood or lumber may have been landed, and on the owner or owners thereof. Ibid, s. 12. Wood or lumber not to be landed on McElderry's or Dugan's wharf.

74. At no time shall more than one-third of the width of said wharves be occupied or used for the deposit of said firewood or lumber, under a penalty of fifty cents per cord on the wood, and one dollar per thousand feet on the lumber; and it shall not be lawful for firewood or lumber to remain on said wharves more than twenty-four hours from the time of landing, under a penalty of fifty cents per cord on the wood, and one dollar per thousand feet on the lumber, for the first offence, and a similar penalty for each subsequent day on which said wood or lumber shall remain on said wharves, to Ibid, s. 13. Not more than one-third to be occupied. Penalty.

be levied on said wood or lumber, and the owner or owners thereof.

Ibid, s. 14.

Vessels not to remain more than four days.

Penalty.

75. Any vessel entering McElderry's dock with wood or lumber on board for the object of landing the same, shall not be permitted to occupy berths or remain in said dock more than four days, under a penalty of five dollars per day for each day which they may remain in said dock over four days, (Sundays excepted,) the penalties to be collected as provided for in section 73.

Ibid, s. 15.

Goods on public wharves regulated.

76. It shall not be lawful to place any goods, wares or merchandise on any of the public wharves within sixteen feet of the kerb-stones, under a penalty of five dollars for each offence; and it shall not be lawful to place any goods, wares or merchandise on any of the public wharves, unless the same be discharged from, or are to be laden on board some vessel, or to place anything which may obstruct the free passage of said wharves by carriages of any description, under a penalty of five dollars for each offence, and a further sum of one dollar per day for each foot in length of the wharf which the same may occupy, and for each day the same may remain; and the owner, proprietor or agent of any goods, wares or merchandise, who shall place or cause to be placed such goods, wares or merchandise so as to obstruct the passage aforesaid, and shall neglect or refuse to remove the same when required so to do by the harbor masters or any one of their deputies, shall pay a fine of ten dollars for each offence, and a further sum of five dollars for each day the same may remain thereafter.

Ibid, s. 16.

Wharves reserved for tobacco warehouses.

77. The wharves in front of the several tobacco warehouses shall be reserved for the accommodation of vessels and scows bringing and taking tobacco to and from said warehouses, provided that the usual tonnage shall be paid.*

* See p. 324, *ante*.

78. The harbor master for the district is hereby authorized and directed to allow the fisherman or dealers in fish, the exclusive use of the city wharf at the foot of President street, they paying the usual wharfage, and being subject to the ordinances regulating wharves and wharfage. Ibid, s. 17. Fishermen to have exclusive use of city wharf at foot of President street.

79. Whenever the owner or owners, agent or agents of any goods, wares or merchandise landed on any of the city wharves, cannot be ascertained by the harbor master, after said goods, wares or merchandise have been landed thereon forty-eight hours, it shall be the duty of the harbor master, and he is hereby authorized to remove said goods, wares, or merchandise, and deposit the same in some convenient and safe place, and to detain said goods, wares or merchandise until the owner or owners, agent or agents thereof, shall pay the expense of removing and storing the same. Ibid, s. 18. Goods belonging to unknown persons to be removed.

80. The harbor masters are hereby authorized to sell any property which may be removed by them from any of the wharves of the city, and detained under the preceding section, having first given at least thirty days' notice of any such sale, and pay the proceeds to the Register for the use of the city, provided, that any articles which are perishable in their nature, may be sold in any number of days, not less than three, in the discretion of the harbor master. Ibid, s. 19. When and how said goods may be sold. Proviso.

81. The said harbor masters are hereby authorized and directed to cause all watermelons and other fruits, fish and vegetables to be removed from the public wharves whenever they shall become a nuisance; and the owner or owners of any such watermelons or other fruit, fish or vegetables, shall forfeit and pay the sum of five dollars for each and every day he, she or they shall neglect or refuse to remove the same after being notified. Ibid, s. 20. Nuisances to be removed.

82. The said harbor masters shall not permit any cart or other vehicle to stand on any of the public wharves of the city for the purpose of retailing fruits or other articles, but Ibid, s. 21. Carts, &c., at public wharves.

shall cause the same to be removed as soon as loaded; and in case of neglect or refusal on the part of any person having charge of the same to remove, when required by the harbor masters, or any one of them, he or she shall forfeit and pay the sum of one dollar for each and every hour such cart or other vehicle shall remain after the notice for its removal.

Ibid. s. 22.

Harbor masters to collect penalties.

83. It shall be the duty of the harbor masters to collect, within their respective districts, all the aforesaid penalties; and if any person or persons shall obstruct the harbor masters, or any one of them, in the collection of the aforesaid penalties, he or they shall forfeit and pay five dollars for every such offence; and the harbor masters, respectively, shall once in every month account, on oath, and pay over to the Register, all money by them received by virtue of this ordinance; and the harbor masters of the various districts shall not permit any booth, stand, stall, cart, wagon or any other vehicle or establishment to be erected or placed upon any of the public wharves of the city for the purpose of exposing for sale and selling by wholesale or retail, any fruits or other article; and the owner or owners neglecting or refusing to remove the same, when required by the harbor master, shall forfeit and pay the sum of five dollars for each and every day they shall refuse or neglect to remove the same after being notified.

To account on oath, monthly, and pay to Register.

Booths, &c., prohibited.

Ibid, s. 23.

Goods *in transitu* not to be charged with wharfage for less than one day.

84. No portion of this ordinance shall be construed to impose any charge on articles passing over or deposited on the wharves of the city for a less time than one day, for the purpose of delivery from or on board of any vessel trading within the limits of this State, other than the regular wharfage chargeable on such vessel.

No. 2, Nov. 23, '75.

Gang planks at wharves.

85. It shall not be lawful for any steam passenger, excursion, or freight boat carrying passengers, belonging to the port of Baltimore, to be unprovided with a gang-plank at least four feet wide, with a hand-rail on each side thereof four feet

high, the space between the hand-rail and the gang-plank to be so enclosed by netting or balusters as to prevent any person or persons passing over said gang-plank from falling overboard; said gang-plank to be used by said boats at all times upon making fast to any wharf or pier in the city of Baltimore, for the purpose of embarking or debarking passengers.

86. Any owner or owners, or captain of any steam passenger, excursion, or freight boat carrying passengers, who shall refuse or neglect to comply with the provisions of the preceding section, shall be liable to a fine of fifty dollars for such refusal or neglect to comply, said fine to be recovered as such fines and penalties are recoverable, and shall be liable to a similar fine for each day said owner or owners, or captains, shall refuse or neglect to comply with the preceding section, after the first offence. Ibid, s. 2. Penalty.

DRIFTINGS OF ARKS AND LUMBER.

87. If any ark or arks, or parts thereof, raft or rafts, or parts thereof, or lumber of ark logs, shall be found drifting about or otherwise obstructing the basin or river within the limits of the city of Baltimore, the owner or owners, agent or agents, consignee or consignees of such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, shall forfeit and pay to the city the sum of five dollars for each and every day such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, shall be found drifting about or obstructing the harbor as aforesaid; provided, however, that the harbor masters or their deputies, or some of them, shall cause notice to be given to the owner or owners, agent or agents, consignee or consignees, whenever they or any of them can be found, to have such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, immediately secured in such a manner as will not obstruct the navigation of said basin or river. No. 25, s. 1, R. O. Arks, &c., not to drift in harbor. Penalty. Proviso.

Ibid s. 2.

Duty of harbor masters.

88. In case of the refusal or neglect of any owner or owners, agent or agents, consignee or consignees of any ark or arks, or parts thereof, raft or rafts, or parts thereof, or lumber or ark logs, to have the same secured as aforesaid; or whenever no such owner, agent or consignee can be found, it shall and may be lawful for the harbor masters, their deputies, or any one of them, to cause the said ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, to be secured, and to give notice by advertisement, to be published in two or more of the newspapers printed in the city, that such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, have been so secured at the expense of the owner, agent or consignee thereof, and that unless the expenses attendant on the securing thereof, together with the fine aforesaid, be paid on or before some day to be named in the said advertisement, not less than thirty days thereafter, the ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs so secured, will be sold at public auction, at the time and place therein mentioned, for the purpose of paying expenses and fine.

Ibid, s. 3.

Penalty, &c., how recovered.

89. The penalty, cost and expenses imposed by the foregoing section of this ordinance, shall be recovered as other penalties are recovered, and in all cases where publication of notice shall be made as aforesaid, and the expenses and fine shall not be paid within the time limited in such notice, then it shall and may be lawful for the said harbor masters, their deputies, or any of them, to sell by public auction, the ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs so secured, and after paying the expenses of securing the same, to pay the surplus or balance of money obtained from said sale to the Register of the City, said surplus, after retaining the fine, to be held by him until the owner or owners thereof shall satisfy the Mayor of his, her or their right thereto, when the same shall be paid to such owner or owners under the direction of the Mayor.

Surplus from sale.

90. Any person who shall maliciously, or with mischievous intent, cast loose or set adrift any ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, or in any other way cause injury to be done to the same, shall be subject to a fine of five dollars, to be recovered as other fines are recoverable. Ibid, s. 4. Penalty for setting arks, &c., adrift.

STEAMBOATS.

91. It shall not be lawful for any boat or vessel of one hundred and fifty tons and upwards, propelled in whole or in part by steam, to enter the harbor or basin of Baltimore at or above the most eastern wharf at Locust Point, or to depart from said harbor or basin, or any part of it, at or above the most eastern wharf at the said point, at a greater speed than ten revolutions of the wheel or wheels per minute; and the master or commander of any boat or vessel, propelled in whole or in part by steam, which shall enter or depart from the said harbor or basin within the above limits, at a greater speed than ten revolutions of the wheel or wheels per minute, shall forfeit and pay the sum of twenty dollars for each and every such offence, to be recovered as other fines are recoverable. It shall be the duty of the harbor masters, or their deputies, to leave a copy of this section on board each and every boat or vessel propelled in whole or in part by steam, in the harbor of Baltimore, and to enforce the provisions of this section in every case of violation thereof. No. 26, R. O. Speed regulated. Penalty. Duty of harbor masters.

KEEPER OF HARMAN'S BRIDGE.

92. There shall be appointed annually in the month of February, as other city officers are appointed, a suitable person to be keeper of Harman's Bridge. The salary of said keeper shall be seven hundred and fifty dollars per annum, payable monthly, and said keeper shall perform his duties by night as well as No. 13, Mar. 8, '78. Duties. Salary.

by day, and shall attend to and do personally, all necessary repairs to said bridge.*

*By resolution No. 238, June 14, '78, the City Commissioner is authorized to furnish to the keeper of Harman's Bridge such assistance from time to time as in his judgment will enable the said keeper to do necessary repairs on the bridge, the expense incurred to be charged to repairs of bridges.

LIGHT STREET BRIDGE.—By the Act of 1878, c. 159, the Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County are authorized, empowered and directed to purchase the bridge over the Patapsco river, known as "Light street bridge," together with the buildings, abutments and all other appurtenances thereto belonging or appertaining, and to keep and maintain the same as a free bridge at all times, if the owners thereof will, on or before the first day of January, eighteen hundred and seventy-nine, agree to sell the same unto the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County, at a price and upon such terms and conditions as to them may appear fair and reasonable.

2. That if the Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County shall not be able, by mutual agreement, to purchase said Light street bridge from its owners, as provided in the preceding section of this act, then and in that case the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County, are hereby authorized, empowered and directed to build a substantial bridge over said river, or the southwest branch thereof, from some suitable point on the Anne Arundel county shore of said river, within a reasonable distance from the southermost terminus of said Light street bridge, eastwardly or westwardly to a convenient and practicable point in Baltimore city; and the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County are hereby authorized and empowered to acquire by inquisition, purchase or otherwise, all the lands and materials necessary for the construction of the said bridge and its abutments, and for necessary roads leading to and from the same, for the convenience of public travel; and said bridge, when built, shall be maintained and kept in proper repair by the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County as a free bridge; provided, that the entire cost to said city and county of said bridge and abutments, together with the cost of the necessary lands and roads leading to and from the same, shall not exceed in the aggregate the sum of forty thousand dollars.

3. And that there shall be appointed annually some competent person to act as bridge keeper, whose duty it shall be to attend to the opening and closing of the draw of said bridge so purchased or built when required, and also to attend to such other duties in regard to keeping said bridge in safe

KEEPER OF DRAWBRIDGE.

93. There shall be annually appointed, as other city officers are appointed, a suitable person to take charge of the draw-bridge at Block street, whose duty it shall be to attend regu- No. 65, s. 1, R. O

Keeper of drawbridge appointed.

and proper condition for public travel; and the said bridge keeper shall receive for his services such compensation as the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County shall think just and proper, to be provided for in their annual levy, which appointment shall be made the first year, and on the first day of April every second year thereafter, by the Mayor and City Council of Baltimore, and on the first day of April in every alternate year by the County Commissioners of Anne Arundel County.

4. That the Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County are hereby authorized and directed to levy on the assessable property of Baltimore city and Anne Arundel county, the former on the assessable property of Baltimore city and the latter on the assessable property of Anne Arundel county, in such manner and at such time or times as they may deem best, such sums of money as may be necessary to carry out and secure the provisions of this act, the expense thereof to be paid and borne equally by said city and county, a portion thereof at least to be levied at their regular annual levy for the present year.

5. That the cost of maintaining said bridge so purchased or built, and keeping it in safe repair and condition for public travel, shall be paid in equal proportions by the Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County; and they are hereby authorized to levy upon the assessable property of said city or county, as the case may be, such sums as may be necessary from time to time to defray said costs in the proportions aforesaid; and the said Mayor and City Council of Baltimore and the County Commissioners of Anne Arundel County shall be responsible for any damage that may occur by reason of the said bridge being out of repair.

GWYNN'S FALLS BRIDGE.—The Act of 1878, c. 402, repeals the act of 1867, c. 216, relating to the incorporation of the Gwynn's Falls Bridge Company of the Washington Road, and enacts, that the said bridge is declared a free public highway to all intents and purposes, and as such under the care and jurisdiction of the Mayor and City Council of Baltimore, who shall be chargeable with keeping the same in good order for travel.

By the Act of 1876, c. 385, the Attorney General had been directed to institute proceedings to forfeit the charter of this company. See Bridges and Highways, under Streets and City Commissioner, Art. XLVII.

His duties.

larly to said bridge from sunrise to sunset, from the first day of February to the first day of November, and give free passage without hindrance, delay or molestation, to all vessels intending to enter or leave the city dock, and to keep the said bridge closed for the accommodation of workmen from fifteen minutes before until ten minutes after seven o'clock in the morning, and from five minutes before twelve until fifteen minutes after twelve, and from fifteen minutes before one until ten minutes after one; and to attend, during the months of November, December and January, from sunrise to sunset, (Sundays excepted) and to open and close, according to his own judgment, at such times as will best serve the travel of both thoroughfares.

Ibid, s. 2; No. 32, Apl. 7, '64. Salary.

94. The salary of said keeper shall be six hundred dollars per annum, payable monthly; and the said keeper may be permitted to charge for his attendance at night and on Sundays, when it may be required, not exceeding fifty cents per vessel.

Ibid, s. 3.

Penalty for opening bridge without consent of keeper.

95. It shall be the duty of the keeper, at such times as he is directed to keep the said bridge closed, to give to all approaching vessels a signal that the bridge cannot be opened, and all persons disregarding such signal, or opening the bridge without the consent of the keeper, shall, in case of damage to said bridge, pay a fine of ten dollars, and all expense of repairing the same.

BATHING.

No. 33, s. 52, R. O.

Bathing within certain limits regulated.

96. It shall not be lawful for any person to swim or bathe at any time between the hours of five in the morning and eight in the evening, in any part of Jones' Falls or of the basin, within the limits of the city; nor shall any person on the Sabbath day bathe or swim in the waters of Harris' creek, or on the north side of the Spring Gardens, between the hours of five in the morning and eight in the evening, under a penalty of not less than one nor more than five dollars for each offence.

Penalty.

PORT WARDEN'S LINE.

97. No ordinance or resolution granting the privilege of the extension of wharves and piers into the harbor shall be considered or passed at the instance of petitioners to the Mayor and City Council, unless four weeks' previous notice of the application shall have been given in at least two of the daily newspapers published in the English language, and one in the German language, in the city of Baltimore, by advertisement inserted twice a week therein, for four successive weeks; nor shall any ordinance or resolution be considered or passed for said purpose, when offered by a member of the City Council, or by a committee thereof, upon his or their own suggestion, without any petition or memorial on the subject, unless he or they shall announce his or their intention so to do, at least fifteen days before the same shall be offered, and file at the same time, with the clerk, to be published on the journal, a definite statement of the privilege which is proposed to be given in the premises. *

No. 77, May 16, '71. Regulations for extension of wharves and piers into harbor. Notice to be given. A definite statement of proposed privilege.

* See section 9, and resolution, p. 318, *ante*.

NOTE.—The act of 1876, c. 195, recites that it has been represented to this General Assembly, that the harbor of the City of Baltimore has been and is unnecessarily obstructed, encroached upon and injured by the erection of wharves, piers and bulkheads, and that the area and channel thereof are likely to be further narrowed by privileges granted by the Mayor and City Council, without sufficient information and inquiry as to the extent of the injury to be inflicted thereby; with the view, therefore, of obtaining such information as may enable the General Assembly to control such works, and to prevent such injury in future, it then enacts that the Governor is authorized and requested to apply to the President of the United States for the appointment of a board consisting of three commissioners, to be detailed from the corps of engineers of the army and from the officers employed in the Coast Survey, who shall have power: 1. To cause the harbor and the adjacent waters, lands, wharves and docks to be surveyed in order to ascertain the present condition and lines of the said harbor and of the Patapsco river adjacent thereto, and whether the navigation thereof is improperly obstructed, and whether any further extensions of piers, wharves, bulkheads or other structures into said harbor ought to be allowed and to what

extent, and whether any grants, licenses or privileges already given by the Mayor and City Council of Baltimore for the extension of such works, will, if executed, impair, obstruct or encroach upon the navigation of said harbor or the free and beneficial general use thereof. 2. To report the result of the surveys and examinations thus made to the Governor of Maryland with all convenient dispatch. 3. To recommend to the next General Assembly the establishment and definition of the outer water-lines of said harbor, beyond which no erection or permanent obstruction of any kind shall be permitted, and to submit such provisions as they may deem wise and necessary in respect to the enlarging or filling up of the basin, docks, coves and recesses, or any part thereof; the size, position and extent of piers, wharves and bulkheads within the outer water-lines of said harbor, and to present such other recommendations as in their judgment may be calculated to preserve forever the free navigation and general beneficial use of said harbor and river. 4. To cause to be prepared and submitted with their report, maps of the said harbor and its adjacent waters, exhibiting the outer water-lines recommended by them, and the lines of existing piers, wharves and bulkheads, accompanied with such field notes, measurements and elucidations as they may consider necessary to a full exposition and understanding of the subject; and that the sum of five thousand dollars is hereby appropriated to pay the expenses of the said commissioners, out of any money in the treasury not otherwise appropriated; and that in case the said commissioners shall in writing represent to the Governor that any piers, wharves or other works in progress under any ordinances or other authority of the Mayor and City Council, will, if completed, interfere with the establishment of such outer water-lines as they may deem proper to recommend, it shall be the duty of the Governor to cause all work thereon to be suspended until the General Assembly shall authorize the further prosecution thereof, or direct their removal, as in its wisdom the General Assembly may deem most advisable; and that the water-lines of the harbor and river, which shall be defined and recommended by the said commission as hereinbefore provided, shall be thenceforward recognized and observed as the permanent line, beyond which no structures shall be built, and no change of the Port Warden's line of the harbor of the City of Baltimore shall hereafter be made without the consent of the General Assembly.

Under and by virtue of this act, the following Report, accompanied with a map, was made in January, 1878, to the Governor from a board for the survey of the harbor, constituted by the Secretary of War. It does not appear that the report was acted on by the General Assembly:—

Upon the map accompanying the report are drawn a bulk head line, and a pier head line. In the opinion of the board it is allowable to fill in continuously as far out as the bulk head line; between that line and the pier head line, projecting piers, with intervening slips may be constructed, but no structure or filling of any kind should be permitted outside the pier head line. It is unnecessary to describe these lines in detail, as they are clearly

shown upon the map, of which the position of any point may always be verified from the records of the United States Coast Survey. The board has not entered into the subject of "the size, position and extent of piers, wharves and bulk heads," as it is the opinion of the board that these must be determined from time to time, by the special requirements of commerce.

It has been considered desirable to show upon the map the original shore line, as far as its position can now be determined with accuracy. A comparison of this line with the line of the existing wharves will show a very extensive encroachment upon the original area of the fine harbor and basin of Baltimore, which are still so well adapted to the convenient accommodation of a great commerce. This encroachment has at some points been decidedly injudicious. It has recently been to a limited extent compensated for by the extensive dredging done to increase the depth of water with a consequent increase of capacity of the tidal reservoir. A more important aspect of these encroachments is that due to the interference of the objectionable structures with convenient navigation.

It is proper to observe that the lines considered allowable by the board are those which seem the best under existing circumstances, and by no means those which would have been recommended, had the work of building wharves and piers been less extensively carried on. The location of the lines is the result of the avoidance of either of two extremes, of which the one would lead to too much limitation of, and encroachment upon, the space needed for vessels at anchor, and passing to and fro, and the other would prevent the erection of the wharves and piers required for the proper accommodation of vessels loading and unloading, and for the various storehouses and other arrangements necessary for the convenient transaction of the shipping business of a great port.

The absence of strong tidal and fluvial movements, owing to the small ordinary rise and fall of the tide, and the circumstance that the current of no large stream is passing through the anchorage ground and passage ways, simplifies very much the problem of fixing the limiting lines of construction.

The board abstains from expressing an opinion as to the width or direction to be given to Jones' Falls, except to say that the width of the outlet, as shown on the map, nearly 300 feet, seems ample, and that it would be an improvement to remove the bridge through which vessels must now pass to enter the city dock. If this bridge were placed over Jones' Falls, on the prolongation of Lancaster street, the present city dock might be made a much more important part of the harbor.

It would be a great improvement if the portions of the wharves of Stickney & Co., and the light-house wharf opposite Fort McHenry, and of the wharf at Fort McHenry, could be removed. They should never have been built with their existing dimensions and position, as they are in the very throat of the harbor, and are an obstruction to vessels entering.

If the bridge leading from Ferry Point were removed, the point itself should be cut off to the line shown on the map.

Article XXII.—Ordinances.

DECISIONS.—By a lease dated in 1850, for ninety-nine years, renewable forever, a riparian lot of ground in the city of Baltimore, running back to a wharf and the Port Warden's line, and bounding in the rear on said line, "together with all the improvements thereon made, lanes, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining," was leased to certain parties, whose title in a portion of the same came by *mesne* assignments to B. In 1858, B. and the other leasehold owners of said lot, under an ordinance of the city, (ordinance No. 5, March 19, 1858,) and by virtue of the act of 1745, c. 9, extended the Port Warden's line two hundred and thirty feet further out into the water, and, by means of natural accretion and artificial deposits, filled up the said addition and used it for wharf and other purposes. In 1872, W. purchased the reversion in the lot as originally leased, and soon afterwards brought an action of trespass *q. c. f.* against B. to test his title to the said addition and accretion. Judgment being for B., on appeal it was held:

1st. That the lessors having at the date of the lease the right under the act of 1745, with the concurrence of the city authorities, to make the improvements in question, this right was by the lease assigned to the lessees.

2d. That the language above quoted was comprehensive enough to convey to the lessee every right of enjoyment and possession, in or appurtenant to the ground leased, which the lessor had, to be held and enjoyed by the lessee as long as he paid his rent and performed his covenants. *Williams* v. *Baker*, 41 Md. 523.

Under the act of 1745, c. 9, the right of a lot owner, fronting on the water, to extend his lot or improve out to the limit prescribed by the authorities of the city, is a vested right, of which the lot owner cannot be lawfully deprived without his consent. And if any other person, without his authority, make such extension, no interest or estate in the improvement vests in the improver, but it becomes the property and estate of the owner of the franchise. But this right of the owner to improve out is confined to the front of his lot, and must be within the side or outlines of the lot extended to the Port Warden's line. *Balto. & Ohio R. R. Co.* v. *Chase*, 43 Md. 24.

The principle that no patent shall issue for land covered by navigable water in front of the lands of riparian proprietors, applies to the case of lands lying in the harbor of Baltimore, where riparian owners have secured to themselves valuable rights and franchises of extending improvements into the water from their water lots, and which it would be inequitable for the State to deprive them of, by granting to others the lands covered by water in front of their lots. *Patterson* v. *Gelston*, 23 Md. 433. See act of 1862, c. 129, and *Day* v. *Day*, 22 Md. 530; *Goodsell* v. *Lawson*, 42 Md. 348.

ARTICLE XXIII.

HEALTH.

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1. Corporation to pass ordinances to preserve health of city, remove nuisances, &c.
2. Cost of paving for removal of nuisances: by whom paid.
3. Defence of owners.
4. Costs, lien on property.
5. How costs collected from non-residents.
6. Action against city by non-residents.
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PHARMACISTS.

9. Meaning of term pharmacist.
10. Pharmacists to comply with this act: exception: penalty: suit in name of Commissioners of Pharmacy and Practical Chemistry: proviso.
11. Commissioners: duties: certificate.
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13. Pharmacists to be registered.
14. Who deemed registered pharmacists.
15. Who deemed competent and entitled to be registered.
16. Fees for certificate and registration.
17. Representatives of deceased pharmacist.
18. Who permitted to compound and dispense prescriptions: penalty.
19. Adulterating or weakening officinal medicines or selling such: penalty.

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20. State Vaccine Agency established.
21. Appointment of agent: duties: salary: proviso.
22. When physicians paid by City Council, &c.
23. Who to be vaccinated: penalty.
24. Penalty for wilful use of defective virus.
25. Duties of parents and guardians: penalty.
26. Penalty for admitting to schools unvaccinated pupils.
27. How fines recoverable.
28. Vaccine agent to give bond.
29. Agent to procure true vaccine virus: to report to Governor.

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30. Altering grade of streets for health of city.
31. Cleaning streets: dirt and filth in.

Article XXIII.

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1. Board of Health appointed: duties prescribed.
2. Salaries of commissioner and assistant.
3. Meetings of the board: record of proceedings.
4. Commissioner to enforce ordinances: to decide appeals.
5. Commissioner's duties.
6. Duties of assistant commissioner: when to act instead of commissioner.
7. Marine hospital physician to attend meetings of board.
8. Police officers to execute orders, &c.
9. Preservation of the public health: information as to health of the city.
10. Expenses of board of health, how to be defrayed: annual statement.
11. Penalty for obstructing the board.
12. Penalty for refusing to obey orders of board.
13. Contracts, how to be made.

NUISANCES AND THE PREVENTION OF DISEASE.

14. Commissioner to inspect streets, wharves, yards, &c.
15. To examine lots, cellars, streets, alleys, &c.: notices to owners to remove nuisance: penalty for neglect, &c.
16. Nuisances, when to be removed at expense of city.
17. When commissioner may enter on premises.
18. His duty as to docks, &c.: notice to be given: penalty.
19. Draining low grounds.
20. Power to enter on lots causing nuisances: penalty for neglect to remove nuisances.
21. Notice when no owner found.
22. Public notice to be given when owner does not reside in city.
23. Expenses and penalty to become a lien on property.
24. Proceedings when property belongs to persons out of State.
25. Persons in possession to be deemed owners: notice.
26. Powers as to hydrants, &c.
27. Persons refusing to obey, shall pay expenses.
28. Cellars, &c., to be filled.
29. Frame buildings to be raised: penalty.
30. Lumber and wood yards.
31. Gutters to be kept clean.
32. Nauseous liquors not to be thrown in streets.
33. Filthy stables: penalty.
34. Carion, &c., to be buried: penalty.
35. Manure, &c., where not to be deposited.
36. Persons not to deposit filth on premises, &c.: penalty.
37. Removal: penalty.
38. Outside city limits: penalty.
39. Bone dealers: proviso.
40. When no oyster shells to be dumped within city limits: proviso: penalty.
41. Removal of oyster shells within city limits: penalty.
42. When hawking oysters prohibited: penalty.
43. Unlawful to erect lime kilns: penalty.
44. Ground within city limits not to be used for ice pond or skating rink: penalty.

45. Wharves and low grounds, how to be filled up: penalty.
46. Spars, &c., afloat in harbor: penalty.
47. Horses, &c. not to be driven or ridden into Jones' Falls: penalty.
48. Penalty for adulterating milk: milk from diseased cow.
49. Penalty for placing slop carts, &c., across footways.
50. Fish to be placed under roof: penalty.
51. Flying horses and whirligigs.
52. Digging up paved streets by gas companies, railroad companies, &c.: dirt to be removed within two weeks: notice from Commissioner of Health.
53. Unpaved private alleys: grading and paving: costs assessed to be a lien.

PROHIBITED MANUFACTORIES.

54. Chemical preparations for roofing, or other purposes, prohibited within city limits: penalty: proviso.
55. Composition roofing: Mayor's sanction: application to be published: penalty.
56. Manufacture of copal varnish prohibited: boiling, &c., bones.
57. Penalty.
58. Penalty for erecting or rebuilding distilleries, &c., within limits of city: proviso.
59. Penalty for using buildings as soap or candle factories within city limits without permission.
60. Applications for same to be published.
61. Mills used for pulverizing charcoal not to be erected without permission.
62. Penalty for erecting paint factories without certain written consent.
63. Penalty for manufacturing oil of vitriol, &c., without certain written consent.
64. Cotton wadding, &c., not to be made within direct taxation: penalty.
65. Brick kilns, &c., regulated: penalty.

SLAUGHTER AND HIDE HOUSES, HOG PENS, &C.

66. Slaughter house, nuisance: report to Mayor.
67. Duty of Mayor: notice.
68. No slaughter house or hide house within city limits: penalty.
69. Penalty for keeping hogs in stys, yards, &c.: proviso: pork butchers or packers.
70. Victuallers to keep hogs: proviso: permit.
71. Health Commissioner to visit premises: permit.
72. Keeping hogs without permit.

POTTER'S FIELDS.

73. Potter's fields regulated: penalty.
74. Dead bodies not recognized, how disposed of: morgue.

PRIVIES.

75. Removing contents of privy, &c., without license: penalty: licenses subject to orders of Board of Health: statistics: places: when licenses revoked.
76. License to remove contents of privies: cost of license: bond.
77. When sinks and privies may be cleaned in day time: proviso.
78. Permit from Board of Health: bond.
79. When privies to be cleaned: publication by Board of Health: inspection by police: nuisance: penalty.

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80. Public springs protected from encroachments of privies: vaults to be made impervious to water.
81. Commissioner to notify owners of property to remove privies, &c.: penalty.
82. Privies within certain limits to be repaired, &c.
83. Pipes and sewers: penalty.
84. Privies not to be erected on Jones' Falls: penalty.
85. Vaults under pavements.
86. Penalty: notice to fill up: duty to enforce.
87. How privies to be cleaned: where manure to be deposited: proviso.
88. Penalty for depositing at places not designated by commissioner.
89. Complaints from neighbors.
90. Manure at city pier in back basin: penalty.

REMOVAL OF GARBAGE, MANURE AND REFUSE.

91. Horses, carts and drivers, employed for removal of offal, coal ashes, &c., in districts: duty of drivers of garbage carts: trumpet to be sounded.
92. Duty of housekeepers and others in regard to offal, coal or other ashes: notice from assistant commissioner of health: penalty.
93. Garbage carts to have a sign and bells attached to horses.
94. Penalty.
95. Penalty for neglect of duty.
96. How carts to be covered.
97. Carts carrying offal.
98. Carts, &c., used for certain purposes to be tight.
99. Duty of police officers to report to Health Commissioner.
100. Manure not to be removed: penalty.
101. Rubbish, &c., in streets prohibited: penalty.
102. Superintendents and Health Commissioner to sell manure.
103. Proposals and contracts for removal of garbage, refuse animal and vegetable matter.
104. Places of deposit: City Solicitor to certify to contracts.
105. Contract: notice to terminate.
106. Bond from contractor.

SUPERINTENDENTS OF STREETS.

107. City divided into five districts: appointment of superintendents.
108. Superintendents to act as agents of corporation: their duties: ice and snow.
109. Men, horses and carts: weekly reports to Commissioner: Register to pay superintendent weekly.
110. Weekly reports: examined by Comptroller.
111. To notify the Mayor of all offences committed.
112. Power to employ additional force.
113. Market houses to be cleaned on Sunday morning.
114. Power of Mayor to discharge superintendents.
115. Bonds of superintendents.
116. Compensation of superintendents, their laborers, &c.: substitute: pay of horse, cart and driver: pay of garbage carts.
117. Pay per diem for garbage carts and for laborers on streets: scale of prices: report from Commissioner of Health.
118. Supervision of superintendents of streets by assistant commissioner of health.

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SMALL POX.

119. Appointment of vaccine physicians: their duties prescribed: record: report: vaccine crust.
120. To call at houses: duty of Health Commissioner.
121. Mayor's duty.
122. To act as health wardens: salaries.
123. Vaccine physicians to attend police officers wounded in discharge of duty: additional salary.
124. Vaccine physicians to grant certificates.
125. Physicians refusing to grant certificate to be discharged.
126. Further duties of vaccine physicians.
127. Officers of dispensaries to preserve virus, &c.: to repeat vaccination.
128. Innoculation prohibited.
129. When Board of Health to fence in infected districts.
130. When Mayor to convene City Council.

QUARANTINE AND MARINE HOSPITAL.

131. Marine hospital: physician to be appointed: general duties: to pay over moneys: monthly reports: detailed statements of articles purchased: patients.
132. Further duties: assistant may be employed: bond.
133. Limits of quarantine: how vessels may come within limits: vessels to be boarded: within what periods: physicians' special duties: cargo: passengers: vessel not to be removed: penalty.
134. Vessels to be purified: penalty.
135. Duties of commanders, captains and pilots in regard to infectious diseases: passengers not to be landed: nor baggage or effects: interrogatories to be answered: penalty.
136. Power of Board of Health to send sick to hospital.
137. Certain damaged articles not to be brought into city: how to be removed: removal to quarantine ground and ventilation of vessel: penalty.
138. Mayor and Board of Health may exempt steam vessels: exemption to be certified to physician at hospital: proviso.
139. Further exemptions.
140. What persons to be sent to hospital by marine hospital physician: baggage, &c., to be purified: communication with citizens to be prevented: penalty.
141. Expenses of purification, &c., how to be paid.
142. Expense of maintaining passengers under quarantine, how provided for.
143. Penalty of refusal of captain to comply with order of hospital physician: penalty upon leaving vessel without consent of hospital physician: upon going aboard vessel without consent of hospital physician: duty of Board of Health in cases of infectious disease: penalty upon refusal to obey orders in such cases.
144. Fees to be collected for visiting vessels: penalty upon refusal to pay same.
145. Salary of hospital physician.
146. Boatmen, &c., to be employed.

147. Charges to be paid for board, &c., at hospital: how and of whom to be collected.
148. Hospital physician to obtain supplies: to draw on Register.
149. Goods, &c., to be disinfected: to be returned in good order: expenses to be paid.
150. Condition of passengers to be examined.
151. Passengers and crew to be vaccinated: all moneys to be paid to Register.
152. Duty of harbor masters to report to Board of Health.
153. Visiting committee: duties.
154. Committee to be carried to and from hospital.

STATUTES.

NUISANCES.

P. L. L., art. 4, sec. 797. Corporation to pass ordinances to preserve health of city, remove nuisances, &c.

1. The Mayor and City Council have power to pass ordinances to preserve the health of the city, to prevent and remove nuisances,* and to prevent the introduction of contagious diseases within the city and within three miles of the same, and may regulate the places for manufacturing soap and candles, the erecting of slaughter houses and distilleries, and where every other offensive trade is carried on.

Ibid, sec. 798. Cost of paving for removal of nuisances; by whom paid.

2. They may, whenever any nuisance dangerous to the health of the city shall exist in any street, lane or alley of the city, and it shall be found necessary in order to the removal of the same to have such street, lane or alley paved, order the same to be paved, and may recover the amount expended in paving the same, and the expenses of collection, from the owner or owners of the property fronting thereon, in proportion to the amount expended in front of said property, by suit against the owner or owners.

Ibid, sec. 799. Defence of owners.

3. The said owner or owners may in such action defend themselves against any such claim for expenses of paving and the collection thereof, by proof that no such nuisances

* As to power of city to pass ordinances to prevent the health of city, see *Harrison* v. *Mayor, &c.*, 1 Gill, 264; *Mayor, &c.* v. *Hughes' adm.*, 1 G. & J. 480. The word "power" is construed, duty and obligation. *Mayor, &c.* v. *Marriott*, 9 Md. 160; *Mayor, &c.* v. *Pendleton*, 15 Md. 12.

existed, or that the paving of the said street, lane or alley was not necessary to the removal or abatement thereof, or that such nuisance was caused by an act or ordinance of said city or its officers in the execution of their duty.

Ibid, sec. 800. Costs, lien on property.

4. The expenses of such paving, and the expenses incident to the collection thereof, shall be a lien upon the property chargeable therewith, and when the right of the city to recover the same has been determined, the Mayor and City Council may levy such expenses upon said property.

Ibid, sec. 801. How cost collected from non-residents.

5. If any of the said property shall be owned by persons not resident within the limits of said city, then after public notice given at least three times a week for three successive weeks in two newspapapers of the city, by advertisement, describing the property chargeable, the amount of expense with which it is chargeable, and, if known, the name of the owner or owners thereof, the Mayor and City Council may proceed to levy said expenses upon the interest of such non-resident in said property, without any previous suit to determine their right to the same.

Ibid, sec. 802. Action against city by non-residents.

6. Such non-resident may, at any time within three months after said expenses have been levied and collected, institute an action against the Mayor and City Council for the recovery of the same, and if it shall appear in such action that public notice was not given as hereinbefore directed, or that no such nuisance existed, or that the paving of said street, lane or alley was not necessary to the removal or abatement thereof, or that the same was caused by any act or ordinance of the city, or by its officers in the execution of their duty, such non-resident shall recover the expenses of paving and collection so levied upon his property.

Ibid, sec. 803. Nuisances on vacant lots, how removed and costs paid.

7. Whenever any nuisance dangerous to the health of the city shall be found upon any vacant lot within the city, the Mayor and City Council may remove or abate the same,

and shall have the same remedy against the owner of such lot for the expense of so doing as is given in the five preceding sections against the owners of lots fronting on streets paved to remove a nuisance, and the owner of such vacant lot shall have the same rights and remedies therein given to the owners of lots fronting on streets so paved.

CHEMICAL LABORATORIES.

Ibid, sec. 149.

How erected.

8. No person shall erect or assist in erecting any chemical laboratory within the limits of said city without the consent of the Mayor and City Council, and the Mayor and Council may provide by ordinance for preventing the erection of any such laboratory, and for removing or preventing the use of any that shall be erected.

PHARMACISTS.

1872, c. 414.

Meaning of term pharmacists.

9. The term or name pharmacists, in the meaning and scope of this act, does mean, embrace and apply to all persons engaged in vending at retail drugs, medicines and chemicals for medicinal use, and in compounding and dispensing physicians' prescriptions, either as owners of stores or as managing assistants in charge of stores.

1876, c. 91.

Pharmacists to comply with this act.

Penalty.

Suit in name of Commissioners of Pharmacy and Practical Chemistry.

10. Any person who does or shall vend at retail poisonous drugs, for medicinal use, or compound and dispense physicians' prescriptions in the city of Baltimore, without complying with the requirements of this act, shall be deemed guilty of a misdemeanor, and subject to a penalty or fine of fifty dollars for each and every week he shall continue to vend at retail poisonous drugs, for medicinal use, or compound and dispense physicians' prescriptions in violation of this act; said penalty or fine to be sued for in the name of the Commissioners of Pharmacy and Practical Chemistry, appointed under this act, and before a single justice of the

peace, as small debts now are recoverable; one-half thereof to be paid to the Board of Public School Commissioners of said city, and the other half to the treasurer of the Maryland College of Pharmacy, for the use of said college; provided, however that this act shall not be so construed as to apply to or restrict the sale at retail of patent and proprietary medicines and compounds, prepared and compounded for medicinal use by wholesale dealers in drugs and medicines when sold in the original package, box or bottle, and no penalty shall hereafter be enforced against any person for the sale of patent or proprietary medicines or compounds prepared by wholesale dealers in drugs and medicines when sold as aforesaid, and no penalty shall hereafter be enforced against any person for the sale of proprietary or patent medicines or drugs other than poisonous. Proviso.

11. The Maryland College of Pharmacy shall nominate biennally, of the most skilled and competent pharmacists of the city of Baltimore, ten persons from amongst whom the Governor shall appoint three commissioners, whose duty it shall be to faithfully and impartially execute or cause to be executed, all the provisions and requirements of this act; they shall, upon application, and in such manner and at such place as they may determine, examine each and every person who shall desire to engage in vending at retail, drugs, medicine or chemicals for medicinal use, or in compounding and dispensing physicians' prescriptions in the city of Baltimore, touching his competency and qualifications, and upon being satisfied that the person so examined is competent and qualified to vend at retail, drugs, medicines and chemicals for medicinal use, and compound and dispense physicians' prescriptions safely and without jeopardy to the health and lives of the people of the city of Baltimore, they, or any two of them, shall grant such person a certificate of competency, and register him as a pharmacist. 1872, c. 414, s. 3. Commissioners. Duties. Certificate.

Ibid, s. 4.

Title of board.

Time of office.

Oath.

Vacancies.

12. The commissioners appointed under this act shall be styled and known as the Commissioners of Pharmacy and Practical Chemistry, and shall hold office for two years, and thereafter until their successors have been appointed and have qualified; said commissioners shall, within thirty days after notification of their appointment, each subscribe to an oath before the clerk of the Superior Court of Baltimore City, to impartially and faithfully discharge the duties prescribed by this act; the position of any commissioner appointed under this act, who shall fail to so qualify within the time and in manner named, shall be vacant; the Governor shall fill all vacancies occurring from amonst the persons nominated by the Maryland College of Pharmacy under the preceding section.

Ibid, s. 5.

Pharmacists to be registered.

13. Each and every person before commencing to vend at retail drugs, medicines or chemicals for medicinal use, or to compound and dispense physicians' prescriptions in the city of Baltimore, as managing owner of a store, or as managing assistant of a store, shall register as a pharmacist, under the provisions of this act.

1872, c. 414, s. 6.

Who deemed registered pharmacists.

14. Every person who shall, at the time that this act goes into effect, be engaged in vending at retail drugs, medicines and chemicals for medicinal use, and compounding and dispensing physicians' prescriptions in the city of Baltimore, and registered as an apothecary, under an act entitled "an act to prevent incompetent persons from conducting the business of druggist and apothecary in the city of Baltimore," approved March the twenty-third, eighteen hundred and seventy, shall be deemed a registered pharmacist within the meaning of this act.

Ibid, s. 7.

Who deemed competent and entitled to be registered.

15. Every person holding a diploma from a regular chartered and recognized college or school of pharmacy, based upon a full apprenticeship of four years as a pharmacist, and who presents satisfactory evidence of these facts to

the said Commissioners of Pharmacy and Practical Chemistry, shall be deemed competent, and entitled to register as a pharmacist.

16. Said commissioners of pharmacy and practical chemistry shall demand and receive from each applicant, for a certificate of competency whom they examine, five dollars for each examination, and shall likewise be entitled to demand and receive one dollar from every person whom they register; the money received under the provisions of this section shall be used and applied by said commissioners to defray the expenses accruing or arising under this act. Ibid, s. 8. Fees for certificate and registration.

17. In case of the death of a registered pharmacist doing business in the city of Baltimore, his legal representatives may continue said business for the benefit of the estate of said deceased, under the control and management of a registered pharmacist, subject to all the requirements of this act. 1876, c. 91. Representatives of deceased.

18. No person, unless he be registered as a pharmacist under this act, or unless he be an apprentice who has had at least two years' experience under a pharmacist, who has attended at least one full course of lectures on pharmacy or chemistry and *materia medica*, shall be permitted to compound and dispense the prescriptions, except as an aid under the supervision of a registered pharmacist. Any registered pharmacist violating this section, or permitting its violation in any store under his charge or management, shall be subject to a penalty or fine of fifty dollars, the one half thereof to be paid to the Board of Public School Commissioners of said city for the use of the Public Schools, and the other half to the treasurer of the Maryland College of Pharmacy for the use of the college. 1876, c. 91. Who permitted to compound and dispense prescriptions. Penalty.

19. Any person who shall mix with any substance or preparation used or intended to be used as an officinal medicine, any foreign or inert substance for the purpose of adulterating or weakening the same, or shall knowingly sell or knowingly 1876, c. 91. Adulterating or weakening officinal medicines or selling such.

offer for sale any officinal medicines so adulterated or deficient in standard strength, shall be deemed guilty of a misdemeanor,
Penalty. and subject to a penalty or fine of fifty dollars, as provided in the preceding section.

SMALL POX.

1872, c. 257, s. 1. 20. A State vaccine agency is hereby established; said
State vaccine agency established. agency to be located in the city of Baltimore, in which place shall be kept, at all times, a supply of fresh and pure vaccine virus, if practicable, not more than four removes from the cow, for the use of the physicians residing and practicing medicine and surgery in this State.

Ibid, s. 2. 21. The Governor, by and with the advice and consent of
Appointment of State Vaccine Agent. the Senate, shall, once in six years, appoint as State Vaccine Agent, one physician of good character and standing, whose
Duties. duty it shall be to keep on hand, and to procure as often as may be necessary, pure vaccine virus, and to furnish such virus to the physicians of the State gratuitously when called for. He shall keep a record of the name and location of each physician so furnished with virus, together with the quantities, qualities and number of times. He shall be required to advertise once a month in one or more of the newspapers published in the city of Baltimore, and once during the year (three insertions) in one paper of each county. He shall, for his services as
Salary. State Vaccine Agent, receive an annual salary of six hundred dollars, (and to defray the expenses incurred by him in procuring reliable vaccine virus, and to further carry out the provisions of this act, the additional sum of fourteen hundred dollars is hereby appropriated,) said salary to be paid in quar-
Proviso. terly instalments, as other State officers are now paid; provided that it shall be competent for the Governor, at any time, to remove said agent for neglect, incompetency, or unfaithfulness of any kind, and in case of death, resignation or removal for any of such causes, to appoint another in his stead, who shall hold office for the unexpired term of such agent.

22. For every child vaccinated whose guardian or parents are too poor to pay for the service, the county commissioners of the several counties or the City Council of Baltimore, as the case may be, shall pay or cause to be paid to the physician performing the service the sum of fifty cents for every such case, on presentation of such account duly authenticated by an affidavit setting forth that the service was performed, and that the parents or guardians are unable to pay for said service. 1861, c. 269, s. 3. When physicians paid by City Council, &c.

23. It shall be the duty of every practicing physician in this State to vaccinate all children in the circle of his practice which may be presented to him for vaccination within one year after birth, if such child shall be in proper condition for such service, and he shall vaccinate all other persons not previously effectually vaccinated who shall request such service from him. Any physician neglecting or refusing so to do shall on conviction thereof forfeit and pay for every offence a penalty of five dollars. Ibid, s. 4. Who to be vaccinated. Penalty.

24. Any physician who shall knowingly and wilfully use any virus defective in its nature, by having passed through a scrofulous system, from having been taken from one laboring under any disease of the skin, chronic, sore or febrile, or other disease, during the progress of the vaccine disease, or any crust which, during the progress of said vaccine disease, was punctured, or had sustained other injury, shall, upon conviction thereof, forfeit and pay a sum not less than one hundred nor more than five hundred dollars for each offence. 1872, c. 257, s. 5. Penalty for wilful use of defective virus.

25. It shall be the duty of every parent and guardian to have his or her child vaccinated within twelve months after its birth, if it shall be in proper condition, or as soon thereafter as practicable; and if such parent or guardian shall have any other person under his or her control or care not duly vaccinated, he or she shall cause such person or persons to be vaccin- Ibid, s. 6. Duty of parents and guardians.

ated prior to the first day of November of each year. Any person failing to comply with the provisions of this section shall, on conviction thereof, forfeit and pay a sum not less than five nor more than ten dollars for each offence.

Penalty.

1864, c 269, s. 7.

Penalty for admitting to schools unvaccinated pupils.

26. No teacher in any school shall receive into such school any person as a pupil until such person shall produce the certificate of some regular practicing physician that such applicant for admission into the school has been duly vaccinated. Any teacher so offending shall, on conviction thereof, forfeit and pay a fine of ten dollars for each offence, and no public school trustee or commissioner shall grant a permit to any child to enter any public school without such certificate, under the same penalty.

Ibid, s. 8.

How fines recoverable.

27. All fines imposed under the provisions of this act shall be recovered before a justice of the peace in the same manner as small debts are recoverable, for the use of the school fund of the county or city in which such offence shall occur.

1872, c. 257.

Vaccine agent to give bond.

28. The vaccine agent to be appointed under the provisions of this act shall give bond to the State of Maryland in the sum of three thousand dollars, conditioned for the faithful performance of his duties, said bond to be approved by the Comptroller of the State.

1872, c. 257.

True vaccine virus.

29. The State Vaccine Agent is hereby required to take all steps necessary to reproduce from the cow true vaccine virus for the use of physicians residing and practicing medicine and surgery in the State, and shall furnish none more than four removes from the cow, if practicable, and none that has not been produced under his own supervision and direction, provided that he may take, use and furnish such virus furnished to him by any physician entrusted by him to procure the same, such virus not to be taken from the arm of a child less than three months old; and the said agent shall report annually to the Governor the particulars of his expenditures, and other matters connected with the duties of his agency.

Proviso.

Report to Governor.

Article XXIII.—Ordinances.

STREETS.

30. Whenever the Board of Health shall certify in writing to the Mayor that it is necessary for the health of the city to alter the grade of any street, lane or alley on low or made ground, the Mayor shall proceed to act in the manner specified in Article XLVII, Streets, Statutes.

P. L. L., art. 4, sec. 854. Altering grade of streets for health of city.

31. The Mayor and City Council have power to clean the streets and remove the dirt and filth therefrom, and to prohibit and punish by ordinance the placing of any dirt, filth or other matter therein.

P. L. L., art. 4, sec. 862. Dirt and filth in streets.

ORDINANCES.

BOARD OF HEALTH.

1. There shall be annually appointed, as other city officers are appointed, one physician as Commissioner of Health, and one Assistant Commissioner of Health, which officers so appointed shall constitute a Board of Health, whose duty it shall be to cause to be executed and observed all ordinances for the preservation of the health of the city.

No. 18, s 1. R.O. No. 5, Feb. 28, '61. Board of Health appointed: duties prescribed.

2. There shall be annually appropriated as a compensation for the Commissioner of Health the sum of twenty-five hundred dollars, and for the Assistant Commissioner of Health fifteen hundred dollars.

No. 102, Nov. 7, '70 Salaries of commissioner and assistant.

3. The said Board of Health shall meet daily throughout the year, and at such other times as they may be called together by the Mayor; and it shall be the duty of each member of the board, at all such meetings, to report his separate official acts, which, together with the proceedings of the board, shall be accurately recorded by the Commissioner of Health.

No. 18, s. 2, R.O. Meetings of the board. Record of proceedings.

4. It shall be the duty of the Commissioner of Health to enforce all the ordinances enacted by the Mayor and City Council of Baltimore for the preservation of the health of the

Ibid, s. 3. Commissioner to enforce ordinances.

To decide appeals.

city, and to decide all appeals from the reports of the police officers or others, by a personal examination of the premises in all cases of dispute, and to keep a record of all his official acts.

Ibid, s. 5, No. 5, Feb. 28, '61. Commissioner's duties.

5. It shall be the duty of the Commissioner of Health to make a circuit of observation once in every week, to every part of the city and its environs, which, from its location, or from any collateral circumstances, may be deemed the cause of disease, and in all cases where he may discover the existence of any agent the presence of which will prove dangerous to the health of the city, he shall cause any ordinance in existence for its correction to be enforced, or if there be no ordinance competent to the correction of the evil, he shall make a full report of all the attending circumstances to the Mayor, accompanied with his opinion of the necessity of extraordinary or particular action. It shall be his duty also to make diligent enquiry into all cases of malignant, infectious or contagious diseases which may occur, and cause immediate measures to be taken to arrest their progress, and generally to notice all things that relate to the preservation of the health of the city.

Ibid, s. 4, No. 20, Feb. 28, '72. Duties of assistant commissioner.

6. It shall be the duty of the Assistant Commissioner of Health to attend at the health office every day, except Sunday, to discharge the duty of seeing that a faithful record is kept of all reports and other matters relating to the health department; and in case of sickness or absence of the Commissioner of Health, or when directed by the Mayor, he shall perform all the duties herein assigned to the said Commissioner of Health.

When to act in place of Commissioner of Health

No. 18, s. 6, R. O. Marine Hospital physician to attend meetings of board.

7. It shall be the duty of the Marine Hospital Physician, in addition to such other duties as are hereinafter required of him, to attend at the health office, when so requested by the Commissioner of Health or the Mayor, inform the board or Mayor of anything demanding the attention of the health de-

partment, and advise with the said commissioner on all subjects particularly appertaining to the sanitary condition of the port.

8. It shall be the duty of the police officers to execute all orders of the Board of Health, so far as they may relate to the preservation of the health of the city. Ibid, s 7. Police officers to execute orders, &c.

9. It shall be the duty of the Commissioner of Health to give to the Mayor and other city authorities all such professional advice and information as they may require, with a view to the preservation of the public health; to enquire into the health of the city, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, to investigate such report, and ascertain as correctly as possible, the causes which produced said disease, to adopt measures to arrest its progress, and to report in writing to the Mayor every circumstance likely to endanger the health of the city; and each practising physician in the city is hereby invited and requested, at all convenient times, to give information of the state of the health of the city to the Commissioner of Health, and assist and aid him with his counsel and advice, in all matters that relate to the preservation of the health of the inhabitants and the prevention of contagious diseases. Ibid, s 14. Preservation of public health. Information as to health of city.

10. All necessary expenses incurred by the Board of Health in the discharge of duties required in this article, shall be defrayed by the corporation, and the Commissioner of Health may, with the consent of the Mayor, draw on the Register of the City from time to time, for such sums as may be required to carry into effect the duties herein enjoined upon the board, and he shall immediately thereafter lay a detailed statement of his accounts before the Mayor and Comptroller, and annually before the City Council. No. 18, s. 61, R. O. Expenses of the board, how to be defrayed. Annual statement.

11. If any person shall knowingly obstruct or resist the Board of Health, or any member thereof, or any person by them appointed, in the execution of the powers to them given, Ibid, s. 62. Penalty for obstructing the board.

or in the performance of the duties enjoined on them by this or any other ordinance in relation to the public health, such person shall forfeit and pay a sum not exceeding two hundred dollars.

Ibid, s. 63.

Penalty for refusing to obey orders of board.

12. If any person or persons shall refuse or neglect to comply with any order or notice of the Board of Health, authorized by any section of this article, and no other penalty is herein provided for such neglect or refusal, such person or persons shall forfeit and pay the sum of twenty dollars for each offence, and five dollars for every day that such neglect or refusal shall continue.

Ibid, s. 68.

Contracts, how to be made.

13. All and any contracts made in pursuance of any provision contained in this article, or any contract or contracts made by the Board of Health, or quarantine physician, shall be made in conformity with the requirements of sections 51 to 54, of Article I.

NUISANCES AND THE PREVENTION OF DISEASE.

No. 18. s. 18, R. O.

Commissioner to inspect streets, wharves, yards, &c.

14. It shall be the duty of the Commissioner of Health to inspect, at least once in every two weeks, between the first day of March and the first day of November, in every year, and at such other periods as the Mayor may direct, all the streets, lanes, alleys, wharves, warehouses, cellars, yards, lumber yards, lots and docks of the city, and all other places he may deem necessary, and make a written report to the Board of Health of the general state of the city, and to enforce all laws and ordinances having any relation to health, and to remove or cause to be removed all nuisances.

Ibid, s. 19.

To examine lots, cellars, streets, alleys, &c.

15. It shall be the duty of said commissioner carefully to inspect all lots, grounds, suspected cellars or possessions, and all streets, lanes or alleys within the city, and whenever he shall be of opinion that any cellar, lots, grounds or possessions within the city are in a state of nuisance, or so situate that in

warm or unhealthy seasons a nuisance may be thereby created, and the health of the citizens endangered, it shall be his duty, and he is hereby authorized to cause a notice to be served on the owner or owners, occupier or occupiers, or his, her or their agent, directing him, her or them to have said nuisance, or cause of nuisance, removed, in the manner prescribed in such notice; and if such owner or owners, occupier or occupiers, or his, her or their agent or agents, shall neglect or refuse to comply therewith, he, she or they so refusing or neglecting, shall forfeit and pay not less than ten, or more than twenty dollars, and the further sum of five dollars for each and every day he, she or they shall continue to neglect or refuse to comply with said notice, and shall moreover pay the expenses incurred in case such nuisance or cause of nuisance shall be removed under the directions of the Commissioner of Health, which the said commissioner is hereby authorized to cause to be done in case of such neglect or refusal.

Notice to owners to remove nuisance.

Penalty for neglect, &c.

16. In case no agent, occupier or owner can be found on whom to serve such notice, the said commissioner is hereby authorized, after giving five days' public notice in one or more of the daily newspapers published in the city, to have any nuisance or cause of nuisance removed at the expense of the city in the first instance, and the Register shall keep an account of the expenses incurred, to be recovered from the owner when ascertained and found.

Ibid, s. 20.

Nuisances, when to be removed at expense of city.

17. Whenever the Commissioner of Health shall have cause to suspect that a nuisance exists in any house, cellar or enclosure, he may demand entry therein in the day time, and if the owner or occupier shall refuse or delay to open the same and admit a free examination, he shall forfeit and pay for every such refusal the sum of twenty dollars.

Ibid, s. 21.

When commissioner may enter on premises

18. Whenever the Commissioner of Health shall be of opinion that the navigation at any of the wharves or docks, from not being sufficiently deepened and cleaned, are in such

Ibid, s. 22.

His duty as to docks, &c.

a condition that a nuisance may be created thereby, he shall cause a notice to be served upon the occupier or occupiers, agent or agents, owner or owners of any wharf or wharves, dock or docks, to deepen or cleanse the navigation at any wharf or dock in such manner as may be prescribed in such notice; and if such owner or owners, occupier or occupiers, agent or agents shall neglect or refuse to deepen or cleanse the same, each person so offending shall forfeit and pay ten dollars, and the further sum of five dollars for each and every day he, she or they shall so neglect or refuse, and shall moreover pay the expense incurred in case the navigation of such wharf or dock shall be deepened and cleansed under the authority and direction of said commissioner, which he is hereby authorized to cause to be done on such neglect or refusal, within five days, under the superintendence of the Harbor Board.

Notice to be given.

Penalty.

Ibid, s. 23. Drain of low grounds.

19. The Board of Health is hereby empowered and required to substitute draining in low grounds, instead of filling them up, in all instances where, in their opinion the draining will as effectually answer the intended purpose.

Ibid, s. 24. Power to enter on lots causing nuisances.

20. Whenever the Commissioner of Health, in proceeding to remove nuisances, shall discover that the nuisance complained of originates on an adjoining lot or lots, it shall be his duty to enter thereon, and the owner or owners, occupier or occupiers of such lots, or his her or their agents, on neglect or refusal to remove such cause of nuisance after notice from said commissioner, shall forfeit and pay for every such neglect or refusal the sum of twenty dollars.

Penalty for neglect to remove nuisances.

Ibid, s. 25. Notice when no owner can be found.

21. If there be no owner, occupier, or agent of owner, of any lot or premises upon whom such notice can be served, notice shall be deemed in all respects sufficient, if exposed in some open way upon the lot or premises to which it refers.

Ibid, s. 26.

22. It shall be the duty of the Board of Health to carry into effect the provisions of the fifteenth and twentieth sections

of this ordinance, and in all cases embraced within the operation of said sections, when there is no occupier of the property, and the owner or agent thereof does not reside in the city of Baltimore, to give notice in one or more of the newspapers published in the city of Baltimore, for such time as they may consider reasonable, requiring such owner or agent to remove the nuisance to be mentioned in said notice, by some day therein fixed, and upon failure to comply with such notice, the said nuisance shall be removed under the direction of the said Board of Health, and the expense of removing the same, together with the cost of such advertising, shall be a lien upon the entire property where such nuisance may be found to exist.

Public notice to be given when owner does not reside in city.

23. After the Board of Health has completed the removal of nuisances in the way contemplated by the provisions of this ordinance, and the amount of penalty incurred, or the amount of expenses to which the corporation has been put by said removal shall be unpaid, the said expenses and penalty shall forthwith become a lien upon the lot or premises from which the nuisance may have been removed, and when judgment in due course of time shall have been obtained for said amount, or any one of them, against the owner or owners of the premises, the property shall be sold under due legal process.

Ibid, s. 27.

Expenses and penalty to become a lien on property.

24. If any property chargeable as aforesaid shall be owned by any person or persons not resident within the limits of the State of Maryland, it shall be the duty of said board to expose for sale and sell the same at public auction to the highest bidder for cash; provided, that before the said board shall proceed to sell as aforesaid, they shall give notice of such sale in three of the daily newspapers of the city, together with a particular description of the property proposed to be sold, by advertisement published twice a week for three successive weeks, and they shall deduct from the proceeds of said sale all costs, charges and expenses attendant thereon, as well as

Ibid. s. 28.

Proceedings when property belongs to persons residing out of State.

the amount of penalties or expenses for removal of nuisances in arrear, and place the balance in the city treasury, to the credit of the owner of the ground, or such other party as may be legally entitled to receive it.

No. 18, s. 55, R. O.

Persons in possession to be deemed owners.

25. Whenever any person or persons shall be in actual possession of, or have charge, care or control of, any property within the city, as executor, executrix or executors, administrator, administratrix or administrators, trustee or trustees, guardian or guardians, agent or agents, such person or persons shall be deemed and taken to be the owner or owners of such property, within the true intent and meaning of the several ordinances of the city, and shall be bound to remove all nuisances from such property, and to comply with all the provisions of any ordinance of the city in relation to the health of the city, so far as the same may effect such property, in the same manner, and under the same penalties, fines and forfeitures, as if such person or persons were actually the owner or owners of such property, and notice to any such person or persons of any order of the Board of Health, shall be deemed and taken to be as good and sufficient notice as if such person or persons were actually the owner or owners of such property.

Notice.

Ibid, s. 29.

Power as to hydrants, &c.

26. Whenever the Board of Health shall discover that any nuisance complained of proceeds from the leakage of any hydrant or hydrants, pipe or pipes, situated on an adjoining lot or lots, cellar or cellars, they shall have the power, and they are hereby authorized to require the owner or owners, occupier or occupiers of such lot or lots, cellar or cellars, to remove the cause of such nuisance.

Ibid, s. 30.

Persons refusing to obey shall pay expenses.

27 If any person shall fail to comply with the directions of the Board of Health, the said board shall have power, and they are hereby authorized and empowered to cause any nuisance or cause of nuisance to be removed, the cost thereof to be paid by said person.

28. All cellars and vacancies under stores, warehouses and dwellings, upon made ground, shall, when deemed necessary by the Board of Health, be filled up with sound materials and paved with hard bricks or stones; and when deemed expedient by the said board, the lots thereto appertaining shall be filled up above the level of the street, so as to prevent the lodgment of water on the premises. Ibid, s. 31. Cellars, &c., to be filled.

29. All wooden buildings that are now or may hereafter be below the level of the brick pavements or streets, shall be raised up and underpinned with brick or stone, and all persons refusing or neglecting to obey the directions of the Board of Health in the premises, shall forfeit and pay a penalty not exceeding twenty dollars, and five dollars for each and every day during the continuance of such neglect or refusal; provided, he, she or they, receive one month's notice from the Board of Health to complete the same. Ibid, s. 32. Frame buildings to be raised. Penalty. Proviso.

30. All lumber and wood yards within the limits of the city of Baltimore shall be raised and graded in such a manner that water will not stand therein, and that the lumber or wood placed in said yards shall be raised at least twelve inches above the surface of the ground, so that the air may circulate freely under such lumber or wood, and it shall be the duty of the Assistant Commissioner of Health to cause a copy of this section to be served on the owner or owners, or his, her or their agent, and on the occupier or occupiers of any lumber or wood yard in this city, on or before the first day of April in each and every year, and every owner or occupier of any lumber or wood yard, after being served with a copy of this section, shall comply with the requirements thereof on or before the first day of June, in each and every year; and every person neglecting or refusing so to do, shall forfeit and pay a sum not exceeding fifty dollars, and for every twenty-four hours, he, she or they shall neglect or refuse to comply with the same, a further sum of ten dollars. Ibid, s. 33. Lumber and wood yards regulated. Penalty.

Ibid, s. 34; No. 25, May 2, '62. Gutters to be kept clean.

31. It shall be the duty of each and every occupier of any house, or owner of any lot within the limits of direct taxation, fronting a paved street, lane or alley, to keep the gutter in front of said house or lot clean at all times during the months of April, May, June, July, August, September and October, and each and every person herein offending shall forfeit and pay for each offence one dollar, notice having first been given to said person.

Penalty.

Ibid, s. 85. Nauseous liquors not to be thrown in streets.

32. If any person shall cast or throw, discharge or cause to flow* into any of the streets, lanes or alleys of this city, any blood or foul or nauseous liquor, or other liquid or offensive matter which is likely to become a source of nuisance after exposure to the atmosphere, or shall keep, collect, use or suffer to remain on his or her premises any nauseous liquor, stagnant water or other offensive matter, he, she or they so offending shall forfeit and pay for each and every such offence a sum not exceeding twenty dollars.

Ibid, s. 36. Filthy stables.

33. If any person having a cow or cows, horse or horses, in any stable within the city, shall keep the same in such manner that the filth and stench therefrom shall become offensive to or annoy any neighbor or other person, the person keeping such cow or horse as aforesaid, shall forfeit and pay for every such offence five dollars, and the further sum of five dollars for each and every day the nuisance shall be suffered to remain, notice having first been given to the party offending.

Penalty.

* Held by Brown, C. J., in City Court, March 21, 1874, *Curley* v. *Mayor*, &c., that taking two buckets of filth from a privy, and casting it on an adjoining yard, the proprietor of which washed it through her stable into a public alley in the rear of the yard, was not a "causing to flow," under this section; but that the next section (sec. 33) of this article was applicable to the case; and that the person offending should have been sued under this latter section. On this the city asked leave to amend, and the Court decided that: the amendment would not be allowed, as it would charge the person offending with the violation of a different provision of the City Code, which would be to make a new case against her.

34. No person shall cast, throw, draw out or deposit any dead carcass, or any part or parts thereof, dead fish, or any excrement or filth from vaults or privies, necessary houses or water-closets, on or into any part of the city, nor shall any person permit the same to be deposited on his or her premises without effectually covering the same within five hours after such deposit, with and under such a body of earth as will and shall entirely prevent any noxious effluvia or any offensive smell arising from the same, under a penalty not exceeding twenty dollars for each and every offence, together with the expense of removing the same. Ibid, s. 39. Carion, &c., to be buried. Penalty.

35. It shall not be lawful for any person or persons to deposit on any lot within the limits of direct taxation in the city of Baltimore, any manure or nuisance of any kind, without the consent of the property-holders adjoining said lot be first procured and filed in the office of the Board of Health, under the penalty of five dollars for each and every offence, and five dollars for each and every day said nuisance may remain, to be recovered as other fines and forfeitures for violations of city ordinances. No. 18, s. 65, R. O. Manure, &c., not to be deposited within certain limits without permission.

36. No person or persons shall be allowed to deposit upon his or her premises, or any other premises or lot, within the limits of direct taxation, the cleanings of any slaughter house, fish dealer's house or yards, or any other branch of trade, making filth, for any purpose whatsoever, nor shall any person or persons be allowed to receive or deposit upon his or her premises, within direct taxation, any dead animal or part or parts thereof, or green bones, or any other offensive articles, under a penalty of not less than five dollars, nor more than twenty dollars, for each and every offence. No. 50, May 22, '61. Persons not to deposit filth on premises, &c. Penalty.

37. No person or persons shall be permitted to remove any such things, enumerated in the preceding section, from his or Ibid, s. 2. Removal.

her premises, to any other premises within direct taxation, under a penalty of five dollars for each offence.

Penalty.

Ibid, s. 3.

38. Any person or persons living outside of the city, who shall bring any of the filth heretofore mentioned and deposit the same on any premises within the limits of direct taxation, shall be subject to a fine of five dollars.

Outside city limits.

Penalty.

No. 68, Sept. 30, '67.

39. The preceding three sections shall not be construed as to prohibit dealers in bones from purchasing the same, and depositing the same on such premises as the said dealers may occupy and use for that purpose; provided, however, that green bones, or such as have flesh or fatty matter on them, shall not be kept by any dealer in them having his place of deposit within the limits of direct taxation, longer than twelve hours.

Bone dealers.

Proviso.

No. 62, June 14, '78.

40. It shall not be lawful for any person or persons or body corporate to dump or place any oyster shells within the corporate limits of the city of Baltimore, between the fifteenth day of April and the fifteenth day of September, without first obtaining permission so to do from the Commissioner of Health; provided nothing in this section shall be so construed as to prevent any oyster-packing establishment or oyster dealers from depositing oyster shells at the place where such establishments or dealers may be actually engaged in business. Any person or persons or body corporate found violating this section shall, upon conviction thereof, pay a fine of ten dollars for each and every day he or they may so violate the provisions hereof, said fines to be recovered as other fines are recoverable.

When no oyster shells to be dumped within city limits.

Proviso.

Penalty.

No. 97, Oct. 27, '61.

41. Any person who may have deposited or who may deposit oyster or clam shells in any public square, place, street, lane, alley or elsewhere, within the limits of the city of Baltimore, or cause the same to be done, and shall fail to remove them when directed by the Board of Health shall forfeit and

Removal of oyster shells within city limits.

pay the sum of twenty dollars for each and every day the same shall remain in such place, after having received ten days' notice; and the amount so forfeited shall be collected as all other fines are. Penalty.

42. It shall not be lawful for any person or persons to hawk or peddle oysters through any of the streets, lanes or alleys of the city of Baltimore, from the first day of June to the fifteenth day of September, in each and every year, and for any violation of the provisions of this section, the person or persons so offending shall forfeit and pay a penalty of twenty dollars, to be recovered as other fines and forfeitures are recoverable. No. 18, s. 56. R. O.; No. 38, May 9, '63; No. 75, Sept. 4, '60; No. 44, Sept. 23, '58. When hawking oysters prohibited. Penalty.

43. It shall not be lawful for any person or persons to erect within the limits of the city, any lime kiln for the purpose of burning oyster shells or stone lime, under a penalty of fifty dollars for each and every offence, and twenty dollars for each and every day any lime kiln erected in violation of this section shall remain in use. No. 97, Oct. 27, '64. Unlawful to erect lime-kilns. Penalty.

44. It shall not be lawful for any person or persons, or body corporate, to use any ground within the limits of the city of Baltimore for an ice pond or skating rink, under a penalty of twenty dollars, and a further penalty of ten dollars for every day any violation of this section may be continued after notice thereof by the Commissioner of Health, the penalties hereby imposed to be recovered in the same manner as other fines and penalties for violations of city ordinances are recoverable. No. 11, Feb. 24, '76. Ground within city limits not to be used for an ice pond or skating rink. Penalty.

45. Neither the wharves or low grounds in any part of the city shall be filled with any kind of wood shavings or vegetable matter, and every person offending herein shall forfeit and pay for each and every offence a sum not exceeding fifty dollars. No. 18, s. 40, R. O. Wharves and low grounds, how to be filled up. Penalty.

Ibid, s. 41.

Spars, &c., afloat in harbor.

46. All spars, arks, logs or timber that may be in the water of the harbor of Baltimore, between the first day of June and the first day of November in each and every year, shall be kept constantly afloat; and whenever the Commissioner of Health shall suspect that any injury to the health of the city may arise therefrom, he shall order the same to be removed to some place which shall be distant at least two hundred yards from any dwelling or wharf; and every person offending against this section shall forfeit and pay a sum not exceeding twenty dollars, and the further sum of ten dollars for each and every twenty-four hours that such offence may continue.

Penalty.

Ibid, s. 42; No. 35, May 2, '62.

Horses, &c, not to be driven or ridden into Jones' Falls.

Penalty.

47. No person shall drive or ride any horse or animal into Jones' Falls, east of Charles street; and all persons offending herein shall, for every such offence, forfeit and pay a sum not exceeding ten dollars, provided notice be first given to the party offending.

No. 18, s. 57, R. O.

Penalty for adulterating milk.

48. It shall not be lawful for any person or persons to adulterate milk offered for sale or sold within the limits of the city of Baltimore, by mixing therewith water, chalk or any drug or other articles whatsoever, under a penalty of not less than twenty dollars for each and every offence; and any person

Milk from diseased cow.

or persons who shall sell or offer for sale any milk of a diseased cow, within the limits of the city, shall pay a fine of twenty dollars for each and every offence.

No. 33, s. 43, R. O.

Penalty for placing slop carts, &c., across foot ways.

49. Every person who shall place or cause to be placed any slop cart on any footway, or place any trough across any footway, for the purpose of filling or emptying any slop cart, shall forfeit and pay the sum of one dollar for each and every offence.

No. 33, s. 40, R. O.

Fish to be placed under roof. Penalty.

50. All fish kept in the city shall be placed under a roof within twenty-four hours after landing and inspection, and kept under cover, under a penalty of one dollar a barrel for

each and every day the same may remain on the streets or wharves of the city.

Ibid, s. 50.

Flying horses, &c., prohibited.

51. It shall not be lawful for any person or persons to have on his, her or their premises, and let, hire or use for public amusement, any flying horse or horses, or whirligig, or other similar machinery or device for public amusement, by whatever name it may be called; and every person or persons offending in the premises shall forfeit and pay for each offence the sum of twenty dollars.

No. 28, April 2, '72.

Digging up streets by gas companies, railroad companies, &c.

52. The gas companies, railroad companies, as well as all other corporations and individuals, who may have or may hereafter receive permission to dig up or disturb any of the paved streets, lanes or alleys of the city, for the purpose of laying pipes of any kind, or constructing wells, ditches, drains or tunnels, or for the purpose of laying or relaying railroad tracks, or repairing the same, shall be, and they are hereby, required within two weeks after said streets, lanes or alleys have been repaved, to clean and remove the dirt therefrom, and if upon a failure or refusal so to do, after five days' notice from the Commissioner of Health, such corporations, companies or individuals so failing or refusing shall suffer a fine or penalty of not less than twenty nor more than fifty dollars for each and every neglect or refusal to comply as aforesaid.

Dirt to be removed within two weeks' notice from Commissioner of Health.

No. 127, Oct. 7, '71.

Unpaved private alleys.

When Commissioner of Health to give notice to grade and pave.

53. Whenever, in the judgment of the Commissioner of Health, the condition of any unpaved private alley is a nuisance or detrimental to public health, he shall give notice to the owner or owners of the property binding thereon to grade and pave the same within such number of days as in his judgment the circumstances of the case may demand, and if, at the expiration of the term of said notice, such private alley has not been graded and paved as required, then the Commissioner of Health shall proceed to have the said alley graded and paved in the usual manner; and the cost of such grading and paving

When Commissioner to grade and pave.

Cost assessed to be a lien.

shall be assessed, and be a lien on the property binding thereon, and shall be collected as assessments and liens are now collected on property in the case of public streets and alleys.*

PROHIBITED MANUFACTORIES.

No 18, s. 60, R. O.

Chemical preparation for roofing or other purposes prohibited within city limits.

54. It shall not be lawful for any person or persons to manufacture, grind or prepare any chemical or mechanical preparation for roofing or other purposes within the limits of the city of Baltimore, whereby a nuisance is created, or likely to be created injurious to the health of any person or persons residing in such neighborhood where such articles shall be manufactured, ground or prepared; and it shall be the duty of the Commissioner of Health, whenever complaint shall be made to him of the existence of any such nuisance, to examine into the same, and if a nuisance really exists, injurious to the health of the neighborhood, or whenever he shall be aware of the same, to give notice to the person or persons offending against the provisions of this section, to abate said nuisance within twelve hours after said notice shall be received; and any person or persons who shall violate the provisions of this section, shall pay a fine of twenty dollars, and a further fine of ten dollars for each day they shall continue to violate the same, after he or they shall receive the aforesaid notice; provided, that nothing herein contained shall be deemed, taken or construed so as to prevent the heating of any chemicals used in roofing, at the time and place said chemicals are to be used as aforesaid.

Penalty.

Proviso.

No. 24, May 12, '60.

Composition roofing.

55. It shall not be lawful for any person or persons to erect, establish, rebuild, or continue in use, any composition roofing manufactory of any kind whatever within the limits of the

*See as to grading, paving, &c., Streets, and City Commissioner, Art. XLVII.

city, without first obtaining the sanction of the Mayor and City Council, and ten days' notice immediately preceding the application to the Mayor and City Council, shall be given by at least four insertions in two or more of the daily papers of the city, setting forth the purpose of said application, the street, lane, alley or court and square of ground on which the establishment is to be put up, and every person or persons violating this ordinance shall be subject to the penalty of twenty dollars, and ten dollars for each and every day the same shall remain thereafter, to be recovered as other fines are recoverable.

Mayor's sanction.

Application to be published.

Penalty.

56. It shall not be lawful for any person or persons to erect, establish or rebuild any distillery for the manufacture of copal varnish, nor any factory for the boiling or grinding of bones, within the limits of the city of Baltimore, without having first obtained the consent of the Mayor and City Council.

No. 52, s. 1, Sept. 30, '58. Manufacture of copal varnish prohibited. Boiling, &c bones.

57. For a violation of any of the provisions of the preceding section, the party or parties so offending shall forfeit and pay a fine of twenty dollars for each and every offence, and twenty dollars a day for every day it may remain in operation after the first offence; said fines to be recovered as other fines and forfeitures are recoverable.

Ibid, s. 2. Penalty.

58. No person or persons shall erect, establish or rebuild any distillery* of spirits of turpentine or varnish, or any manufactory of earthenware or of stoneware, or carry on in any building, erection or place, which shall not have been already legally used for such distillation or business, and for no other purpose at any intervening time, the distilling of any spirits

No. 33, s. 24, R. O. Penalty for erecting or rebuilding distilleries, &c. within limits of city.

* When one of above factories was injured by fire, and its business stopped; held to be a question of fact whether it was re-built or repaired; if the destruction was so great as to require the house in which it was carried on to be re-built, it would come within above prohibition. *Glenn* v. *Mayor, &c.*, 5 G. & J. 424.

of turpentine or varnish, or the business of manufacturing earthenware, or stoneware, within the limits of the city, under the penalty of two hundred dollars, and the further sum of five dollars for each and every day of the continuance of such distillery or manufactory, or of the so carrying on of such distillery or business; provided, however, that in those cases in which the consent in writing of all the holders of property within six hundred feet is first had and obtained, it shall be lawful for the Board of Health, at their discretion, with the approbation of the Mayor, to grant special leave for the erection or carrying on of the establishments mentioned in this section, without the limits of direct taxation.

Proviso.

Ibid, s. 25.

Penalty for using buildings as soap or candle factories within city limits without permission.

59. It shall not be lawful to erect or use any house or building as a soap or candle manufactory within the limits of the city, without the consent of the Mayor and City Council, under the penalty of two hundred dollars, and a further sum of fifty dollars for each and every month thereafter, until the same be removed out of said limits, or pulled down.

Ibid, s. 26.

Applications for same to be published.

60. All applications for permission to erect soap or candle manufactories shall be published three times a week, in two or more daily papers in the city, two weeks previous to making such application; all expenses of such publication to be paid by the party or parties making such application.

Ibid, s. 27.

Mills used for pulverizing charcoal not to be erected without permission.

61. No person or persons shall erect, establish or re-build, within the limits of direct taxation, any mill that is used for the purpose of pulverizing charcoal, without first obtaining the permission of the Mayor and City Council, under a penalty of twenty dollars for each and every week it shall so remain.

Ibid, s. 28.

Penalty for erecting paint factories without certain written consent.

62. It shall not be lawful for any person or persons, or any corporation, to erect or establish any manufactory of red or yellow ochre, or any other kinds of earth of which red or yellow paint is made, within the limits of the city, unless by unanimous consent in writing of the persons holding property

within two hundred yards thereof, under the penalty of one hundred dollars, and a further sum of twenty dollars for each and every day thereafter, until the said manufactory be removed.

63. It shall not be lawful for any person or persons, or incorporated company, to manufacture or prepare, except in chemical laboratories already established, the following articles, or any of them, to wit: oil of vitriol or sulphuric acid, nitric acid or aqua fortis, muriatic acid, crude ammonia, ivory black, alum, chloride of lime or bleaching salts, pigments of lead, or any other manufacture or preparation, in the process of which it is necessary to burn horns, blood, bones, or other animal substances, within the limits of the city, unless the consent in writing of all the holders of property within six hundred feet of such manufactory be first had and obtained, under a penalty of twenty dollars for every day during which such manufacture or preparation shall continue. Ibid, s. 29. Penalty for manufacturing oil of vitrol, &c without certain consent. Penalty.

64. It shall not be lawful for any person or persons to erect or establish, within the limits of direct taxation, any manufactory for the manufacturing of cotton wadding, cotton laps or bats; and any person or persons violating this section shall be subject to a penalty of ten dollars, and a further sum of five dollars for each and every day such violation shall continue. Ibid, s. 57. Cotton wadding, &c. not to be made within direct taxation. Penalty.

65. It shall not be lawful for any person or persons to prepare or mould any clay or any other substance, for or to make or burn any brick or tile, or any similar manufacture within the limits of the city, without first obtaining the permission of the Mayor and City Council, and giving ten days' notice of his or their intended application for such permission, by at least four insertions in two or more of the daily newspapers of the city, specifying the lot of ground or premises on which said clay or other substance is to be prepared or moulded, or such Ibid, s. 30. Brick kilns, &c. regulated.

brick is to be made or burned; and every offender against the
Penalty. provisions of this section shall forfeit and pay the sum of one hundred dollars for the first offence, and the further sum of twenty dollars for each and every day thereafter, during the continuance of such preparing or moulding, making or burning.

SLAUGHTER AND HIDE HOUSES, HOG-PENS, &c.

No. 67, s. 1, May 13, '64.
Slaughter house nuisance.
66. Should complaint be made to the Health Commissioner by six of the property holders or heads of families within six hundred feet of any slaughter-house, that such slaughter-house is a nuisance, affecting the health of the neighbors or the value of property in the vicinity, it shall be his duty to examine the place, and if he shall think the complaint well founded, to
Health Commissioner to report to Mayor.
report the case to the Mayor, and also to report to him under what resolution or ordinance of the Mayor and City Council the slaughter-house was erected.

Ibid, s. 2.
Duty of Mayor.
67. If the Mayor shall agree with the Health Commissioner that the slaughter-house is a nuisance, and it shall have been erected under any resolution or ordinance providing that it shall be removed upon notice from the Mayor, he, the Mayor,
Notice.
shall immediately give the notice required by such resolution or ordinance; but if the slaughter-house shall not have been erected under a resolution or ordinance containing such a provision, the Mayor shall take steps to have such nuisance proceeded against at common law.

No. 43, April 7, '71.
No slaughter house or hide house to be erected within city limits.
68. No slaughter-house or hide-house shall hereafter be erected within the limits of the city, under a penalty of two hundred dollars, and a further penalty of one hundred dollars for each and every month thereafter, until the same is pulled
Penalty.
down, or removed out of the city limits.

No. 63, s. 3, R. O.
69. It shall not be lawful for any person or persons to keep any hog or hogs, in any sty or yard, or elsewhere on their premises within the city of Baltimore, under a penalty of not

less than one dollar, nor more than five dollars, for each and every day each and every hog may be kept in any sty or yard or elsewhere on such premises within said limits; provided, however, that the provisions of this section shall not apply to hogs brought to the city for the purpose of sale or slaughter, whether in the possession of parties bringing them to the city for sale or slaughter, or in the possession of any agent of such parties, or in the possession of a resident pork butcher or packer, when penned in any of the enclosures attached to the Maryland State live stock scales. This provision of exemption from the conditions of this section, however, not to be construed to allow any resident pork butcher or packer to keep any hogs about their premises for any purpose other than for slaughter, and for the purpose of slaughter for no longer a period than ten days from the time of the first receipt of said hogs.

Penalty for keeping hogs in stys, yards, &c.

Proviso.

Pork butchers or packers.

70. It shall be lawful for any victualler, a resident of the city of Baltimore, to keep on his, her or their slaughter-house premises, to run at large thereon only, such number of hogs as may be deemed requisite to consume the offal from his, her or their slaughter-house; provided, said victualler shall first procure a permit so to do from the Board of Health.

No. 100, s. 1, Oct. 18, '60.

Victuallers to keep hogs.

Proviso.

Permit.

71. It shall be the duty of the Health Commissioner, when application shall be made to him by any victualler for permission to keep hogs on his, her or their premises, to visit the said premises, and if, in his judgment, the keeping of a certain number of hogs upon the same shall not create a nuisance, or be detrimental to the health of the contiguous neighborhood, then he shall give a permit, as is provided for in the preceding section, said permit to be good for twelve months, unless sooner revoked by him.

Ibid, s. 2.

Health Commissioner to visit premises.

Permit.

72. Any person or persons who shall keep hogs upon their premises, without first having had and obtained a permit so to do, as provided for in the preceding two sections, shall for-

Ibid, s. 3.

Penalty for keeping hogs without permit.

feit and pay a fine of twenty dollars for every violation, and five dollars for every day such violation is continued, to be recovered as other fines and forfeitures are recoverable.

POTTER'S FIELDS.

No. 18, s. 64, R. O.

Potter's fields regulated.

73. The Potter's fields* of the city of Baltimore are hereby placed under the control and direction of the Board of Health, who are hereby authorized, with the advice and consent of the Mayor, to establish a code of regulations relative to all interments in said Potter's fields, which in their judgment may be proper and necessary; provided, that all graves which may be dug in the Eastern and Western Potter's fields shall be of the depth of at least four feet six inches, and any grave-digger, or other person or persons employed for such purpose, who shall neglect or refuse to dig any such grave of the said depth, shall forfeit and pay, for each and every offence, the sum of ten dollars; and if the grave-digger or any other person or persons employed by the Board of Health, shall at any time omit or neglect to lock or close the gates, he or they shall, for each offence, forfeit and pay the sum of two dollars, to be deducted out of any money due him or them for digging graves or otherwise, and in case no money shall be due him or them, the said fines shall be recovered and collected as other fines are, in the name of the Mayor and City Council of Baltimore.

Proviso.

Penalty.

Ibid, s. 66; No. 55, July 21, '69.

Dead bodies not recognized—how disposed of.

74. Upon the erection of a suitable house for the purpose, all dead bodies which may be found and not recognized within the limits of the city, shall be placed therein for at least twenty-four hours, and it shall be the duty of the police officers in each district to have all dead bodies, unclaimed, removed thence, and if not recognized, properly buried under the direction of the Board of Health.†

Morgue.

* See *Williamson* v. *Mayor*, &c., 19 Md. 413, for a proceeding to sell a lot of ground held by the city on a special trust created by deed as a place for the sepulture or burial of the poor and strangers dying within the city.

† See p. 172, *ante*.

PRIVIES.

75. No person shall remove the contents of any privy, well or sink within the limits of the city, without having first obtained a license from the Comptroller so to do, and every person offending against the provisions of this section shall for every such offence forfeit and pay the sum of twenty-five dollars, and also be liable to the penalty for creating or maintaining a nuisance. Every person who may obtain a license to empty or remove the contents of privies or vaults shall be considered as subject to the orders of the Board of Health in all matters relating to the opening and cleaning of privies or vaults, time and manner of removal, and the presentation of statistics connected with the cleaning of privies, as also the place or places to which night-soil may be removed, and for any refusal or neglect to obey the orders of the Board of Health, as herein provided, it shall be the duty of the Comptroller, upon the written request of the Commissioner of Health, to revoke the license of the person or persons so refusing or neglecting to obey.

No. 58, May 7, '73. Removing contents of privy, &c. without license. Licenses subject to orders of Board of Health. Statistics. Places of deposit. When licenses revoked.

76. Every person desirous of being licensed to empty or remove the contents of privy wells and sinks, shall make application in writing to the Comptroller, who, after conference with the Board of Health, on being satisfied with the character of the applicant, and the security and tightness of his cart or carts, and that he is the owner of such horses and cart or carts, as represented in his application, and that he is not in collusion or combination with others to defraud the corporation, may grant him a license for one year, and renew the same from time to time, and for such license so granted and for each renewal of the same, he shall pay therefor to the Register the sum of two and a half dollars for each and every cart; and every person so licensed shall give bond to the city, with security to be approved by the Register, in the penal sum of five

No. 12, s. 41, R. O.; No. 6, Dec. 13, '67. License to remove contents of privies. Cost of license. Bond.

hundred dollars, conditioned for the faithful performance of all the duties enjoined by this ordinance, and the Comptroller, upon complaint of the Health Commissioner, may revoke or suspend any such license.

No. 105, Nov. 1, '73.
When sinks and privy vaults may be cleaned in daytime.

77. The Board of Health is hereby authorized and empowered, in its discretion, to permit any person or persons who shall at his or their own cost, be supplied with suitable conveniences, to clean sinks and privy vaults in the city of Baltimore during the day time; provided, that no annoyance to sight or smell shall arise therefrom.

Proviso.

Ibid s. 2.
Permit from Board of Health

78. The said Board of Health shall, before giving a permit to any person or persons for the cleaning of vaults or privies as provided for in the preceding section, demand and receive from such person or persons a good and sufficient bond for the proper performance of the work to be done without annoyance to sight or smell to the citizens of Baltimore.

Bond.

No. 112, Oct. 26, '72.
When privies to be cleaned.

79. All privies that are liable or likely to get into a state of nuisance between the first day of June and the first day of October, shall be well cleaned between the first day of October and the first day of June, and it shall be the duty of the Board of Health to cause a copy of this section to be published in at least three of the daily papers once a month during the period between the first of October and the first of June in each and every year, and it shall further be the duty of the Board of Health to cause to be made, through the Commissioners of Police and the force under them, between the first and tenth of each June, a thorough inspection of all privies, wells or vaults within the city, and all that then may be found to be full, or within eighteen inches therefrom, shall be deemed in a state of nuisance, and the owner or owners, agent or agents of the property to which the privy or privies respectively may belong, shall forfeit and pay twenty dollars.

Publication by Board of Health.

Inspection by police.

Nuisance.

Penalty.

80. The vault or well of every privy which shall be erected within the following limits, that is to say: for the City Spring in Calvert street, bounded on the north by Mulberry street, on the west by north Charles street, on the south by Lexington street, and on the east by north Calvert street; for the City Spring at the corner of Pratt and Eden streets, bounded on the west by Eden street, on the south by Pratt street, on the east by Caroline street, on the north by Baltimore street; and for the public spring in Franklin square, bounded on the north by Lexington street, on the west by Calhoun street, on the south by Fayette street, and on the east by Carey street; and for the public spring in Union square, bounded on the north by Hollins street, on the west by Gilmor street, on the south by Lombard street, on the east by Stricker street; and for the pump called the green tree pump, bounded on the north by Granby street, on the west by Albemarle street, on the south by Stiles street, and on the east by Exeter street; and for the spring from which the Centre market is supplied, bounded on the north by Monument street, on the west by north Charles street, on the south by Centre street, and on the east by north Calvert street—shall be built and floored with sound and well burnt brick, at least one foot thick at the bottom, and the walls not less than nine inches thick, with a cement impervious to water, and shall not exceed six feet in depth, and shall be puddled with clay, rammed compactly at the bottom and on all sides of every such privy at least one foot thick; and it shall be the duty of every person, previous to erecting or causing to be erected, any privy within the limits aforesaid, to call on the Commissioner of Health, and have the same erected agreeably to his directions, and to obtain from him a certificate in writing, that such privy is conformable to this section, before the same shall be used, and such privy shall be kept at all times in the like complete repair.

No. 18, s. 51, R. O.

Public springs protected from encroachment of privies.

Vaults to be made impervious to water.

Ibid, s. 52.

Commissioner to notify owners of property to remove privies.

81. It shall be the duty of the Health Commissioner to give notice to the owners or occupiers of the property within the boundaries mentioned in the preceding section, upon which privies or dung vaults are now constructed in a manner different from that above provided for, to have them removed, altered or repaired, as may be judged necessary by said commissioner; and any one who shall refuse or neglect, for sixty days after the receipt of such notice, to cause them to be removed, or shall offend against the provisions of the preceding section, shall forfeit and pay the sum of twenty dollars, and five dollars per week thereafter until the provisions of said section be complied with.

Penalty.

Ibid, s. 53.

Privies within certain limits to be repaired, &c.

82. If the commissioner aforesaid shall be of opinion that the state or condition of any privy erected within the limits prescribed by section 80, is such as to be likely to injure or corrupt the waters of any of the said springs or pumps, in that case he is hereby required to order and direct the owner or owners of such privy to clean out and repair and otherwise secure the same, within twenty days after such order has been given, under the penalty of fifty dollars, and the further sum of ten dollars for every week such refusal or neglect shall be continued.

No. 63, May 26, '66.

Pipes and sewers.

83. If any person or persons shall introduce a pipe or sewer into any of the wells belonging to the city, for the purpose of draining water closets, or for any other purpose whatever, each and every person, for each and every such offence, shall forfeit and pay a sum not exceeding twenty dollars.

No. 13, s. 54, R. O.

Privies not to be erected on Jones' falls, &c.

84. If any person or persons shall erect, or cause to be erected, any privy or other building over any wharf or wall or over the bed of Jones' Falls, or Harford, Schroeder's or Chatsworth runs, or suffer the contents of any privy to flow into the aforesaid streams by means of a sewer or otherwise, within the limits of the city, so that the filth therefrom be

discharged into the said falls, or either of said runs, such persons or persons shall forfeit and pay, for each and every such offence, the sum of twenty dollars. Penalty.

85. It shall not be lawful for any person or persons to sink or cause to be sunk any vault or well to be used for a receptacle of a privy, under the bed of any street, lane or alley in the city of Baltimore, or the sidewalks thereof. No. 58, July 17, '60. Vaults under pavements.

86. If any person or persons shall sink or cause to be sunk under the pavement of any street, lane or alley, or the sidewalks thereof, any vault or well, and use the same as a receptacle for a privy, such person or persons so offending shall forfeit and pay the sum of one hundred dollars, to be recovered as other fines and forfeitures are recoverable; and if the same be not filled up and properly secured after twenty days' notice from the Commissioner of Health, such person or persons shall forfeit and pay for every week thereafter until the said vault shall be filled up and secured to the satisfaction of the said commissioner, the sum of twenty dollars, and it shall be the duty of the Commissioner of Health to enforce the provisions of this section. Ibid, s. 2. Penalty. Notice to fill up Duty to enforce.

87. No person shall drain any privy, but all privies shall be thoroughly cleaned out; and the Board of Health is hereby authorized and directed to select, from time to time, such place or places as they may deem suitable for the deposit of night manure; provided, permission shall first be obtained from the owner or occupier of the premises, and no objection be made by the owners or occupiers of the ground within six hundred feet of the place upon which it is intended to deposit said night manure; and provided further, that such place or places shall first be deemed by the Board of Health not prejudical to the health of the surrounding inhabitants. No. 18, s. 42, R. O. How privies to be cleaned. Where manure to be deposited. Provisos.

88. No night manure shall be deposited at any places except such as shall be selected by the Board of Health, and any per- Ibid, s. 43. Penalty.

son or persons offending against the provisions of this section shall forfeit and pay a sum not exceeding twenty dollars.*

Ibid, s. 50. Complaints, &c.

89. If such deposits shall prove prejudicial to the health of the adjacent neighborhood, complaint shall be made by the aggrieved parties to the Board of Health, who, with the approbation of the Mayor, shall order said deposits to be forthwith suspended.

Res. No. 304, Sept. 23, '76. Manure at City Pier in Back Basin.

90. Night soil shall not be transferred from one vessel or tank to any other vessel or receptacle at the city pier in the back basin, but said night-soil shall be removed in the vessel or tank in which it is carried to the pier to the boat or lighter, and so removed from the city; any person violating the provisions of this section shall pay a fine of ten dollars for each offence, to be recovered as other penalties for violations of city ordinances are recoverable.

Penalty.

*A licensed nightman, in the act of violating certain health regulations of the city of Baltimore, by depositing night soil at a place not designated by the Board of Health, was arrested by a policeman during the night, without warrant, under the directions of said board and confined in the station house until the next morning, when he was released on his own recognizance. The nightman, at the time of his arrest, was aware of the order of the Board of Health designating particular localities for the deposit of night soil, but disregarded the order, because it cost him more to take the ordure to those places than to the place where he was at the time depositing it. No violence or unnecessary force was used in his arrest and detention. Held: That an action of trespass and false imprisonment by the nightman against the officer who arrested and detained him would not lie, the arrest having been made by direction of the Board of Health, upon whom was imposed the duty of executing all ordinances for the preservation of the health of the city; and the procurement of a warrant as a preliminary to such arrest and detention, was not necessary. The Police Department of the City of Baltimore being charged by law with the duty of enforcing the ordinances of said city in regard to the public health, and the orders of the Board of Health, in pursuance thereof, is justified in arresting, by direction of said board, any one found violating the health regulations of the city. *Mitchell* v. *Lemon*, 34 Md. 176.

By resolution April 14, 1874, the emptying and cleaning of the sinks attached to the public schools, theretofore under the control of the Board of Commissioners of Public Schools, was transferred to the Health Department.

REMOVAL OF GARBAGE, MANURE AND REFUSE.

91. It shall be the duty of the Superintendent of Streets with the Commissioner of Health, to employ a sufficient number of drivers, horses and water-tight carts for each district, for the removal of offal and coal or other ashes from the dwellings and other places within the several districts; and it shall be the duty of the men not only to act as drivers, but also to collect all offal and coal and other ashes as herein provided; and said superintendents shall cause said horses, carts and drivers to pass through all the streets, lanes and alleys within their respective districts, in such manner as shall insure the passage of one horse, cart and driver through each and every street, lane and alley, not less than three times a week, on alternate days, from the first day of November until the first day of May, and daily (Sundays excepted) from the first day of May until the first day of November, and they shall give notice to housekeepers of their approach by sounding a trumpet, blowing at the intersection of each street, that may be heard at least one square; and said superintendents shall in no case, own or be interested in the ownership of said horses or carts.

No. 19, s. 8, R. O.

To employ a sufficient number of horses, carts and drivers for removal of offal, coal ashes, &c. in different districts.

Duty of drivers of garbage carts.

Trumpet to be sounded.

92. It shall be the duty of all housekeepers to have placed in a vessel or vessels, not exceeding in capacity one bushel each, near their premises or some convenient place of access, at such time as said carts may pass, all vegetable or kitchen offal, and separately in a similar vessel, all coal or other ashes, and to deliver or cause them to be delivered to the garbage man so separated; and it is hereby expressly ordained, that no other substances than those mentioned in this section shall be regarded as garbage, under a penalty of one dollar for each offence, and any person or persons neglecting or refusing so to do, after having first been notified in writing by the Assistant Health Commissioner, shall forfeit and pay one dollar for each

No. 19, s. 8, R. O.; No. 114, Oct. 25, '72.

Duty of housekeepers and others in regard to offal, coal or other ashes.

Penalty.

Notice from Assistant Commissioner.

Penalty.

and every neglect or refusal; and the Assistant Commissioner of Health is further authorized to cause the owners of garbage carts to have them so constructed with movable division boards as will enable the coal and other ashes to be kept separate from the vegetable or kitchen offal.

How garbage carts to be constructed.

No. 19, s. 9, R. O.
Garbage carts to have a sign, and bells attached to horses.

93. The carts employed by the city for the collection of offal and coal and other ashes, agreeably to the preceding section, shall each have a sign placed thereon at some conspicuous place, with the words, "city garbage cart," painted in large letters in black and white ground, and there shall also be a bell or bells attached to the hames or collars of the harness, with sufficient tone to be heard at the distance of a square.

Ibid, s. 10
Penalty.

94. It shall not be lawful for any person or persons engaged in the collection of offal or coal and other ashes, not employed by the city, to have a sign on his, her, or their cart or carts, nor shall any bell or horns be used; and any person or persons violating this section shall be fined one dollar for each and every offence.

Ibid, s. 11.
Penalty for neglect of duty.

95. If any person or persons engaged in the collection of offal or coal and other ashes, employed by the city, shall neglect or refuse to take and carry away any such offal or ashes set out as required by this ordinance, within six hours after he or they shall be informed, or be aware of the same being so set out, he or they shall be subject to a penalty of one dollar for each and every such neglect or refusal.

Res. No. 84, May 19, '03.
How carts to be covered.

96. The Commissioner of Health is authorized to have dead animals lying in the streets removed, and to cause the vehicles used in their removal from the streets and station houses to be so constructed as to have wooden covers and kept locked, or to be covered with oil cloth, as they pass through the streets, as in his judgment may be deemed most advisable.

97. All carts employed by the city for the collection of offal and coal and other ashes, shall be covered with heavy canvas or other substantial material, so as to prevent dust or affluvia from escaping from such carts while being driven along the streets of the city.

No 4, Mar. 23, '69. Carts carrying offal, &c.

98. The owner of every cart, wagon or other carriage employed in removing or carrying any sand, ashes, dirt, gravel, loam, earth manure, filth, stone, brick or coal, over any of the streets, lanes or alleys of the city, shall have and keep the same in such tight and secure condition as that such ashes, sand, dirt, gravel, loam, earth, manure, filth, stone, bricks or coal shall not be scattered or suffered to fall on any of the streets, lanes or alleys aforesaid, under the penalty of two dollars.

No. 33, s. 12, R. O. Carts, &c. used for certain purposes to be tight.

99. It shall be the duty of the police officers to report to the Health Commissioner all cases of neglect or refusal on the part of the driver of any garbage cart, to remove any garbage from any premises, when the same shall be properly placed on the footway.

No. 8, Mar. 28, '61. Police officers to report.

100. No person whatsoever shall remove or carry away any manure or dirt out of any paved street, lane or alley within the city, unless by the authority of the Commissioner of Health, except manure or dirt which they themselves may have temporarily deposited thereon, and every person offending herein shall forfeit and pay the sum of three dollars for each and every load of manure or dirt so removed or carried away, and in proportion for any less quantity.

No. 19, s. 1, R. O. Manure not to be removed. Penalty.

101. Every person who shall cast, place or lay any rubbish, oyster shells, filth, dirt, shavings, stable manure, or offals of any trade, business or occupation, or any rubbish from buildings, cellars or back yards, or any refuse or dirt from coal or firewood, or any ashes, or any noxious or offensive matter, substance or thing whatsoever, into or in any public square, place,

Ibid, s. 3. Rubbish, &c. in streets prohibited.

street, lane or alley in the city, or cause the same to be done, except when the same may have been removed from his, her or their premises for immediate removal, the same to be removed within twenty-four hours, shall forfeit and pay the sum of one dollar for every such offence, and the further sum of one dollar for each and every day the same shall remain in such place.

Penalty.

No. 19, s. 5, R. O.

Superintendents and Health Commissioner to sell manure, &c.

102. The said superintendents and the Commissioner of Health are authorized and empowered to sell, from time to time, the manure, street dirt, offal and garbage, on terms the most advantageous to the city, and return the amount of said sales, under oath, to the Register.

No 37, May 10, '77.

Proposals and contract for removal of garbage, refuse animal and vegetable matter.

103. The Mayor and Commissioner of Health and City Comptroller are hereby authorized and directed to advertise for proposals, and to contract with some suitable and responsible person or persons for the removal of all garbage, refuse animal and vegetable matter, that may be gathered in the limits of the city of Baltimore.

Ibid, s. 2.

Places of deposit.

City Solicitor to certify to contracts.

104. The said person or persons with whom the said Mayor and Commissioner of Health and City Comptroller may so contract for said removal, shall remove the same by rail or by water only, and to a point or points not less than six miles from the limits of the said city of Baltimore; provided that the City Solicitor shall be conferred with in reference to the legality of all contracts made in reference to the matter.

Ibid, s. 3.

Contract.

Notice to terminate.

105. The Mayor and Commissioner of Health may, in their discretion, enter into a contract for the work to be done under the provisions of this ordinance, for a term of years not to exceed three years, reserving, however, the right to terminate the same by giving thirty days' notice to the contractor or contractors for any violation by them of the provisions of this ordinance.

106. The person or persons with whom said contract shall be made, shall enter into a good and sufficient bond, in such penalty as may be deemed sufficient by the Mayor, City Comptroller and City Register, for the faithful performance of said contract, within ten days after notice of the acceptance of his or their bid. Ibid, s. 4. Bond from contractor.

SUPERINTENDENTS OF STREETS.

107. In order more effectually to secure the keeping of the several streets, lanes and alleys properly cleaned, and to secure the health of the city, the Board of Health is hereby directed to divide the city into five districts, as equally as may be, regarding the surface of the paved streets, lanes and alleys; and there shall be annually appointed, after the manner and at the time of the appointment of other officers of the corporation, five persons, one for each of the said districts, who shall reside in the districts for which they may be respectively appointed, and who shall be called the Superintendents of Streets. No. 19, s. 1, R. O. City divided into five districts. Appointment of superintendents

108. The districts laid off according to the preceding section, shall be under the control of the aforesaid superintendents, who shall act as agents of the corporation, and shall, with the approval of the Mayor and the Board of Health, employ an effective force sufficient at all times for the cleaning and keeping clean the public streets, lanes and alleys of the city, and the clearing away of the ice and snow* from the gutters and crossings of the streets, lanes and alleys, and also the snow and ice from the front of the public schools and of all public buildings occupied and owned by the city, and the footways of bridges, including the public wharves belonging to and in the occupancy of the corporation; and also all the footways of the city springs and public squares. Ibid, s. 2. Superintendents to act as agents of corporation; their duties. Snow and ice.

* See further provisions and notes of cases under Streets and City Commissioner, Art. XLVII.

Ibid, s. 3.

109. It shall be the duty of the said superintendents to superintend the working and proper distribution of the men, horses and carts, to the best advantage for cleaning the streets, lanes and alleys; and also to keep the number of men, horses and carts specified in the respective districts, diligently employed in removing street dirt and manure from the streets, lanes and alleys, (unless otherwise employed by the direction of the Board of Health,) at least eight hours in each and every day, (Sundays excepted,) and it shall be the duty of the said superintendents on Monday morning of each week to make a full report in writing, under oath, to the Commissioner of Health, which report shall state the number of men, horses, carts and implements kept by them respectively at work during the week previous, for the benefit of the city; the number of loads of street dirt and manure removed and sold, and the amount of money received therefor; and also the locations in their respective districts where the men, horses and carts were engaged; and they shall at no time employ more men, horses and carts than are absolutely necessary for the performance of the duties required of them; and the Register is hereby directed to pay to said superintendents, as provided in the next succeeding section, such sums of money weekly as may be necessary to pay for the labor of removing said street dirt, manure and offal.

To superintend men, horses and carts.

To make weekly reports to Commissioner of Health.

Register directed to pay superintendents weekly.

No. 8, Mar. 28, '51; No 20, Feb. 28, '72.

110. The accounts, with reports presented by each superintendent on Monday morning of each week to the Commissioner of Health, with pay roll, shall be examined, audited and marked correct by the Assistant Commissioner of Health, before payment is made by the Register on warrant of the Comptroller.

Weekly reports.

Examined by Assistant Commissioner.

No. 19, s. 4, R. O.

111. Said Superintendents of Streets shall execute all orders pertaining to their duties and office, which they may receive from the Board of Health, and shall give immediate notice to the Mayor of all offences committed against the ordinances and laws enacted for the preservation of the health and clean-

To notify the Mayor of all offences committed.

liness of the city, and under his direction shall cause the same to be rigidly enforced, and shall perform all such duties as the Mayor may require of them.

112. The superintendents appointed under this ordinance, with the Board of Health, shall have power and authority, by and with the advice and consent of the Mayor, at any time when a necessity exists, to employ an additional force; and it shall also be the duty of the superintendents, with the Board of Health, to cause said additional force to be discharged as soon as the necessity for its employment shall have ceased. Ibid, s. 7. Power to employ additional force.

113. It shall be the duty of the said superintendents, every Sunday morning, at or before sunrise, to have the filth and offal accumulated at the different market houses where market is held on Saturday evenings, removed; and the regular wages for one-half of a day shall be allowed for the compensation of such men, horses and carts as may be employed to perform the work. Ibid, s. 15; No. 41, May 7, '61. Market houses to be cleaned on Sunday morning.

114. It shall be the duty of the Mayor, at any time, to discharge any of the said superintendents for the violation of any of the conditions of this ordinance, and to fill their places by the appointment of others. Ibid, s. 16. Power of Mayor to discharge superintendents.

115. The said superintendents shall each give bond to the Mayor in the sum of two thousand dollars for the faithful performance of his duties, and for the weekly return to the Register of the City of all money received by him from any sales of manure, dirt and offal made by him for and in the name of the corporation.* Ibid, s. 16. Bonds from superintendents.

116. The Superintendents of Streets shall each receive from the Register, whose duty it shall be to pay the same, as a compensation for his services, one thousand dollars per annum, No. 25, Mar. 25, '72; No. 19, Feb. 28, '71; No. 20, Feb. 28, '72.

* See section 102, p. 416, *ante*.

Compensation of superintendents. payable monthly; and the hands engaged under him shall each receive not more than one dollar and seventy-five cents per

Of hands, &c. day, payable weekly; and if any superintendent shall from any cause be unable to attend to his duties for a period longer

Substitute. than two weeks at a time, a substitute shall be appointed by the Commissioner of Health, by and with the consent of the Mayor, whose compensation for the time he shall be employed

Pay. shall be at the rate of one thousand dollars per annum, and to be paid out of the salary of the said superintendent, and the

Horse, cart and driver. compensation for a horse and street cart and driver shall be not more than four dollars per day, which shall be paid weekly to the parties furnishing the same, and the pay of the garbage

Pay of garbage carts. carts shall be not more than three dollars and fifty cents each per day, or *pro rata* for a portion of a day.

No. 92, May 26, '76. 117. The Board of Health in employing labor and vehicles for services in their department shall conform as nearly as

Scale of prices. practicable to the scale of prices adhered to by corporations, firms and individuals for equivalent services; and the Com-

Report from Commissioner of Health. missioner of Health shall report monthly the number of men and horses and carts employed in the department, with salaries or wages paid, to the City Council, if in session; otherwise the same report shall be made to the Mayor.

No. 20, Feb. 28, '72. 118. It shall be the duty of the Assistant Commissioner of

Supervision by Assistant Commissioner over superintendents of streets. Health, in addition to such other duties as are embraced in this article, to superintend the department of Superintendents of Streets, in all matters that relate to the operations and efficiency of the same, its economy in the employment of labor and the disbursement of money for such service. In the discharge of such special service he shall make a circuit of observation in relation to the condition of the streets, lanes and alleys, at least once in every week, to every part of the city, and give

such instructions to the Superintendents of Streets in relation to their duties as the Board of Health may direct.

SMALL POX.

119. There shall be annually appointed, as other city officers are, a vaccine physician for every two contiguous wards, who shall be a resident of one of the wards for which he may be appointed, if practicable, who shall vaccinate in his ward all such persons as may be pointed out to him by any member of the Board of Health, as susceptible to small pox contagion, and whose duty it shall be to visit each dwelling-house in the wards, and vaccinate every person who may be presented to him for that purpose, and to be prepared at his office, at such hours as may be designated by the Commissioner of Health, to vaccinate all who may there call on him that are residents of said wards, requiring that operation; and said physician shall enter upon the performance of the duties prescribed by this section immediately after his appointment. And it shall be the further duty of the several vaccine physicians to keep a record of the names, age and residences of all whom they may vaccinate or re-vaccinate, and report the same monthly, under oath or affirmation, to the Board of Health, and to preserve, at all times during their term of office, all pure vaccine crust which may come into their possession, and deposit it at the health office once a month, carefully enveloped and marked with the date at which it was taken from the arm; and it shall further be their duty to report monthly to the Board of Health the names of all persons who shall refuse to suffer themselves or members of their household to be vaccinated, when the same shall be necessary.

No. 18, s. 9, R. O.; No. 80, June 9, '64; No. 79, May 12, '59.

Appointment of vaccine physicians.

Duties prescribed.

120. Before the vaccine physicians shall receive their first quarter's salary, the Commissioner of Health shall be satisfied that they have called at one-fourth of the houses in their re-

No. 80, June 9, '64.

To call at houses

Duty of Health Commissioner.

spective wards, and the second quarter's salary shall not be paid until one-half of the houses have been visited, and so on through the year, and a proper return of the same made; their salaries only to be paid on the endorsement of the Commissioner of Health.

Ibid, s. 3.

Mayor's duty.

121. The quarter's salary of the Commissioner of Health shall not be payable until the Mayor shall be fully satisfied that the preceding two sections have been impartially carried out.

Ibid, s. 4; No. 18, s. 10; No. 5, Feb. 28, '61.

To act as health wardens.

Salaries.

122. Said physicians shall be appointed for one year, and shall act as health wardens for their respective wards, and they shall severally receive the annual salary of three hundred dollars, payable quarterly.

No. 4, Dec. 9, '58.

Vaccine physicians to attend police officers wounded in discharge of duty.

Additional salary.

123. It shall also be the duty of the vaccine physician residing in the wards in which the several police stations are located, to attend to all police officers who may be wounded in the discharge of their duties, and to all cases which may require professional services at said station houses; and the said physicians shall each receive one hundred dollars per annum, in addition to their present compensation.

No. 12, Mar. 28, '65.

Vaccine physicians to grant certificates.

124. It shall be the duty of all the vaccine physicians appointed by the Mayor and City Council to sign, in their respective vaccine districts, free of charge, all certificates that may be required of them, to enable children to enter any of the public schools of Baltimore, as required by the act of 1864, c. 269, s. 7, (sec. 26, statutes, of this article.)

Ibid, s. 2.

Physician refusing to grant certificate to be discharged.

125. Any vaccine physician refusing to sign any certificate that he may be required to sign in compliance with the preceding section, shall forfeit his office; and it shall be the duty of the Mayor, upon satisfactory evidence of said refusal, to discharge the vaccine physician or physicians so refusing, and appoint another in his or their respective districts, and so on *ad infinitum*, said appointment to be confirmed by the Council.

126. As health wardens, it shall be the duty of the vaccine physicians to have a general supervision of the health of their respective wards, and examine and report to the Board of Health any nuisance which, in their opinion, is or may become a source of disease; and whenever any disease of a contagious character shall manifest itself in any of their respective wards, it shall be their duty, under the direction of the Board of Health, to proceed at once to use such means as the nature of the case may demand, to arrest its progress, and if they shall neglect to conform faithfully to the requirements herein specified, it shall be the duty of the Mayor to remove them at once; and any one so removed shall forfeit such portion of the salary as may be due him at the time of his removal.

No. 18, s. 11, R. O. Further duties of vaccine physicians.

127. It shall be the duty of the physicians of such dispensaries as receive donations from the Mayor and City Council, to preserve at all times a full supply of vaccine virus, and satisfactory evidence of a compliance with the terms of this ordinance, to be filed with the Comptroller, shall be necessary to entitle said dispensaries to the appropriations made for their use. In all cases where the trial of vaccination fails, it shall be the duty of the vaccine physicians to repeat the operation until they are satisfied that the subject will not receive the vaccine infection.

Ibid, s. 12. Officers of dispensaries to preserve virus, &c.

Ibid, s. 13. To repeat vaccination.

128. No person shall communicate the infection of small pox by inoculation within the city of Baltimore, under a penalty of twenty dollars for each and every such offence.

No. 18, s. 15, R. O. Inoculation prohibited.

129. The Board of Health, with the approbation of the Mayor, may cause all districts where malignant or yellow fever may have become fixed and confirmed beyond their control, to be fenced in and guarded by sentinels.

Ibid, s. 16. When Board of Health to fence in infected districts.

130. The Mayor may, upon the Commissioner of Health reporting that he has good reason to believe that a contagious or malignant disease prevails in the city, immediately convene

Ibid, s. 17. When Mayor to convene City Council.

the City Council, in order to communicate to them all the information he may have received respecting the same, that they may take such measures as may seem proper for the occasion.

QUARANTINE AND MARINE HOSPITAL.

No. 17, s. 1, R. O.; No. 43, June 2, '62.

131. The hospital on the southern shore of the Patapsco river shall be known as the Marine Hospital; and a suitable

Marine Hospital.

person, to be known and designated as the Marine Hospital

Physician to be appointed.

Physician, shall be annually appointed as other city officers are appointed, who shall be a legally authorized practising

General duties.

physician, whose duty it shall be to reside permanently on said hospital grounds, and generally to superintend the affairs of the hospital and the grounds attached thereto, and under the direction of the Board of Health to manage the whole domestic economy of the premises; to collect all moneys which may become due from patients of every class, and from all immigrants and others who may be received into said hospi

To pay over moneys.

tal, and to pay over said money to the Register of the City on the first Monday of each and every month, and make a monthly

Monthly reports.

report on the same day to the Board of Health of the affairs of the hospital, the number of inmates, by whose order received, and at whose expense. It shall be the further duty of the Marine Hospital Physician, and he is hereby required, when making his monthly returns to the City Register, to render a

Detail statement of articles purchased.

statement in detail of all the several articles, with the quantities and prices attached, purchased by him or by his authority, or in any other manner, for the use of the Marine Hospital

Patients.

during the month just ended; also the number of patients, resident and under treatment at said hospital at the several times of making said monthly returns.

No. 17, s. 1, R. O.

132. He shall promptly attend to all messages or commu-

Further duties.

nications sent to or left at the hospital which may in any way concern his duties under this ordinance, at all seasons of the year, and at any hour of the day, between sunrise and sunset;

he or his assistant, as hereinafter provided for, shall also carry into execution the quarantine laws and regulations provided for by this ordinance. He may, in case of ill-health, or when the Mayor and Board of Health may deem it absolutely necessary, employ, with their consent, one assistant, who shall also be a legally authorized practising physician, and reside at said hospital during the time he is so employed, for whose acts he shall be responsible, and whose compensation shall not exceed the sum of five dollars per day during the time his services may be required; said Marine Hospital Physician shall, before he enters upon the duties of his office, execute a bond to the corporation, with such sureties as the Mayor and Comptroller may approve, in the penal sum of five thousand dollars, and with the condition that he will faithfully discharge the several duties and trusts reposed in him, and pay over to the Register all money collected by him or his assistant for the city.

Assistant may be employed.

Bond.

133. All vessels* arriving from sea, between the thirtieth day of April and the first day of November, and at such other times as the Mayor and Board of Health may direct,

No. 17, s. 2, R. O.

Limits of quarantine.

*The corporation may impose penalties, or cause a vessel and all persons on board to be taken possession of and controlled until their disinfection is effected, and impose on the captain, owner, or consignee, reimbursement of all expenses incurred, or they may adopt both remedies. If the health officer of the city, on whom the duty of disinfection is imposed by the ordinances of the corporation, in causing expenses to be incurred, act *bona fide* within the limits of a sound discretion, and with reasonable skill and judgment in this discharge of his official duties, the reasonable expenses thus incurred by him must be paid by the captain, owner, or consignee of the disinfected vessel, as declared by the ordinances of the city on such subjects. The health officer, in his disposition of persons on board of an infected ship, under the ordinances of the city, must send the person laboring under the infectious disease to the hospital, and may also send those on board the same vessel, liable to be affected by it, to the hospital, if in his opinion such course be necessary to prevent the spread of the disease; and in doing so, acting with reasonable skill and judgment, and with sound and honest discretion in relation to persons not apparently afflicted with the disease, he renders the owner, master, or consignee, also liable for the reasonable expenses incurred as in other cases. *Harrison* v. *Mayor*, &c., 1 Gill, 264.

shall not approach nearer to the city than the quarantine ground, which shall be upon the southern or main branch of the Patapsco river; and it shall not be lawful for any vessel that is subject to quarantine regulations to approach nearer to the city than a line drawn from the point of Fort McHenry to the hospital ground; nor shall any such vessel come within the Lazaretto light, upon the north side of Fort McHenry, until she has received a written permit from the Marine Hospital Physician, or his assistant, to that effect; and said Marine Hospital Physician, or assistant, shall board all vessels arriving from sea (except vessels returning in distress, with outward cargo on board,) after their arrival at quarantine ground, as soon as practicable, and such ship or other vessel shall come to anchor whenever required by the Marine Hospital Physician, or his assistant, from the thirtieth day of April to the first day of November in each and every year; and it shall be the duty of the said physician, or his assistant, carefully to examine into the health of all the officers, crew and passengers of such vessels, the condition of the cargo, the state of the vessel as to cleanliness, and generally into all such circumstances as may in any way affect or concern the health of the city; and if he shall believe it to be unsafe to permit any vessel so examined to unlade her cargo or come to the wharf, he shall order said vessel to the Lazaretto wharf, or to some other place outside the city limits, there to perform the necessary purification which shall be done in such manner as may be directed by said physician, or assistant, to his entire satisfaction, or whenever the health of the city, in the opinion of the physician, or his assistant, may be endangered, whether from the actual presence of disease or from an unclean condition of the ship, vessel or passengers, to require such ship or vessel to come to anchor at the quarantine ground, and there remain until the passengers have been removed, and the ship or vessel thoroughly cleaned and purified; and all expenses of purification and removal, and all other expenses incurred by said physician, or

How vessels may come within limits.

Vessels to be boarded.

Within what periods.

Physician's special duties.

Cargo.

Passengers.

his assistant, to prevent the introduction or propagation of contagious and infectious diseases, to be paid by the master, owner or consignee of the ship or vessel for which the expense was incurred. And it shall not be lawful for any person commanding or having charge of such vessel to remove her from the place assigned or designated by the said physician, or his assistant, without his written permission, or to suffer such vessel to be so removed by others. And any ship, vessel or person violating any of the provisions of this section, or neglecting to comply with any orders issued or given by said physician, or his assistant, in conformity thereto, shall be liable to a penalty of five hundred dollars, and a further penalty of fifty dollars for every hour the ship or vessel may remain in any position in violation hereof; and an action for the recovery of all fines, forfeitures or expenses incurred in carrying into effect any of the provisions of this ordinance may be laid against the ship or vessel, the master, the owner or consignee of the ship or vessel so violating, each or all of them, at the election of the city.

Vessel not to be removed.

Penalty.

134. All vessels, after their cargoes are discharged, shall, if deemed necessary by the Board of Health, be forthwith removed to the stream, and to a proper distance from the wharf, and thoroughly cleansed and ventilated, under the direction of the said board; and any person offending against the provisions of this section, or who shall refuse or neglect to comply with the order of the officer or officers charged with its execution, shall forfeit and pay the sum of one hundred dollars, and twenty dollars for every hour thereafter during which said disobedience shall continue.

Ibid, s. 3.

Vessel to be purified.

Penalty.

135. The commander, captain, pilot, or person having charge of any vessel coming to the port of Baltimore, from sea or elsewhere, and on board of which there shall be any person or persons affected with small pox, varioloid disease, or other eruptive complaint, or infectious or contagious diseases, or

Ibid, s. 4.

Duties of commanders, captains and pilots, in regard to infectious diseases.

whose condition would authorize a suspicion that the malady may be small pox or any modification thereof, or any other infectious or contagious diseases, or on board of which small pox, varioloid, or any eruptive disease of a kind which would authorize a suspicion that it had been any form or modification of small pox, or any other infectious or contagious diseases, shall have appeared at any time during the voyage from the port or place at which the vessel had cleared, shall bring the said vessel to at the quarantine ground, and there await the arrival of the Marine Hospital Physician, or his assistant, and not depart thence until a written permission from the Marine Hospital Physician, or his assistant, shall be obtained for that purpose; and it shall not be lawful for the said commander, captain, pilot, or other person having charge of such vessel, to land or bring on shore, or suffer to be landed or brought on shore, any passenger or passengers, or any of the officers or crew of such vessel, or any part or parcel of the baggage, goods or effects, or any other articles contained in said vessel, until he has obtained a written permission from the Marine Hospital Physician, or his assistant, so to do; and it shall, moreover, be the duty of the persons aforesaid having charge of said ship or vessel to make a full disclosure of all such circumstances in relation to the health of the officers, crew and passengers on board said vessel during the voyage, and at the time of the inquiry, as may be necessary to enable the Marine Hospital Physician, or his assistant, to determine on the measures necessary to be taken in the premises, and particularly to answer any interrogations which may be put to him by said officer in reference to the existence of small pox, varioloid or other eruptive, infectious or contagious diseases among the officers, crew or passengers on board the vessel at the time of the inquiry, or at any previous time during the passage; and any person neglecting or refusing to comply with any of the requisitions or provisions contained in this section, or with any order of the Marine Hospital Physician, or his assistant, in

Passengers not to be landed.

Nor baggage, goods or effects.

Interrogatories to be answered.

pursuance of and in conformity thereto, shall forfeit and pay the sum of five hundred dollars; and if the said penalty shall have been incurred by the commander, captain, pilot or other person having charge of such vessel, and he shall abscond or evade the execution of this ordinance, then the said penalty shall be paid by the owner or consignee of such ship or vessel, unless he shall give such information as may lead to the apprehension of the delinquent. Penalty.

136. Each member of the Board of Health shall have full power and authority to give an order for the reception of any person affected with a contagious disease, dangerous to the community, into the Marine Hospital. No. 18, s. 58, R. O. Power of Board of Health to send sick to hospital.

137. It shall not be lawful for any person or persons, knowingly, to bring, or cause to be brought into the city, any damaged coffee, hides, rice or any other article which, by its nature, is liable to produce disease, at any time between the first day of May and the first day of November, in each and every year, under a penalty of one hundred dollars; and it shall be the duty of the Mayor and each member of the Board of Health, whenever any article shall have been brought into the city, to cause a written notice to be served on the person or persons having the same under his, her or their charge, to have the same forthwith removed to such place as may be directed in such notice, and shall likewise order that the vessel (if any) bringing the same be removed within six hours after the delivery at said place to the quarantine ground, there to remain until cleansed and ventilated to the satisfaction of the Marine Hospital Physician, and any person or persons refusing or neglecting to comply with the directions prescribed in the notice, either of the Mayor or a member of the Board of Health, shall forfeit and pay a fine of one hundred dollars for each and every offence, and twenty dollars for each and every hour such neglect shall continue. Ibid, s. 59. Certain damaged articles not to be brought in city. How to be removed. Removal to quarantine ground and ventilation of vessel. Penalty.

No. 75, June 3, '70.

Mayor and Board of Health may exempt steam vessels.

138. The Mayor and Board of Heath may, in their discretion, exempt from the quarantine regulations of the city of Baltimore all steam vessels coming into the port of Baltimore from any port in the United States north of Cape Henry, which exemption shall be certified to the physicians at the Marine Hospital, and shall remain in force until countermanded by said Mayor and Board of Health, and no longer; provided, however, that no exemption granted under the provisions of this section shall be so construed as to exempt the commander, captain, pilot, or other person having charge of any vessel coming into the port of Baltimore, or the owners or consignees of the same, from the penalties and fines imposed by section 135 of this article.

Exception to be certified to physician at hospital.

Proviso.

No. 75, June 20, '74.

Further exemptions.

139. Vessels arriving from ports north of Cape Henry free from epidemic, or contagious disease, and with cargoes from said ports, shall not be subject to the usual quarantine regulations contained in section 133 of this article, unless in the judgment of the Board of Health compliance with said regulations shall be necessary to protect the health of the city.

No. 17, s. 5, R. O.

What persons to be sent to hospital by Marine Hospital Physician.

140. The Marine Hospital Physician, or his assistant, shall visit all ships or vessels that may come to at the quarantine grounds, as directed in section 135, as soon as practicable, in daylight, after the knowledge of such fact shall have been by any means obtained by him; and said officers are hereby authorized and directed to send all persons affected with the small pox, varioloid, or other infectious or contagious diseases, who may be found on board such vessels to the Marine Hospital, to take or direct such measures in regard to the officers, crew and passengers as in their opinion may be necessary to disinfect them, and to prevent their propagating the disease, to direct all such articles on board the vessels to be landed, in order to be purified from infection, as they may deem proper, and to subject all such articles to such process of disinfection as they may think necessary for that purpose. And

Baggage, &c., to be purified.

the Marine Hospital Physician is moreover authorized and required to keep all such articles as he may deem necessary, to subject to the disinfecting process aforesaid, under his own care and supervision, until such purpose be accomplished. And it shall be the duty of the Marine Hospital Physician, or his assistant, with the approbation of the Mayor, to adopt all means or measures consistent with the laws of the United States, the State of Maryland, and of the city of Baltimore, to prevent any communication between the citizens of Baltimore and those detained, until the necessary means are used to disinfect them, their baggage and other property, to the satisfaction of the Marine Hospital Physician, or his assistant. And any person removing or attempting to remove any baggage or merchandise detained in virtue of this section, or any of the health ordinances of the city, shall forfeit and pay twenty dollars, and all expenses of removing said baggage or merchandise back to the Hospital or Lazaretto grounds, as may be directed, and of delivering the same into the charge of the Marine Hospital Physician or his assistant.

Communication with citizens to be prevented.

Penalty.

141. The expenses which may be incurred in the disinfecting and purifying of vessels, persons, baggage, or other articles from the infection of small pox or other diseases, as provided for in the preceding section, shall be done at the proper cost and charge of the commander, captain, owner or consignee of the infected vessel, and such part thereof as it may be necessary for the Marine Hospital Physician, or his assistant, to incur in the first instance, shall be charged to the commander, captain, owner and consignee, or either of them, at the discretion of the Marine Hospital Physician, or his assistant, and collected by him; but if it cannot be so collected, the amount which said physician shall have necessarily expended for the purpose aforesaid, shall be refunded or repaid by the Register of the City, with the approbation of the Mayor.

Ibid, s. 6.

Expenses of purification, &c.—how to be paid.

Ibid, s. 7.

Expense of maintaining passengers under quarantine; how provided for.

142. All passengers placed under quarantine, whether detained on ship-board, or removed on shore, as the Marine Hospital Physician or his assistant may direct, who shall fail to maintain themselves, shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit to provide for them, as above directed, the expense of their maintenance shall be charged to the vessel in which they arrived. And such vessel shall not be permitted to leave the quarantine ground until such expense shall have been repaid, or secured to be paid in a manner satisfactory to the Mayor.

Ibid, s. 8.

Penalty on refusal of captain to comply with order of hospital physician.

143. If the captain, commander, or other person having charge of any vessel which shall be detained at quarantine by the Marine Hospital Physician, or his assistant, shall refuse or neglect to obey or carry into effect any order or requisition of the Marine Hospital Physician, or his assistant, made in pursuance of, and in conformity with, the provisions of section 140 hereof, he shall forfeit and pay the sum of twenty dollars for every such refusal or neglect, and the further sum of twenty dollars for every hour thereafter during which such disobedience shall continue; and if any person on board such vessel shall leave it and come on shore without the permission of the Marine Hospital Physician, or his assistant, he or she shall forfeit and pay the sum of fifty dollars; and any person who shall have been permitted to land, and directed to remain at the Marine Hospital until permitted to go into the city, and shall leave the hospital grounds without the permission of the Marine Hospital Physician, or his assistant, shall forfeit and pay the sum of fifty dollars; and if any person shall go on board, or have communication in any manner otherwise than by speaking with the persons on board any vessel brought to or detained under the provisions of this ordinance under quarantine, before he or she hath obtained permission from the Marine Hospital Physician, or his assistant, in writing, he or

Penalty upon leaving vessel without consent of hospital physician.

Upon going aboard vessel without consent of hospital physician.

she shall forfeit and pay for every such offence the sum of twenty dollars. If small pox, varioloid, or any infectious or contagious disease shall appear upon any of the officers, crew or passengers of any vessel, at any of the wharves of the city, or at anchor in the basin or harbor, at any season of the year, and the fact shall come to the knowledge of the Board of Health, it shall be the duty of the said board, or any one of them, to order said vessel to the quarantine ground, to be subject to the regulations hereinbefore provided for in respect to vessels detained at quarantine; and if the commander, captain, or other person having charge of such vessel shall refuse or neglect to obey such order, he shall forfeit and pay the sum of one hundred dollars for such refusal or neglect, and the further sum of twenty dollars for every hour thereafter during which time such disobedience shall be persisted in; and it shall be the duty of the said Board of Health, or any member thereof, to notify the Marine Hospital Physician, or his assistant, of the fact, for his government in the case.

Ibid, s. 9.

Duty of Board of Health in cases of infectious disease.

Penalty upon refusal to obey orders in such cases.

144. The Marine Hospital Physician, or his assistant, upon visiting any vessel in compliance with the provisions of this ordinance, whether at quarantine or elsewhere, shall demand and receive from the commander, captain, owner or consignee of such vessel, the following sums of money, viz: From any vessel not exceeding two hundred tons register measurement, two dollars for each and every voyage, and for vessels over and above two hundred tons, one cent a ton for each and every voyage. And it shall be the duty of the Marine Hospital Physician, or his assistant, to make monthly returns, on oath, of all money collected by him, and pay over the same to the Register of the City, without discount or deduction; and also to return the number of vessels boarded by him, and the tonnage of each. And if any commander, captain, owner or consignee of such vessel shall refuse or neglect to pay the sum authorized to be demanded of him by this ordinance, it shall

Ibid, s. 10.

Fees to be collected for visiting vessels.

Penalty upon refusal to pay same.

be the duty of the Marine Hospital Physician, or his assistant, to issue and deliver, or cause to be delivered, to said commander, captain, owner or consignee, a written order forbidding the landing of any part of the cargo of such vessel until the demand is paid; and if any person, so notified, shall disobey such order, he or she shall forfeit and pay the sum of twenty dollars, and the further sum of twenty dollars for every hour thereafter during which such disobedience shall continue.

No. 17, s. 11, R. O.; No. 43, June 17, '67; No. 62, June 4, '74.

Salary of hospital physician.

145. In consideration of the duties to be performed as Marine Hospital Physician, and in order to secure the best professional services, said officer shall hereafter receive, in lieu of all commissions or perquisites, a salary at the rate of three thousand dollars per annum, payable monthly; and may occupy the dwelling on the hospital grounds, free of charge; but all expenses incurred for his support, or that of his family, shall be defrayed out of his salary.

No. 17, s. 12, R. O.; No. 68, May 30, '66; No. 57, Aug. 9, 67.

Boatmen, &c., to be employed.

146. The Marine Hospital Physician, with the consent and approbation of the Board of Health, shall be authorized, and he is hereby empowered to employ such persons as may be required for boatmen, (whose wages shall be at the rate of sixty dollars per month,) farm hands or nurses, at such prices as may be agreed on by them; such person or persons to be discharged as soon as their services are not needed.

No. 17, s. 13, R. O.

Charges to be paid for board, &c., at hospital.

147. The Marine Hospital Physician shall be authorized, and he is hereby directed and empowered to charge each patient, over fifteen years of age, who may be sent to the Marine Hospital, fifty cents for each and every day they may continue therein, and twenty-five cents for each and every person under fifteen years of age, except infants, for whom no charge shall be made. And should said patient or patients, liable to pay such charges, fail to do so prior to leaving said hospital, then the master, owner or consignee of the ship or vessel, from which such patient was received, shall be answer-

How and of whom to be collected.

able for said charge, and it shall not be lawful for any person commanding or having charge of such ship or vessel, to remove such ship or vessel from the quarantine grounds before executing, in writing, an agreement to pay to the Mayor and City Council of Baltimore, such sum or sums as shall be chargeable to each and every patient sent to said hospital from such ship or vessel.

Ibid, s. 14. Hospital physician to obtain supplies.

148. Said Marine Hospital Physician, through the Board of Health, and with the approbation of the Mayor, may obtain the necessary supplies for the support of the hospital, and for carrying out the provisions of this ordinance, and all bills for these purposes must be contracted by the Board of Health; and said physician may, with the approbation of the Mayor, draw on the Register for such sum or sums as may be required for the purposes aforesaid; provided, the same shall not exceed the amount deposited by him with the Register in the current year.

To draw on the Register. Proviso.

Ibid, s. 15. Goods, &c., to be disinfected.

149. Whenever the Marine Hospital Physician, or his assistant, shall find it necessary to order the goods, baggage or bedding from on board a ship or vessel for the purpose of cleansing or disinfecting the same, he shall take care to have them kept safe from injury or depredation, and cause them, when disinfected, to be returned to the ship or vessel from which they were taken, before such ship or vessel shall leave the quarantine ground, unless the owner or owners thereof be detained at the hospital, in which case the same shall be delivered to the respective owner or owners thereof, when they shall be discharged from the hospital; the captain, owner or consignee shall be answerable for all expenses incurred in carrying out the provisions of this section.

To be returned in good order. Expense to be paid.

Ibid, s. 16. Condition of passengers to be examined.

150. It shall be the duty of the Marine Hospital Physician, or his assistant, to carefully inspect the condition of all passengers, and passenger ships or vessels arriving at this port from any foreign country; and whenever, in their opinion, the

health of the city may be endangered, whether from the actual presence of disease, or from an unclean condition of the ship or passengers, to require such ship or vessel to come to anchor at the quarantine ground, and there remain until all the passengers have been removed, and the ship or vessel thoroughly cleansed and purified; all expenses of purification and removal, and all other expenses incurred by the Marine Hospital Physician, or his assistant, to prevent the introduction or propagation of contagious or infectious diseases, to be paid by the master, owner or consignee of the ship or vessel for which the expense was incurred.

Ibid, s. 17.

Passengers and crew to be vaccinated.

151. The Marine Hospital Physician, or his assistant, may when either of them deem it necessary, to prevent the propagating of small pox or varioloid disease among the crew and passengers of a ship or vessel detained at the quarantine ground, vaccinate any one or more of said crew and passengers, and may charge twenty-five cents a person for performing said duty, and in case one or more persons on board a ship or vessel whom it would not be necessary to send to the hospital, but who may desire the attendance of the Marine Hospital Physician, or his assistant, during any part of the time said ship or vessel may remain at the quarantine ground, shall charge fifty cents per day for each and every person he may so attend, and in case said person or persons shall fail to pay said charges, then the ship or vessel, the master, the owner or consignee of the ship or vessel shall be answerable for the charges herein provided to be made; the money, when collected, to be paid to the City Register, to be placed by him to the credit of the Marine Hospital.

All moneys to be paid to Register.

Ibid, s. 18.

Duty of harbor masters to report to Board of Health.

152. Whenever the harbor-masters, or any one of them, shall hear or know of any violation of any of the provisions of this ordinance, it shall be his or their duty to report said violation to the Board of Health, who shall promptly enforce the penalties of this ordinance; and all money so collected shall

be paid to the City Register, who shall place the same to the credit of the Marine Hospital.

Ibid, s. 19. Visiting committee. Duties.

153. The Mayor of the City, the presidents of the two Branches of the City Council, the president of the German Society, the president of the Hibernian Society, and the president of the St. Andrew's Society, are a committee, ex-officio, and are hereby empowered to visit said hospital, once during each month, or oftener, if necessary, and to examine the condition of the patients, their food, bedding, clothing, cleanliness and ventilation of the apartments, as well as into all other things connected with the general or medical management of the institution; and said committee, through the Mayor only, may make such suggestions to, or requisitions upon, the Board of Health, as may be deemed expedient or necessary in relation to the food, bedding, or other suitable supplies for the comfort of said patients, with a due consideration at the same time of an economical expenditure of such moneys as from time to time may be appropriated for the use of the said hospital.

Ibid, s. 20. Committee to be carried to and from hospital. Proviso.

154. The officers, respectively, of the aforesaid visiting committee, shall be honorary, and without pecuniary remuneration; provided, however, that the Board of Health is hereby authorized to supply, at all necessary times, suitable conveyance for said committee, to and from said hospital, the vouchers for the expense of which conveyance shall be allowed in the annual statement of said board, properly charged to the account of the said hospital.

NOTE.—Decision by Brown, C. J., in City Court, Dec., 1873.

Frederick Myers v. *the Mayor and City Council of Baltimore:* This case comes before me on an appeal from Justice Hemmick, who gave judgment against the City for $35, debt and costs. The claim of the plaintiff is for his clothing destroyed by order of Dr. Conrad, Physician of the Marine Hospital of the city, and this case, together with fourteen other cases of a similar description, is submitted to the decision of this court, both on the law and the facts. The question presented is one of much interest and im-

portance. The plaintiff was a seaman on board the David Stewart, which arrived at this port on a voyage from Rio, in July last. When the vessel left Rio yellow fever prevailed there. One of the crew was taken ill with the fever shortly before she sailed, and the captain soon afterwards. Five others of the crew were attacked by the same disease on the voyage, but all recovered except the captain, who died at sea, and his body was brought here in the hold of the ship. On her arrival the Marine Physician ordered her into quarantine. The clothing of the crew was burned after having been appraised by the physician, with the assistance of the owners. This was done, as Dr. Conrad testified, by his order, with the concurrence of the Board of Health, because it was considered necessary to prevent the spread of the disease into the city. Some evidence was given by Dr. Conrad, not, however, from his own knowledge, that in 1839 yellow fever had been introduced into the city from a chest of clothing brought here from Rio. He testified that the *germ theory* of contagious diseases is now generally accepted by the medical profession; that is, that living germs proceeding from diseased bodies lodge in the clothing, on furniture, and other objects with which the patient comes in contact, and are carried by the air to other places and persons, and may produce in other persons on whom they fasten the same disease with which the patient is infected. He further testified that these germs cannot be destroyed by boiling, or by heat even to the amount of 800° or 900° Fahrenheit, without actual flame, and for this opinion he relied exclusively on certain experiments made by Professor Tyndall, and mentioned in a paper on Dust and Disease contained in his Fragments of Science, published in 1871. The experiments were made in one of the rooms of the Royal Institution, London, in the air of which there were floating visible particles of matter of organic origin, but it did not appear that among them were any germs of disease. Dr. Conrad testified that he had no faith in the efficacy of any disenfectants, although he would have tried them on the clothing if he had a fumigating house for the purpose.

Dr. Wilhelm testified that he had known small-pox to be communicated by infected clothing after it had been boiled for several hours.

It was contended on the part of the city, first: That the Marine Physician had, under the ordinance, authority to burn the clothing, and that being infected, it was wholly worthless and without value; and second: That if this is not the case, he had authority to burn the clothing under the same law of necessity which would authorize pulling down a house to arrest a conflagration, or destroying a mad dog to prevent the spread of hydrophobia.

A careful examination of the ordinances has satisfied me that they do not authorize destruction of property to prevent contagion, except in the case of small-pox, which was for the time being provided for by a resolution of the Mayor and City Council, approved on the 27th of January, 1873, [No. 68,] which required the bed, clothing and furniture of the room of a small-pox patient to be destroyed, and compensation to be made therefor.

In all other cases, the clothing, property and vessels infected with contagion, are, in express terms, required to be *disinfected*, but neither in express terms nor by implication is their destruction authorized. If the Marine Physician has, under the ordinances, the right to destroy infected clothing, there is no reason why he could not have the same right to destoy the cargo, and the vessel itself, if he thought that there was no efficient method of disinfecting them. Nor can the authority of the Marine Physician be sustained on the ground of necessity. It would require very different and much stronger proof than the experiments referred to, to establish the proposition that the ship and cargo, or even wearing apparel infected with the germs of yellow fever may be destroyed by the same right by which a mad dog may be killed. Vessels from places where yellow fever prevailed having on board persons suffering from the disease itself, have very often arrived at this port, and after a brief quarantine the crews and passengers, with their clothing, have been permitted to land, and yet, with the exception of a few rare cases, the disease has for many years hardly been known among us. The danger of the contagion of yellow fever in this latitude, at least, does not exist to the extent supposed by the counsel for the city.

Commodore Hollins testified that he had been in the navy for more than fifty years; that he had had yellow fever on shipboard fifteen or twenty times; that it was the custom for the clothing of sailors who have died on shipboard to be sold by auction among the crew, but that the disease always diminished as the vessel approached northern latitudes, and that if she returned to an infected port it would break out again. It is worthy of note also that the opinion that the germs of contagious diseases cannot be destroyed by a degree of heat much less than that stated by Dr. Conrad, is not implicitly received by scientific men, but is strongly controverted on evidence furnished by more recent experiments. Nor is it an established fact in science that the germs cannot be destroyed by disinfectants, but the contrary doctrine is still maintained and believed.

It did not appear from the evidence that the destruction of clothing infected with yellow fever has been practised in any port except Charleston. Evidence was given of one or two cases where it had been burned in Boston. The burning of the clothing of the plaintiff cannot, therefore, be justified on the ground of necessity.

In reference to the value of the clothing destroyed, it is sufficient to say that although clothing so infected could not be said to have a market value while it remained in that condition, yet, that even in that condition, it had a substantial value to its owners, who had no longer anything to dread from contagion.

But the question still remains whether the city is liable in damages for the unauthorized acts of its officers. This question is conclusively settled in the negative by the case of *Horn* v. *the Mayor and City Council of Baltimore*, 30 Md. 218. The Mayor and City Council had illegally undertaken to grade North avenue, and in so doing had injured the lot of Horn, who brought

suit to recover from the city the damages sustained. The Court of Appeals held that the Mayor and City Council are the agents and representatives of the inhabitants of the city, who are the corporators, and as such are entrusted with certain powers which are specially defined and limited, and can be exercised by them in the manner and form only prescribed by law, that whenever they transcend their powers, their acts, although done *colore officii*, and upon pretence of law, are no more binding upon the corporators than the acts of an agent in any other case can bind his principal when done beyond the scope of the authority conferred. See *note*, p. 8, *ante*.

As the acts of the Mayor and City Council are thus void, and not binding when they transcend their powers, it certainly follows that the acts of the Marine Physician in this case are not binding on the city, because they exceed the powers conferred on him, and the concurrence of the Board of Health can give no validity to them, because they are equally beyond the scope of the powers conferred on that department. This is not, as was contended by the plaintiff, a case of taking private property for public use, which he rightly insisted cannot be done without just compensation. The property was not taken by the city for public use, but was destroyed by an officer of the city under a mistaken idea of his right and official duty, and for such an act, the city, as I have shown, is not responsible.

The counsel for the plaintiff gave in evidence a communication from the Marine Physician to the Mayor and City Council, dated May 23, 1873, in which he comments on the "inadequacy" of the "Marine Hospital," and on the fact of "no buildings or suitable place being furnished necessary to the proper care of cargoes, nor for their disinfection;" and he adds, "I have been compelled to burn infected clothing from two vessels in the present month, in consequence of the want of a building in which to fumigate and to protect the city from yellow fever." It is due to Dr. Conrad to add that he stated in his evidence that his opinion of the inadequacy of disinfectants had been reformed since the date of his communication.

The counsel for the plaintiff contends that the default of the city in not providing the necessary means to disinfect clothing, which it was its duty to do, rendered it necessary to destroy it, and that the city is therefore liable.

The obvious reply to this is that it nowhere appears, except in the letter of Dr. Conrad, that a separate building is absolutely necessary for the disinfection of clothing, and even if it were, he is, by the ordinance (p. 431, *ante*,) "authorized and required to *keep* all such articles as he may deem necessary to subject to the disinfecting process aforesaid under his own care and supervision until such purpose be accomplished."

He is required to *keep* the articles, not to *destroy* them. I certainly cannot find in this provision any such neglect of a clear duty on the part of the Mayor and City Council as rendered the destruction of the clothing necessary, or made the city liable for it.

A case in Maine, on a question somewhat similar, which was for a long time strenuously contested, sheds so much light on this that it should be noticed. A vessel arrived at Rockland, in that State, with the small-pox on board. There being no suitable hospital, the health officers of the town, with the consent of the owners, took possession of the vessel, for the purpose of nursing one of the crew who was ill with the disease, and who remained on board. While in their custody the vessel took fire accidentally, and was destroyed. The owners sued the town for negligence. The law of the State required vessels to perform quarantine at such place and *under such regulations as the selectmen might deem expedient.* The Supreme Court of Maine held that this did not authorize the health officers to convert the vessel into a hospital; that neither the relation of master and servant, nor of principal and agent, exists between a town and its health or police officers, and that the town was not liable for their unlawful or negligent acts. *Mitchell* v. *Rockland*, 52 Maine, 118. Judgment for the Mayor and City Council of Baltimore.

ARTICLE XXIV.

HOLIDAY AND WAR OF 1812.

ORDINANCES.

1. Twelfth of September.
2. Defenders of Baltimore: annual appropriation.
3. Commissioners: registry: returns to Mayor, &c.
4. Mayor, &c. to fill vacancies: no compensation to commissioners.

ORDINANCES.

No. 79, Sept. 11, '66.
Twelfth of September.

1. The Twelfth day of September is hereby recognized and declared to be a municipal holiday, and upon its annual recurrence the municipal departments shall be closed, and the business of the corporation suspended, as a mark of respect for the day.

No. 63, Apl. 21, '71.
Annual appropriation to Association of Defenders of Baltimore city.

How to be expended.

2. The Register is hereby authorized and directed to pay annually to the treasurer of the Association of Defenders of Baltimore City in the war of eighteen hundred and twelve, the sum of three hundred dollars, said sum to be by them expended in payment of the expenses of the celebration, in any manner they may see fit, of the anniversary of the battle of North Point.

No. 33, s. 2, May 31, '65.
Commissioners.

3. There shall be annually appointed, as other city officers are appointed, three citizens to act as a Board of Commissioners, whose duty it shall be to determine who are entitled to such pension or sum set apart by them to meet the necessities of each case, and give to such as are entitled an order on the City Register for the same. It shall also be

the duty of the commissioners to keep a registry of all such soldiers and widows, their residences, the character of their conditions, and the amount of money appropriated to their use, which sum shall not exceed one hundred dollars per annum; such registry and statement to be presented to the Mayor, Comptroller and Register, for inspection quarterly, and the same shall be submitted to the Council when in session.

Registry.

Returns to Mayor, &c.

4. When a vacancy occurs in the Board of Commissioners during a recess of the Council, by death, resignation or otherwise, the Mayor, Comptroller and Register, or any two of them, shall have power to fill such vacancy. The commissioners are to receive no compensation for their services, but they shall be allowed by the Comptroller for stationery and other expenses, such as may be indispensably necessary for the actual business under their charge.*

Ibid, s. 3

Mayor, &c., to fill vacancy.

No compensation to commissioners.

* Ord. No. 6, Feb. 10, '65, enacted that for every year during their lives, the persons therein named, widows of soldiers of the war of 1812, were allowed the sum of one hundred dollars each, to be paid by the City Register, on the order of the commissioners appointed by the Mayor and City Council. The acts of 1870, c. 477; 1872, c. 309; 1874, c. 305, c. 351 and 415, and 1876, c. 320, granting pensions to soldiers of war of 1812 and their widows, are repealed by act of 1878, c. 350.

ARTICLE XXV.

HOSPITALS.

STATUTES.

1. Houses of Correction: hospitals or pest-houses.

MARYLAND HOSPITAL.

2. Pauper lunatics.
3. Quota from city.

ORDINANCES.

1. Insane asylums not to be erected within limits of direct taxation.
2. Buildings already erected.
3. Penalty.
4. When lawful to establish hospital for sick within limits of direct taxation: proviso: public notice to be given.
5. Penalty for violating foregoing section: notice from Mayor or Board of Health.

MARYLAND HOSPITAL AND INSANE ASYLUMS.

6. When indigent lunatics to be sent from Bayview Asylum to Maryland Hospital: proviso.
7. Permit to send indigent insane citizen to Maryland Hospital or other insane asylum in State: liability of Mayor and City Council: renewal of permit.
8. Treatment: list of persons sent: report to Mayor and City Council.
9. Disposition of the dead: when buried by hospital.
10. Compensation to hospital.

HOSPITALS OF WASHINGTON UNIVERSITY AND UNIVERSITY OF MARYLAND AND DISPENSARIES.

11. What indigent sick, &c., to be taken or sent to hospitals of Washington University or University of Maryland: proviso.
12. Duties of professors, physicians and surgeons: lists of persons sent to hospitals: report to trustees of poor.
13. Disposition of the dead: when delivered to Health Commissioner.
14. Payment by Register of account approved by president of board of trustees of poor.
15. Visitors of universities.
16. When universities excluded from benefit of this ordinance.
17. Medicines from dispensaries to indigent sick: provisos: amounts in excess of appropriations.

STATUTES.

1. The Mayor and City Council may erect or establish houses of correction, hospitals or pest houses, within or without the city, if necessary, and pass all ordinances for the government of the same. P. L. L., art. 4, sec. 31. Houses of correction, hospitals, pest houses &c.

MARYLAND HOSPITAL FOR THE INSANE.*

2. The board of managers shall provide accommodation for at least two hundred and fifty pauper lunatics of this State, who may be sent to the Maryland Hospital for the Insane, for curative treatment, which number shall be from 1876, c. 351, s. 9. Pauper lunatics.

*The Maryland Hospital was removed from Baltimore City to Spring Grove, in Baltimore County, and built and established on its present site by the authority and direction of the State under the acts of 1870, c. 208; 1872, c. 236; 1876, c. 263, and 1878, c. 341. By the latter act the Board of Managers of the Maryland Hospital for the Insane, as such corporation, is declared to be a public agency of this State for the administration of one of the charities thereof; and the hospital aforesaid, located as aforesaid, is declared to be one of the means adopted by this State for the administration of one of its public charities.

The Maryland Hospital agreed with F., in consideration of $1,200, to support his sister, then a lunatic patient in the institution, for the remainder of her life. The money was paid. F. also fully paid for the support of his sister to July 1, 1863, and the sum paid in commutation relieved him from that date from any further charge in the future for her support. The lunatic died August 12, 1864. Subsequently F. sued the hospital to recover back the sum he had paid under the contract, less the necessary expenses incurred in the support of his sister from July 1, 1863, to August 12, 1864. Held: 1. That the hospital had no power under its charter to make this contract with F.: it was *ultra vires*, not binding on the corporation, and could not have been enforced in favor of F. 2. That the contract was neither *malum in se* nor *malum prohibitum*, and the parties to it were not in *pari delicto* and F. was entitled to recover the sum paid by him, less the amount properly chargeable as a fair and reasonable allowance for the care and keeping of his sister during the period which intervened between June 30, 1863, and August 12, 1864. Corporations are limited to the exercise of such powers as are expressly granted by law, and such as are necessary and usual in the course of their business, to enable them to attain the purposes of their creation. *Maryland Hospital* v. *Foreman*, 29 Md. 524.

time to time apportioned by them among the several counties, and the city of Baltimore, according to their respective populations, as ascertained by the last preceding census.

Ibid, s. 11.

Quota from city.

3. The judges of the Circuit Court of the several counties, and the Criminal Court of Baltimore, in accordance with the provisions of the Code, are hereby authorized to send from time to time to the said hospital, pauper lunatics of this State, to the number to which the respective counties and city of Baltimore shall respectively be entitled under the aforegoing section.

ORDINANCES.

No. 76, s. 1, June 20, '66.

Insane asylums not to be erected within limits of direct taxation.

1. It shall not be lawful for any person or persons to erect or build, or cause to be erected or built, any lunatic or insane asylum within the limits of direct taxation.

Ibid, s. 2.

Buildings already erected.

2. No building already erected, within the limits of direct taxation, shall be used as an insane asylum, or for the purpose of containing insane persons.

Ibid, s. 3.

Penalty.

3. Any person or persons offending against the provisions of the two preceding sections shall forfeit and pay the sum of one hundred dollars for every such offence, and the further sum of one hundred dollars a day for every day they shall permit any building to be used for such purpose.

No. 5, Feb. 21, '73.

When lawful to establish hospital for sick within limits of direct taxation.

Proviso.

4. It shall not be lawful to establish any hospital for the sick, within the limits of direct taxation, unless by and with the assent of the Mayor and City Council of Baltimore; provided, that before such assent shall be given, public notice shall be given of an intention to apply to the City Council for such grant, which public notice shall be given at least

thirty days before the City Council shall act upon the application, and published at least once a week for four weeks in not less than two of the daily newspapers of the city.* Public notice to be given.

5. If any hospital for the sick, as aforesaid, shall be established in violation of the foregoing section, the party or parties so establishing the same or who may be conducting it shall be fined the sum of fifty dollars for each and every Ibid, s. 2. Penalty for violation of foregoing section.

*JOHNS HOPKINS HOSPITAL.—The Act of 1872, c. 343, enacts:

That the ordinance [No 114] of the City Council of Baltimore, approved on the twenty-fourth day of June, eighteen hundred and seventy-one, entitled "An ordinance to condemn and close McElderry street, between Register and Wolfe streets, and Ann street, between Jefferson and Monument streets, and all streets, lanes or alleys comprised within the whole grounds, bounded on the north by Monument street, on the south by Jefferson street, on the east by Wolfe street, and on the west by Register street," is hereby approved and confirmed, and the said streets closed by said ordinance shall remain closed so long as the property included in the said bounds shall be used for the purpose of a hospital.

The Act of 1864, c. 291, enacts that:

The Johns Hopkins Hospital, a corporation incorporated by certificate duly recorded in the office of the clerk of the Superior Court of Baltimore City, is in accordance with the wishes of the late Johns Hopkins, of Baltimore county, deceased, duly expressed in his last will and testament and in his letter to the trustees of said hospital, hereby authorized to purchase and hold such tract or tracts of land in this State, as it may require for the building of a house or houses for the reception and care of convalescent patients from the said hospital, and to purchase and hold such tract or tracts of land, as it may require for the building of a house or houses for the reception, education and care of orphaned colored children, not exceeding for both of the said particular purposes three hundred acres of land, and to erect on the same all buildings necessary for the said purposes, and to govern the said respective establishments in such manner that the true intent of the founder of said hospital may be carried into full effect.

By resolution No. 23, Jan. 27, 1874, the Commissioners of Finance were authorized and requested to act as a committee, to contract and make the necessary arrangements for a monumental statue of the late Johns Hopkins, with suitable pedestal and inscription, to be erected in the public square on Broadway, between McElderry and Monument streets, in view of the Johns Hopkins Hospital, the cost of the same to be provided for in the tax levy, on notice of its near completion.

day it is permitted to remain as such, after having received notice of ten days from the Mayor or Board of Health to discontinue it.

Notice from Mayor or Board of Health.

MARYLAND HOSPITAL AND INSANE ASYLUMS.

No. 14, Mar. 22, '77.

When indigent lunatics to be sent from Bay-view Asylum to Maryland Hospital.

6. The trustees of Bay View Asylum shall cause monthly examinations of all insane patients in that institution to be made by the physician in charge, and shall from time to time transfer to the Maryland Hospital such indigent lunatics as in the judgment of said physicians will most probably be benefited by curative treatment; provided, the number thus transferred shall not exceed the legal quota under the Act of 1876, c. 351, s. 9, (section 2, statutes, of this article.)*

Proviso.

No. 87, s. 1, May 11, '75.

Permit to send indigent insane citizens to Maryland Hospital or other insane asylum in State.

7. The Mayor of the City, the Commissioner of Health and the President of the Board of Trustees of the Poor, or either of them, are hereby authorized and empowered, upon a properly authenticated certificate of two competent physicians, to issue a permit in behalf of any indigent insane citizen of the city of Baltimore, suffering with an acute or curable form of mania, under which permit such person may be taken to the Maryland Hospital at Spring Grove, in Baltimore county, or any other insane hospital in the State of Maryland, that the said party's next friend may determine; and the officers of the said hospital, on receipt of such permit, are hereby authorized to receive such person on account of the Mayor and City Council of Baltimore:

*This ordinance recites that: the General Assembly of Maryland at its session of 1876, passed an act providing for the accommodation of two hundred and fifty pauper lunatics of the State in the Maryland Hospital for the Insane, to be apportioned among the several counties and the city of Baltimore according to their respective populations, and that, in the apportionment of the capacity of the hospital, the quota of indigent insane patients allowed from the city of Baltimore is ninety-seven.

Provided, that the said Mayor and City Council shall not be liable, under any such permit, for a longer period than one year from its date; provided, further, that such permit may be renewed from year to year, when, in the judgment of any one of the officers named in this section, such renewal would be necessary and proper. Liability of Mayor and City Council. Renewal of permit.

8. It shall be the duty of the officers of said hospital, or hospitals, to which said person may be sent, to properly maintain and treat the persons so sent to their institution, on permit as aforesaid; and also to keep separate lists of all persons sent to said hospital under the provisions of this ordinance; and the said officers shall report in writing to the Mayor and City Council, at least quarterly, the number, name, age and sex of persons received and treated by them as aforesaid, the form of mania, the result of treatment in each case, and any other information they may deem interesting or important in connection therewith. Ibid, s. 2. Treatment. List of persons sent. Report to Mayor and City Council.

9. If any persons sent or taken to the said hospital under the provisions of this ordinance shall die while inmates thereof, their bodies shall be delivered to any relatives or friends who may within twelve hours after their decease demand the same for interment; and if not claimed in that time by relatives or friends the same shall be properly buried under the direction of the officers of said hospital, and the City Register shall pay therefor a sum not exceeding eight dollars for every body so interred, upon the certificate of the president of the institution countersigned by the Commissioner of Health. Ibid, s. 3. Disposition of dead bodies. When buried by hospital.

10. The officers of said hospital shall receive compensation at the rate of two hundred dollars *per annum*, for each person so received, maintained and treated by them, which shall be paid monthly on the warrant of the City Ibid, s. 4. Compensation to hospital.

Comptroller, issued upon the certificate of the Health Commissioner.

HOSPITALS OF WASHINGTON UNIVERSITY AND UNIVERSITY OF MARYLAND AND DISPENSARIES.

No 63, s. 1, Apl. 28, '76.

What indigent sick, &c., to be taken or sent to hospitals of Washington University and University of Maryland.

11. The President of the Board of Trustees of Bayview Asylum, or any member of said board, and the police magistrates of the several station houses, may, by order in writing, direct any indigent sick or disabled persons of the city of Baltimore, who are not in condition to be sent to Bayview Asylum, and who are entitled to relief under this ordinance, to be sent or taken, with their consent, to the hospitals of the Washington University and University of Maryland for medical and surgical treatment by the professors of said universities at any time during each year, provided not more than twenty-five persons shall be in each hospital at any one time.

Proviso.

Ibid, s. 2.

Duties of professors, physicians and surgeons.

12. It shall be the duty of the professors of said universities and the physicians and surgeons of said hospitals respectively to receive and properly maintain and treat the persons so sent to their hospitals by order in writing from the persons authorized by this ordinance to send them, so long as such persons in the opinion of the Board of Trustees of Bayview Asylum, may be entitled to relief, and require it; said opinion of the Board of Trustees of Bayview Asylum in regard to the dismissal or removal from said institution shall not be exercised without consulting with the resident physicians of said hospitals, and they shall also keep lists of all persons sent to said hospitals, under the provisions of this ordinance, in which shall be stated the names of the persons, their residences, and the diseases treated by them; and they shall report in writing to the Trustees of the Poor, at least monthly, the number of persons received by them as aforesaid, and for what diseases.

List of persons sent.

Report to Trustees of Poor.

13. If any person sent or taken to either of the hospitals named in this ordinance shall die under the charge of the authorities thereof, the body shall be delivered to any relative or friend of the deceased who may within twenty-four hours after death demand the same for interment, and if not claimed within that time by relatives or friends, the same shall be delivered to the Commissioner of Health to be interred according to the provisions of Article XXIII of this Code. [p. 406 *ante*.]

Ibid, s. 3.

Disposition of the dead.

When delivered to Health Commissioner.

14. The authorities of said hospitals shall receive as compensation three dollars and twenty-five cents per week for each person so received, maintained and treated by them, and the Comptroller shall issue his warrant to the Register for the payment of such compensation, upon the presentation to him of the account endorsed as correct by the President of the Board of Trustees of the Poor.

Ibid, s. 4.

Compensation to hospitals.

15. It shall be the duty of the president or some member of the Board of Trustees of the Poor to visit the said universities at least once a month, to inform themselves in reference to the condition of those sent there under the authority of this ordinance.

Ibid, s. 5.

Visitors of Universities.

16. If at any time the authorities of either of said hospitals shall violate the provisions of this ordinance, they shall thenceforth be excluded from the benefit of the same.

Ibid, s. 6.

When hospitals excluded from benefit of this law.

17. The Mayor of the City is hereby authorized and empowered, under the advice of the City Solicitor, to contract for and on behalf of the Mayor and City Council of Baltimore, with the Baltimore General Dispensary, the Baltimore Special Dispensary, the North Eastern Dispensary, the Eastern Dispensary, the Southern Dispensary, the North Western Dispensary, the Central Free Dispensary and the Dispensaries attached to the University of Maryland and

No. 66, s. 2, June 30, '77.

Medicines to indigent sick from dispensaries.

the Washington University, for supplying medicines to the indigent sick of the city of Baltimore during any one year, on such terms as may in his judgment be judicious; provided, however, that the stipulations as to the hours and rules of such service shall be made to apply alike to all of said dispensaries with which such contracts shall be entered into; and provided further, that each contract shall contain a stipulation that the Mayor and City Council shall incur no obligation therefrom for any amount not provided for, or in excess of the appropriation in any general appropriation ordinance for any year made for carrying out the same.

Provisos.

Amounts in excess of appropriations.

NOTE OF ACTS RELATING TO HOSPITALS AND ASYLUMS.—1868, c. 246, is an act to aid in the establishment of a hospital in connection with the Washington University of Baltimore.

The act of 1870, c. 16, repeals and re-enacts the third section of the act of 1868, c. 246; 1870, c. 126, and 1872, chs. 30 and 99, enlarge the corporate powers of Washington University; and 1874, c. 266, provides for the free education in said university of one student from each legislative district of the State. The act of 1874, c. 324, appropriates sums of money to enable the Faculty of Physic of the University of Maryland to build a hospital, and the College of Physicians and Surgeons of Baltimore to establish a lying-in hospital for benefit of indigent women of the State and the city, free of charge, and to educate one student for each legislative district of the city, and one student from each county, free of charge.

By the act of 1878, c. 174, the Washington University of Baltimore and the College of Physicians and Surgeons of Baltimore city were united and merged, and shall henceforth constitute and form one body corporate, under the name and style of "College of Physicians and Surgeons of Baltimore city."

The Maryland Inebriate Asylum was incorporated by act of 1860, c. 386, and forms Art. XLVI, of Code of Public General Laws of 1860.

The Maryland Insane Asylum was incorporated by acts of 1852, c. 302: 1860, c. 264; 1862, c. 234; 1864, c. 213 and c. 248, and 1868, c. 117.

1868, c. 264, entitled an act to authorize the commissioners of the Insane Hospital at Catonsville to receive inebriates as patients until the hospital for inebriates proper shall be completed, enacts that the commissioners of the Insane Hospital at Catonsville are authorized to receive inebriates as patients in said hospital, subject to the same charges and conditions as other patients, until the hospital for inebriates proper shall be completed.

1868, c. 437, entitled an act to authorize and empower the president and directors of the Maryland Insane Asylum to convey certain land to the Maryland Inebriate Asylum for the uses of said institution, enacts that the president and directors of the Maryland Insane Asylum are authorized and empowered to grant and convey unto the Maryland Inebriate Asylum, for the proper uses of said institution, and the erection thereon of a suitable building or buildings, such portion of the farm now owned by the Maryland Insane Asylum, not exceeding fifty acres, as may in their judgment be spared without injury to the interests of said asylum.

The Sheppard Asylum was incorporated by the acts of 1853, c. 274, and 1858, c. 41.

ARTICLE XXVI.

HOUSES OF REFUGE AND REFORMATION.

STATUTES.

HOUSE OF REFUGE.

1. Managers: quorum.
2. Power to make by-laws, &c.
3. To report to General Assembly, and what.
4. Managers to provide buildings: regulations.
5. White male children.
6. Employment and instruction of children.
7. Power to bind them as apprentices, and how.
8. Who to be committed to House of Refuge, and how.
9. When vagrants committed, names of witnesses, and substance of testimony to be annexed to commitment.
10. White male minors convicted of felony may be committed, and when: proviso.
11. House of Refuge exclusively for male minors.
12. Appropriations by Mayor and City Council authorized to House of Refuge, St. Mary's Industrial School and Boys' Home

HOUSE OF REFORMATION AND INSTRUCTION FOR COLORED CHILDREN.

13. Managers: quorum.
14. By-laws: officers: duties.
15. Report to General Assembly.
16. Building: regulations.
17. What colored children to be inmates.
18. Employment and instruction of children.
19. Power to bind out as apprentices, and how.
20. Manner of receiving inmates.
21. Duty of committing justice: of clerk of court.
22. Commitment of colored minors convicted of felony: proviso: transfers from counties.

INDUSTRIAL SCHOOL FOR GIRLS.

23. Thirty directors: five to be appointed by Mayor: with consent of Council: quorum.
24. Powers and duties.

INDUSTRIAL SCHOOL FOR BOYS.

25. Powers: white boys.
26. Baltimore city represented in board of trustees.
27. By-laws, ordinances and regulations.

HOUSE OF THE GOOD SHEPHERD.

28. Refuge for white females under eighteen.
29. How to be committed.
30. When to be committed.
31. Power to bind out as apprentices

32. Instruction of females committed: rules and regulations.
33. Females committed by Criminal Court, &c.: term of commitment: proviso: discharge of reformed females.
34. Procedure: proviso: trial by jury.
35. Report to Governor: appropriations.
36. Visitation and inspection by judge of the Criminal Court, president of Board of Police Commissioners and Marshal of Police.

ORDINANCES.

1. Police to aid in arrest of boys escaping from the House of Refuge.
2. Care and maintenance of Baltimore boys in House of Refuge, St. Mary's Industrial School and House of Reformation and Instruction for Colored Children: provisos: amount in excess of appropriations: commitments by courts.

STATUTES.

HOUSE OF REFUGE.

1. The estate and concerns of the House of Refuge shall be managed and conducted by fifteen managers, of whom five shall be elected by members of the association, and five appointed by the Mayor and City Council of Baltimore, and five shall be appointed by the Governor, by and with the consent of the Senate, in the month of February, annually; seven of which managers shall constitute a quorum, for the transaction of business. 1878, c. 343. Managers.

2. Said managers may from time to time make such by-laws, ordinances and regulations, relative to the management, government, instruction, discipline, employment and disposition of the minors in the House of Refuge, not contrary to law, as they may deem proper, and may appoint such officers, agents and servants, as they may deem necessary to transact the business of the said corporation, and may designate their duties. P. G. L., art. 78, sec. 9. Power to make by-laws, &c.

Ibid, sec. 10.

To report to General Assembly, and what.

3. They shall make a report to the General Assembly at each regular session thereof, of the number of minors received by them into the House of Refuge, the disposition which shall be made of such minors, by instructing or employing them therein, or by binding them out as apprentices; the receipts and expenditures of said managers, and generally all such facts and particulars as may tend to exhibit the effects, whether beneficial or otherwise, of the said association.

Ibid, sec. 12.

Managers to provide buildings; regulations.

4. The Board of Managers shall provide a suitable building in the city or county of Baltimore,* and establish such regulations respecting the religious and moral education, training, employment, discipline and safe keeping of its inhabitants, as may be deemed expedient and proper.

1872, c. 218.

White male children.

5. The Board of Managers shall have power in their discretion to take into said house all such white male children as shall be taken up and committed as street beggars or vagrants, or shall be convicted of criminal offences, or as hereinafter provided for in the case of application of parents or guardians.

P. G. L., art. 78, sec. 16.

Employment and instruction of children.

6. They shall have power to place the children committed to their care, during the minority of such children, at such employments, and cause them to be instructed in such branches of useful knowledge, as may be suited to their years and capacities.

1872, c. 218.

Power to bind them out as apprentices and how.

7. The managers of the House of Refuge shall have power to bind out the white male children committed to their care, with the consent of such children, as apprentices during their minority, that is to say, until the age of twenty-one years, to such persons and places, whether in or

* The corner stone of the House of Refuge was laid in 1851, in Baltimore county, near the Frederick road, three miles from the city.

out of this State, and to learn such proper trades or employments as in the judgment of the said managers will be most conducive to the reformation and the future benefit and advantage of such children, and the indentures by which said children shall be bound shall contain the covenants, and shall be recorded as prescribed by article sixth of P. G. L., and all the provisions of the said article in relation to white apprentices, shall apply to apprentices bound under this section.

1872, c. 218.

Manner of receiving inmates.

First class.

8. The manner of receiving inmates into the House of Refuge shall be in either of the following modes, namely: first, white male minors may be committed by a justice of the peace for any of the counties or city of Baltimore, on complaint and due proof made to him by the parent, guardian or next friend of such minor, that by reason of incorrigible or vicious conduct, such minor has rendered his control beyond the power of such parent, guardian or next friend, and made it manifestly requisite that from regard for the morals and future welfare of such minor, and the peace and order of society, he should be placed under the guardianship of the House of Refuge.

Second class.

Second, white male minors may be committed by the authority aforesaid, when complaint and due proof have been made that such minor is a proper subject for the guardianship of the House of Refuge, in consequence of vagrancy, or of incorrigible or vicious conduct, and that from the moral depravity, or otherwise of the parent, guardian or next friend, in whose custody such minor may be, such parent, guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious minor.

Third class.

Third, such white male children as their parents, guardians or friends may desire to place therein for temporary restraint and discipline, and where parents, guardians or friends shall agree and contract with the managers for their support and

Fourth class.

maintenance; and fourth, white male minors committed by the several courts in this State as provided in this article.

P. G. L. art. 78, sec. 20.

When vagrants committed, names of witnesses and substance of testimony to be annexed to commitment.

9. It shall be the duty of the justice of the peace, when committing a vagrant or incorrigible or vicious minor under this article, in addition to the commitment, to annex the names and residences of the different witnesses examined before him, and the substance of the testimony given by them respectively, on which the adjudication was founded, and the same duty shall be performed by the clerk of any court, the judge whereof shall make such commitment.*

* The Court of Appeals, in *Roth* v. *House of Refuge*, 31 Md. 330 held: that, in regard to the power of a justice of the peace to commit, and of the managers of the House of Refuge to detain minors, charged as and proved to be persons of incorrigible or vicious conduct, so that their control is beyond the power of parent, guardian or next friend, they are clear in the opinion that the power conferred upon the justice of the peace, as also that conferred upon the managers of the House of Refuge, is in no wise in conflict with the Declaration of Rights, or the Constitution of this State: and that they fully concur in the reason and judgment of the Supreme Court of Pennsylvania in disposing of a similar question, in the case of *Ex parte* Crouse, 4 Whart. 9. See *Hinkley, exr.* v. *House of Refuge*, 40 Md. 461, for construction of a will leaving a legacy to this institution.

In re hab. corp. Walker's case in City Court, Nov. 9, 1873, before Brown, C. J. It was contended that the commitment of Walker was illegal, because the justice had not complied with the sections relating to vagrants, being Art. LII of this Code, but the Court held, that these sections did not apply to the case of minors committed as vagrants to the House of Refuge, and that the commitment was legal, if it complied with the law relating to the latter. The commitment on its face set forth that the justice had been satisfied by proof of the vagrancy of the boy, and in compliance with the law the justice annexed to the commitment a statement of the substance of the testimony on which the commitment was made, and names and residences of witnesses: this testimony showed the viciousness of the boy, but did not fully establish his vagrancy. Held: that while the justice was required to annex the substance of the testimony, his failure to insert proof establishing vagrancy did not vitiate the commitment which on its face declared that sufficient testimony on the subject had been produced, and that this provision about substance of testimony was merely directory; the important point being that the justice was satisfied of the vagrancy and the propriety of committing to the House of Refuge.

10. Whenever any white male minors, under the age of sixteen years, shall be convicted of felony in any court of this State, the judge of said court, in his discretion, and with reference to the character of the House of Refuge as a place of reform and not of punishment, may order said minor so convicted to be removed to, and confined in, the said House of Refuge; provided, that in all cases no such transfer of any such minor from the counties shall be made until due notice has been given to the superintendent of said House of Refuge, and an answer received from him that there is room in the House of Refuge for the reception of such delinquent.

1872, c. 218. White male minors convicted of felony to be committed and when. Proviso. Transfers from counties.

11. The House of Refuge shall be exclusively charged with the reformation and care of male minors.

1872, c. 218. House of Refuge exclusively for male minors.

12. The Mayor and City Council of Baltimore are authorized and empowered to appropriate annually towards the current expenses of the House of Refuge and St. Mary's Industrial School, any sum or sums of money not exceeding twenty-five thousand dollars per annum, and to the Boys' Home Society of Baltimore City the sum of five thousand dollars annually; and the said Mayor and City Council are further authorized and empowered to appropriate for repairs, permanent improvements and additions to the buildings now occupied and used by the House of Refuge, such additional sum or sums of money as in their judgment shall, from time to time, be required for these purposes.

1878, c. 267. Appropriations by Mayor and City Council authorized to House of Refuge, St. Mary's Industrial School, and Boys' Home Society.

HOUSE OF REFORMATION AND INSTRUCTION FOR COLORED CHILDREN.

13. The estate and concerns of the House of Reformation and Instruction for Colored Children shall be managed and conducted by sixteen managers, of whom twelve shall be elected by members of the association, and two appoint-

1870, c. 392, s. 3. Managers.

Two to be appointed by Mayor and City Council.

ed by the Mayor and City Council of Baltimore, and two shall be appointed by the Governor, in the month of February annually; five of which managers shall constitute a quorum for the transaction of business.

Ibid, s. 7.

Quorum.

Ibid, s. 9.

By-laws.

14. They may from time to time make such by-laws, ordinances and regulations, relative to the management, government, instruction, discipline, employment and disposition of the minors in the House of Reformation and Instruction, not contrary to law, as they may deem proper, and may appoint such officers, agents and servants, as they may deem necessary to transact the business of the said corporation, and may designate their duties.

Officers.

Duties.

Ibid, s. 10

Report to General Assembly.

15. They shall make a report to the General Assembly at each regular session thereof, of the number of minors received by them into the House of Reformation and Instruction, the disposition which shall be made of such minors, by instructing or employing them therein, or by binding them out as apprentices; the receipts and expenditures of said managers, and generally, all such facts and particulars as may tend to exhibit the effects, whether beneficial or otherwise, of the said association.

Ibid, s. 12.

Building.

Regulations.

16. The board of managers shall provide a suitable building in any part of the State of Maryland, and establish such regulations respecting the religious and moral education, training, employment, discipline and safe-keeping of its inhabitants, as may be deemed expedient and proper.

Ibid, s. 15.

What colored children to be inmates.

17. The board of managers shall have power, in their discretion, to take into said house all such colored children as shall be taken up and committed as street beggars or vagrants, or shall be convicted of criminal offences, or as hereinafter provided for, in the case of application of parents or guardians.

18. They shall have power to place the children commit- Ibid, s. 16.
ted to their care during the minority of such children at Employment and instruction of children.
such employments and cause them to be instructed in such
branches of useful knowledge as may be suited to their years
and capacities.

19. The managers of the House of Reformation and In- Ibid, s. 17.
struction shall have power to bind out the children commit- Power to bind out as apprentices, and how.
ted to their care, with the consent of such children, as ap-
prentices during their minority—that is to say, males until
the age of twenty-one years, and females until the age
of eighteen years, to such persons and places, whether in
or out of this State, and to learn such proper trades or em-
ployments as in the judgment of the said managers will be
most conducive to the reformation and the future benefit
and advantage of such children; and the indentures by
which such children shall be bound shall contain the cov-
enants and shall be recorded as prescribed by article sixth
of the Code of P. G. L., and all the provisions of the said
article in relation to white apprentices shall apply to ap-
prentices bound under this section.

20. The manner of receiving inmates into the House of Ibid, s. 18.
Reformation and Instruction shall be in either of the follow- Manner of receiving inmates.
ing modes, namely: First, colored minors may be committed First class.
by a justice of the peace for any of the counties, or the city
of Baltimore, on complaint and due proof made to him by
the parent, guardian or next friend of such minor, that by
reason of incorrigible or vicious conduct such minor has
rendered his or her control beyond the power of such parent,
guardian or next friend, and made it manifestly requisite
that from regard to the morals and future welfare of such
minor and the peace and order of society, he or she should
be placed under the guardianship of the House of Reforma-
tion and Instruction. Second, colored minors may be com- Second class.

mitted by the authority aforesaid, when complaint and due proof have been made that such minor is a proper subject for the guardianship of the House of Reformation and Instruction in consequence of vagrancy or of incorrigible or vicious conduct, and that from the moral depravity or otherwise of the parent, guardian or next friend, in whose custody such minor may be, such parent, guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious minor. Third, such children as their parents, guardians or friends may desire to place therein for temporary restraint and discipline, and whose parents, guardians or friends shall agree and contract with the managers for their support and maintenance; and fourth, minors committed by the several courts in this State, as provided in this article.*

Third class.

Fourth class.

Ibid, s. 20.

21. It shall be the duty of the justice of the peace when committing a vagrant or incorrigible or vicious minor under this article, in addition to the commitment to annex the names and residences of the different witnesses examined before him, and the substance of the testimony given by them respectively, on which the adjudication was founded, and the same duty shall be performed by the clerk of any court, the judge whereof shall make such commitment.

Duty of committing justice.

Of clerk of court

* *In re lab. corp.* A. Robinson, Jr., Brown, C. J., City Court, Jan. 8, 1874: petitioner (fifteen years of age,) had been committed by the Circuit Court for Frederick County to the House of Reformation and Instruction for Colored Children for *two years*, and delivered to the sheriff for that purpose. He claimed that the Court had no power to commit for two years, or any definite time, but that he should have been committed during his minority: Held by the Court, that the Circuit Court was empowered to commit the petitioner to the said House of Reformation, that such a commitment would have authorized it to detain the petitioner until he arrived at twenty-one, which would be several years longer than said term, that the commitment for two years did not render the sentence void and that this court could not interfere in the matter.

22. Whenever any colored minor, under the age of sixteen years, shall be convicted of any felony in any court of this State, the judge of said court, in his discretion, and with reference to the character of the House of Reformation and Instruction as a place of sojourn, and not of punishment, may order said minors so convicted to be removed to and confined in the said House of Reformation and Instruction; provided, that in all cases no transfer of any such minor from the counties shall be made until due notice has been given to the superintendent of said House of Reformation and Instruction, and an answer received from him, that there is room in the House of Reformation and Instruction for the reception of such delinquent.

Ibid, s. 21.

Commitment of colored inmates convicted of felony.

Proviso.

Transfers from counties.

MARYLAND INDUSTRIAL SCHOOL FOR GIRLS.

23. The affairs of the Maryland Industrial School for Girls shall be managed by thirty directors, fifteen of whom shall be chosen annually by the members, on the first Tuesday in January, and five of whom shall be appointed annually in the month of January by the Mayor of the City of Baltimore, with the advice and consent of the Council of said city, and ten of whom to be severally resident of some county in this State, shall be appointed bi-ennially in the month of January, by the Governor of the State, with the advice and consent of the Senate; and in case of failure to appoint or elect at the times hereinbefore mentioned, they shall be appointed or elected as soon thereafter as possible, and a special meeting of the members may be called by the directors at any time after such failure, for the purpose of a special election by them, and in all cases the directors shall hold office until their successors are appointed or elected; and seven of said directors shall constitute a quorum, but vacancies shall be filled by the concurrent vote of not less than a majority of the whole number remaining.

1866, c. 156; 1870, c. 391.

Thirty directors

Five to be appointed by the Mayor with consent of Council.

Quorum.

Ibid, s. 10.

Powers and duties.

24. The directors of said institution shall have all the powers, and fulfil all the duties heretofore had and fulfilled by the directors of the House of Refuge, as to female juvenile delinquents.*.

ST. MARY'S INDUSTRIAL SCHOOL FOR BOYS.

1874, c. 288.

Powers.

White boys.

Proviso.

25. St. Mary's Industrial School for Boys, of the City of Baltimore, is empowered to receive in charge such orphan and other destitute boys as may be committed to the charge of said body corporate, and to bind out such boys until they shall attain the age of twenty-one years, and any court or magistrate of this State shall have power and authority, in the discretion of the judge of such court or such magistrate, to commit to the charge of said institution any destitute white boy, or any white boy convicted before such court or magistrate of any offence against any law or laws of this State; provided, that the parent or other guardian of said boy or boys shall request that they be committed to the St. Mary's Industrial School; that in all such cases the board of managers shall have power, in their discretion, to take into said institution all such white boys under sixteen years of age as shall be taken up and committed as street beggars or vagrants, shall be convicted of criminal offences.

Ibid, s. 3.

Baltimore city represented in board of trustees.

26. The Governor of the State and Mayor of the City of Baltimore shall each appoint, every two years, three persons to represent said State and city, respectively, in the board of trustees of said institution.

Ibid, s. 5.

By-laws, ordinances and regulations.

27. The board of trustees may, from time to time, make such by-laws, ordinances and regulations relative to the management, government, instruction, discipline, employment

* The Act of 1866, c. 156, provided, that the provisions of the vagrant act, [see Art. LII of this Code,] shall be applicable throughout the State to this institution so far as its special purposes admit.

and disposition of the minors in said institution not contrary to law, and establish such regulations respecting the religious and moral education, training, employment, discipline and safe-keeping of its inhabitants, as may be deemed expedient and proper.

HOUSE OF THE GOOD SHEPHERD.

1878, c. 442. Refuge for white females under eighteen.

28. The House of the Good Shepherd of the City of Baltimore, a body corporate, incorporated under the General Laws of this State relating to incorporations, is authorized to receive all such white females under the age of eighteen years as may be committed to the corporation by their parents or guardians, and the same to be retained within the refuge conducted by said corporation until they reach the age of eighteen years, or to bind them out as apprentices until they reach the said age, as the directors of the said corporation may elect.

Ibid, s. 2. How to be committed.

29. White females under the age of eighteen years may be committed to the said House of the Good Shepherd by a justice of the peace for any of the counties, or the city of Baltimore, on complaint and due proof made to him by the parents, guardians or next friend of such minor, that, by reason of incorrigible or vicious conduct, such minor has rendered her control beyond the powers of such parents or guardian or next friend, and made it manifestly requisite that from regard to the morals and future welfare of such minor, and the peace and order of society, she should be placed under the guardianship of the House of the Good Shepherd.

Ibid, s. 3. Who to be committed.

30. White females under the age of eighteen years may be committed to the said House of the Good Shepherd by the authority aforesaid, when complaint and due proof have been made that such minor is a proper subject for the guardianship of the said corporation, in consequence of vagrancy, or of incorrigible or vicious conduct, and that from the moral depravity or otherwise of the parent, guardian, or next friend, in

whose custody such minor may be, such parent, guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious minor.

Ibid, s. 4.

Power to bind out as apprentices.

31. Such corporation may have the power to bind out all minors committed to their care, with the consent of such minors, as apprentices during their minority, to such persons and places, within or out of this State, and to learn such proper trades or employments as in the judgment of such managers will be most conducive to the reformation and the future benefit and advantage of such children, and the indentures by which children shall be bound shall contain the covenants, and shall be recorded as prescribed by Art. VI of the Code of Public General Laws, entitled Apprentices, and all the provisions of the said article in relation to white apprentices shall apply to apprentices bound under this section.

Ibid, s. 5.

Instruction of females committed.

32. The directors of the said House of the Good Shepherd shall have power to place all the females committed to their care at such employment, and cause them to be instructed such branches of useful knowledge, as may be suited to their years and capacities; and they shall have power to classify the inmates of the refuge conducted by them, and to make all such useful rules and regulations as in their experience they shall from time to time find necessary for the regulation and government of the same.

Rules and regulations.

Ibid, s. 6.

Females committed by Criminal Court, &c.

33. The said corporation shall have power to receive within the refuge conducted by it all such females as may be committed to it by the Criminal Court of Baltimore City, the Circuit Court of any county, or any justice of the peace in the State of Maryland, under the provisions hereinafter contained, and the same to retain within the refuge for their several terms of commitment; provided, however, that the directors of the said corporation may, at any time prior to the expiration of her term of commitment, discharge and release any

Term of commitment.

Proviso.

Discharge of reformed females.

female so committed to their care, on being satisfied of her reformation.

34. The judge of the Criminal Court of Baltimore City, or any judge of any circuit court for any county or the city of Baltimore, upon information that any female under the age of eighteen years, in their several counties, or the city of Baltimore, as the case may be, leads a disorderly and dissolute course of life, may, upon application of the parent or next friend of such female, issue a warrant or order directed to the Sheriff, or to any constable or police officer in such county or city, commanding him to bring the person against whom the information is so given before said court or said justice, on any day to be named therein, not more than one week from the day of the warrant, to answer said charge; and the said court or said justice, upon proof of said charge, may commit such female to the said House of the Good Shepherd of the City of Baltimore, for not less than one week nor more than two months for the first occasion, and not less than one month nor more than six months for the second or any subsequent occasion; provided, however, that in every case so brought before the Criminal Court of Baltimore City, or the circuit court for any county, the trial shall be by jury, if demanded by the party charged; and if in any case brought as aforesaid before any justice of the peace, the party charged shall demand a jury trial, the said justice shall certify said case to the criminal court or the circuit court for the county, as the case may be, to be proceeded with and tried by said court in the same manner as if the case had been originally brought before said court, and such court or justice may commit said person, in the absence of suitable bail, to the said House of the Good Shepherd, instead of the common jail, pending the said charge. Ibid, s. 7. Procedure. Proviso. Trial by jury.

35. The directors of the said House of the Good Shepherd, in the city of Baltimore, shall annually report to the Governor of this State a full account of the operations of the said corpo- Ibid, s. 8. Report to Governor.

ration, and the Comptroller of the State shall semi-annually, on the first day of January and July, draw his warrant on the Treasurer to the order of the president of the said corporation for an amount at the rate of twenty cents per diem for each of the average number of females committed by any justice of the peace, as hereinbefore provided, who shall have been in the said institution during the preceding six months;

Appropriations.

and the sum of two thousand dollars, or as much thereof as may be necessary, is hereby appropriated to pay the said twenty cents per day, out of any money in the treasury not otherwise appropriated.

Ibid, s. 9.

Visitation and inspection by Judge of Criminal Court, &c.

36. The judge of the Criminal Court of Baltimore, the president of the Board of Police Commissioners, and the Marshal of the Police of the city of Baltimore, shall, at such times as they think proper, visit and inspect the said institution.*

ORDINANCES.

No. 30, s. 12, R. O.

Police to aid in arrest of boys escaping from house of refuge.

1. It shall be the duty of the police of the city of Baltimore to aid in the arrest of all boys escaping from the House of Refuge, when the fact shall be duly established, and render such other aid as may tend to preserve the discipline of said House of Refuge, it being understood that the necessary expense attendant upon the arrest and removal of such person or persons shall be paid by the said House of Refuge.

No. 66, s. 1, June 30, '77.

2. The Mayor of the City of Baltimore is hereby authorized and empowered, under the advice of the City Solicitor, to contract for, and on behalf of the Mayor and City

*See Art. LII, Vagrants, for the Home of the Friendless, Children's Aid Society, Boys' Home, Protestant Infant Asylum, &c. The Maryland House of Correction was established by the acts of 1874, c. 233, and of 1878, c. 415. By the act of 1878, c. 232, the construction and maintenance of a line of telegraph is authorized from the House of Correction to the police headquarters in Baltimore city, and from the State Penitentiary to the Police headquarters; and by the act of 1878, c. 358, the managers of the House of Correction are authorized to hire convict labor to the Maryland Canal Co.

Council of Baltimore, with the House of Refuge, St. Mary's Industrial School, and the House of Reformation and Instruction for Colored Children, *per capita*, for the care and maintenance, for any one year, of boys from the city of Baltimore, legally and properly committed to either of said institutions, or who may hereafter be so committed; provided, however, that each of said contracts shall contain a clear and express stipulation that the Mayor and City Council of Baltimore shall incur no obligation therefrom to pay any amount not provided for or in excess of any appropriation in any general appropriation ordinance made for carrying out the same; and provided further, that each of said contracts shall contain a stipulation limiting the obligation of the city in the cases of future commitments to said institutions, to those of boys who may be committed thereto by either of the courts of the city having the power to make such commitments.

Care and maintenance of Baltimore boys in House of Refuge, St. Mary's Industrial School and House of Reformation and Instruction for Colored Children.

Provisos

Amounts in excess of appropriations.

Commitments by courts.

DECISION AS TO APPROPRIATIONS.—Tax-payers of a municipal corporation may invoke the restraining powers of a Court of Equity, and the court will entertain jurisdiction of their suit against such corporation and its officers, whenever the latter are shown to be acting *ultra vires*, or are assuming or exercising a power over the property of the citizen, or over corporate property or funds, which the law does not confer upon them, and where such unauthorized acts may affect injuriously the rights and property of the parties complaining. *St. Mary's Industrial School for Boys* v. *Brown, et al.*, 45 Md. 310.

The Mayor and City Council of Baltimore has no authority to make appropriations, by the exercise of the taxing power, to sustain or aid institutions, however benevolent and charitable in their character, which do not owe their creation to the municipal power conferred on the city of Baltimore, and were not created for the city by the Legislature of the State, as instruments of municipal administration, but which are separate and distinct corporations composed of private individuals, and managed and controlled by officers and agents of their own, and over which the city has no supervision or control, and for the management of which there is no accountability to the city whatever. *Ibid.*

The fact that the Governor of the State and the Mayor and City Council of Baltimore each appoints, every two years, three persons to represent the State and city in the Board of Trustees of St. Mary's Industrial School for Boys, under the amendment of its charter by the act of 1874, c. 288, in no

Article XXVI.—Ordinances.

manner changes the nature of the institution, nor makes it a municipal agency. *Ibid.*

The fact that the Governor of the State is empowered (act of 1870, c. 391,) to appoint ten, and the Mayor of the city of Baltimore five, of the directors of the Maryland Industrial School for Girls, the board being composed of thirty, does not put the State nor the city in such relation to the corporation as to make it either a public, State or municipal institution. *Ibid.*

The mere fact that the city of Baltimore may own the ground on which the building is erected, or that the city, in its deed to the institution, has reserved certain privileges in the use of the hall, as part of the consideration for the grant, cannot constitute the Maryland Institute for the Promotion of the Mechanic Arts a municipal agency. *Ibid.*

Municipal corporations can levy no taxes, general or special, on the inhabitants, or their property, unless the power be plainly and unmistakably conferred. The authority must be given either in express words, or by necessary implication, and it cannot be collected by doubtful inferences from other power or powers relating to other subjects, nor deduced from any consideration of convenience or advantage. *Ibid.*

While the city of Baltimore has ample power delegated to it to provide for the foundlings, the insane, the indigent, infirm and helpless, and for the correction of the vicious and vagrant portions of its population, such provision, when made, must be under the control, and subject to the supervision of municipal authority. *Ibid.*

ARTICLE XXVII.

IMMIGRANTS.

STATUTES.

1. Commanders of vessels to report age and occupation of aliens to Mayor or Register: penalty for neglect.
2. To give bond to indemnify city from support of: penalty.
3. Amount and security of bond.
4. Stock may be pledged or money deposited in lieu of bond.
5. Approval by Mayor.
6. Commander may commute for bond.
7. Penalty for landing passengers out of city.
8. Penalties and forfeitures: how recovered.
9. Mayor may compound for or remit.
10. Commutation money: how distributed.
11. Fines: how distributed.
12. Compensation of Register.
13. Persons excepted.

STATUTES.

P. L. L., art. 4, sec. 250.

Commander of vessel to report age and occupation of aliens to Mayor or Register.

1. The master or commander of any vessel arriving from a foreign country, or from any other of the United States, who shall enter said vessel at the custom house in the city of Baltimore, shall, within twenty-four hours after such entry, make a report in writing on oath to the Mayor or Register of said city, of the name, age and occupation of every alien who shall have been brought or carried as passenger in such vessel on that voyage, upon pain of forfeiture, for every neglect or omission to make such report of the sum of twenty dollars for every such passenger neglected or omitted to be so reported.*

Penalty.

* The original act is 1832, c. 203. Its preamble recites that the frequent arrivals of passengers at the port of Baltimore have introduced into that

Ibid, sec. 251.

Bond to indemnify city from support of passengers.

2. The Mayor of the City of Baltimore, or other person discharging the duties of his office, shall require the owner or consignee of every vessel arriving from a foreign country, or from any other of the United States, which shall be entered in said custom house, upon pain of forfeiture to the Mayor and City Council of twenty dollars for every neglect or omission to give a several bond to the State of Maryland in the penalty of three hundred dollars, for each passenger included in the report of the master or commander of such vessel directed to be made by the preceding section, and conditioned to indemnify and save harmless each and every city, town and county in this State, from any cost which such city, town or county shall incur, for the relief or support of the person named in the bond, within five years from the date of the bond, and also to indemnify and refund any charge or expense such city, town or county may necessarily incur for the support or medical care of the person named therein, if received into the alms-house or hospital, or any other institution under their care.

Penalty.

Ibid, sec. 252.

3. Every such bond shall be signed by two or more sufficient securities, residents of the State of Maryland, each of

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city a great number of paupers, who have become charges upon the city and county, and upon the several associations in said city, incorporated by the State for the relief of foreign emigrants to the United States; and that a large proportion of the passengers in the various ships are paupers, and are, as such paupers, embarked, it is believed, under the direction of public authorities of foreign countries; and that it is right that the evil in question should be remedied or alleviated as far as practicable. Supplemental acts are, 1833, c. 177; 1834, c. 84; 1841, c. 174; 1849, c. 46.

The associations for succor of immigrants are, for the Germans, the German Society, formed in 1784, and incorporated by act of 1817, c. 100; for the Irish, the Hibernian Society, formed in 1803, and incorporated by act of 1817, c. 168; for the Scotch, the St. Andrew's Society, formed in 1806, and incorporated by act of 1816, c. 163; and for the English, the St. George's Society, formed in 1800, and incorporated by act of 1867, c. 46; and for the French, the French Society. Immigration is provided for by Const., art. X, sec. 3, and 1868, c. 300.

whom shall prove, by oath or otherwise, that he is owner of a freehold in the said State of the value of three hundred dollars over and above all claims or liens thereon or against him, including any contingent claim which may accrue from or upon any former bond given under the provisions of this law. Amount and security of bond.

4. If the principal in said bond choose, instead of the security required in the preceding sections, he may secure said bond by mortgage of real estate, or by the pledge and transfer of public stock of the United States, or of the State of Maryland, or of the city of Baltimore, or by deposit of the amount of the penalty in some bank, subject to the order of the Mayor of the City. Ibid, sec. 253. Stock may be pledged or money deposited in lieu of bond.

5. Any security, whether real or personal, offered by such owner or consignee, shall first be approved by the Mayor of the City. Ibid, sec. 254. Approval by Mayor.

6. The owner or consignee of any vessel may at any time within three days after the landing of such passengers, commute for the bond or bonds hereinbefore required, by paying to the Register of the City the sum of one dollar and fifty cents for each and every passenger reported as hereinbefore required by this article, and the receipt of such sum by the Register shall be deemed a full and sufficient discharge from the requirement of giving such bond. Ibid, sec. 255. Commander may commute for bond.

7. If any alien passenger in such vessel shall be suffered to land therefrom at any place within the distance of fifty miles from said city, with the intent to proceed thereto otherwise than in said vessel, the master or commander thereof shall forfeit and pay for every such person the sum of one hundred dollars, unless within forty-eight hours after the entry of the vessel the owner or consignee shall give the bonds or pay the commutation money aforesaid. Ibid, sec. 256. Penalty for landing passengers out of city.

Ibid, sec. 257.

Penalties and forfeitures; how recovered.

8. All or any of the said penalties and forfeitures, as well as the said commutation money, may be sued for in the name of the Mayor and City Council of Baltimore, before any justice of the peace, in the same manner and subject to the same rules and process, and the right of appeal as provided in cases of small debts.

Ibid, sec. 258.

Mayor may compound for, or remit

9. The Mayor may compound for or remit the said penalties and forfeitures, and payments and recoveries, or any of them, either before or after suing for the same, upon such terms as the circumstances of the case may in his judgment require.

Ibid, sec. 259.

Commutation money; how distributed.

10. The Mayor and Register shall pay over to the Trustees for the Poor of Baltimore City semi-annually three-fifths of all sums of money arising from commutation by owners or consignees of vessels as aforesaid, which shall be appropriated by said trustess to the use of the city of Baltimore for the purpose of supporting the foreign paupers of the said city, and the remaining two-fifths shall be paid to the Hibernian Society of Baltimore, and the German Society of Maryland, in the proportions mentioned in the next succeeding section.

Ibid, sec. 260.

Fines; how distributed.

11. All money received by the Mayor or Register for penalties and forfeitures imposed by this law shall by the Mayor and City Council be distributed and paid as follows: two-fifths thereof to the German Society of Maryland, and the Hibernian Society of Baltimore, to be divided between them as follows: to the German Society in proportion to the amount received from and on account of German and Swiss passengers, and to the Hibernian Society in proportion to the amount received from and on account of Irish passengers: and the remaining three-fifths to the Trustees of the Poor for Baltimore City.

12. The Register of the City shall be entitled to two per centum upon the amount of money collected under this law. Ibid, sec. 261. Compensation of Register.

13. Nothing herein contained shall be deemed to extend to any ambassadors, ministers, consuls or agents of foreign governments arriving as passengers in the port of Baltimore. Ibid, sec. 262. Persons excepted.

ARTICLE XXVIII.

INSPECTIONS, WEIGHTS AND MEASURES.

STATUTES.

GAS METERS.

1. Apparatus for registering consumption of gas.
2. Amount of gas registered.
3. Test by Inspector and Sealer of Gas Meters: certificate: when company to refund to consumer.

GAUGERS OF CASKS AND LIQUORS.

4. Who entitled to receive a license to act as gauger of casks and liquors: oath.
5. Who not eligible as gaugers.
6. Who may sell, export, &c.: when gauger to be called in.
7. Gaugers to procure and use correct instruments: capacity of casks: marks: merchantable casks: deficient casks: fraudulent casks.
8. Baltimore standard of wine measure: penalty on gauger.
9. Altering mark or number: false mark or number: penalty.
10. Gauger's fees.
11. Persons not licensed or acting beyond limits of city: fraud: penalty.

HAY AND STRAW.

12. Governor to appoint two inspectors of.
13. Each inspector to give bond.
14. Standard: to be weighed at State scales.
15. Inspector's fees.
16. Inspector to sell portable scales.
17. To give certificate of every load weighed: what certificate to contain.
18. Neglect, &c., to have hay and straw weighed: penalty.
19. Selling, &c., without inspection: penalty.
20. May re-weigh wagons free of charge: if required to do so, entitled to pay.
21. Inspectors may weigh other articles.
22. Where scales to be placed.
23. Additional pay of inspector.
24. Weighing apparatus to be adjusted monthly.
25. Inspectors to account to treasurer quarterly.
26. Another inspector to be appointed: his duties, &c.: fees for weighing.
27. Inspector's duties: charges.
28. Record of expenditures, &c.
29. May impound for charges: proviso.
30. Inspector neglecting to weigh, &c.: penalty.
31. Inspector's bond: tax on commission.

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32. Appointment of additional inspector.
33. Inspector to conform to provisions required of other inspectors.
34. Penalties, how recovered.

LIVE STOCK.

35. Governor to appoint weighmaster of.
36. Bond of weighmaster.
37. What stock to be weighed.
38. Weighmaster to weigh all stock presented: to give certificate of weight to owner.
39. Charges for weighing.
40. To keep record of all weights: to keep accounts of receipts and expenses: books to belong to the State.
41. To render quarterly account to Comptroller.
42. To number pens, and the number they hold.
43. To put cattle in pens without separating droves.
44. To make alterations in pens, yards, &c.: provisos: U. S. stock to have priority.
45. May impound for weighing fees; proviso.
46. Clerk or assistant: salary: proviso.
47. Salary of weighmaster, and salaries how and when paid.
48. Penalty for delaying to weigh.
49. Penalty for selling without being weighed.
50. Penalty for buying without being weighed.
51. Police Commissioners to have authority over premises.
52. Grounds may be enlarged: how purchases shall be made.
53. Proceedings in cases of tort, trespass, &c.
54. Jurisdiction of Crininal Court extended over premises.

MANURE.

55. Contents of load.

OYSTERS.

56. In the shell: measurement: licensed measurer: penalty.
57. Measure to be inspected and stamped: penalty: proviso.

STEAM BOILERS.

58. Governor to appoint inspector of steam boilers: duties: oath: bond.
59. City divided into districts: Governor to assign districts.
60. Office, &c., of inspectors: notice.
61. Owner or renter using steam boiler to report to inspector: penalty.
62. Inspector to give notice of time of inspection: penalty.
63. Duties of inspector: certificate of inspection: pressure of steam: penalty.
64. Further duties of inspector: certificate: notice: when boiler to be discontinued: penalty.
65. Owner or renter aggrieved may demand re-examination: engineer, &c.: oath: final decision: costs.
66. Using boiler without having it inspected: penalty.
67. Inspector to examine engineers: when certificate withdrawn.
68. Inspectors' fees.
69. Inspectors' record: report to State Comptroller.
70. Inspectors' salaries: payments into State treasury.
71. This act not to conflict with ordinances: permission for erecting steam boilers.
72. Insurance in steam boiler insurance company: certificate of inspection from company: fees: exemption.
73. Neglect of duties.

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74. Vacancies.
75. Fines and penalties: how recovered.

WEIGHERS OF GRAIN.

76. Weighers of grain appointed by Governor: term of office.
77. Oath.
78. Weigher-general's bond.
79. Assistant weigher's bond.
80. Failure to perform duties.
81. What grain to be reported to grain-weigher's office: weigher-general's duties: proviso: penalty.
82. Office of weigher-general: office hours: duties: assistant.
83. Application to weigh.
84. Weights and scales.
85. Grain sold and delivered: not to be interested: penalty.
86. Gratuity or reward: penalty.
87. Return to weigher-general: record: fees of weigher-general and measurer.
88. Weigher-general's return to the Comptroller: clerks' salaries: payments to treasurer.
89. Allowance to weigher-general and assistant: proviso: not to exceed what sum.
90. Mode of weighing.
91. Meaning of term, grain: standard weight: contracts.
92. Amount paid not to exceed grain weighing fund: deduction.
93. Failure to report, &c.: penalty.
94. False return: penalty.
95. Comptroller's duty, on failure to return: bond to be put in suit.
96. Treasurer's account with grain weighing fund: grain warehouses in Baltimore.
97. Assistants to weigher-general: compensation: proviso: neglect of duty: oath.
98. No person to weigh grain except those appointed: penalty.
99. To attend to duties in person: penalty.
100. Elevator receipts.

WOOD-CARTS.

101. Appointment of measurer of vehicles hauling cord wood: deputies: fees.
102. Oath.
103. Location of measurer: mark on carts: standard of measurement.
104. Refusing to have cart inspected; or altering marks or measurement: penalty.
105. Dispute between purchaser and seller: measurer to arbitrate: fee: certificate.

CITY INSPECTIONS.

106. Power to pass ordinances regulating inspections in city.

WEIGHTS AND MEASURES.

107. Corporation to make standards conform to State standards.
108. To regulate assize of bread and size of bricks.

ORDINANCES.

INSPECTIONS.

FLOUR.

1. Appointment of reviewers of flour: two millers, two bakers and two merchants: reviewers appointed on appeal: oath: pay.

GAS METERS.

2. Inspector and sealer of gas meters appointed: bond: oath.

Article XXVIII.

3. His duties.
4. Apparatus.
5. To inspect and prove gas meters: fee to inspector: when fee to be returned: gas company: two per cent.: appeal: referee.
6. New meter to be inspected: penalty against gas company: fine.
7. Meters to be sealed and stamped.
8. Used gas meters to be re-inspected and re-stamped: penalty on gas company: notice from inspector.
9. Inspector to visit premises: instructions: fee.
10. Inspector's record: report to Mayor: fees.
11. Counterfeiting or defacing seal: penalty.

ILLUMINATING GAS.

12. Inspector of illuminating gas appointed: gas company: bond of inspector: oath.
13. Duties of inspector: report.
14. Quality of gas: illuminating power.
15. Defective gas: penalty: proviso.
16. Apparatus.
17. Salary.

HAY AND STRAW.

18. Sale of hay and straw regulated: penalty.

REPORTS OF INSPECTORS.

19. Inspectors to report quarterly to Mayor.

STREETS.

20. Inspection of goods on streets regulated: penalty.

WEIGHTS AND MEASURES.

21. Keepers of standards appointed: bond: two keepers of weights and liquid measures, and one keeper of dry and long measures.
22. Offices.
23. Comptroller to procure sets of weights and measures.
24. What the standard shall be.
25. Inspectors to adjust weights and measures: penalty.
26. Dimensions of dry measures.
27. Weights, &c., to be stamped: penalty.
28. Stamp for dry measures: penalty for counterfeiting.
29. Scale beams to be stamped: penalty.
30. Patent balances, &c., to be stamped and inspected once in each year: penalty.
31. When found untrue, to be condemned: penalty for using condemned balances, &c.
32. Penalty for using altered weights, &c.
33. Fees of standard keepers.
34. To inspect once a year, and no oftener.
35. Penalty.
36. To visit markets, stores, &c., to inspect weights, &c.
37. Penalty for refusal to allow inspection: duties of inspectors and clerks of markets.
38. Annual return to Register.
39. Additional compensation.

CHARCOAL.

40. Measurer of charcoal appointed: deputies: oath.
41. Mayor to designate stands.
42. Charcoal to be measured.
43. Retailers of charcoal exempt.
44. Standard for measuring.
45. Measurer not to deal in charcoal.
46. Penalty for fraud.
47. Retailing charcoal license.

COAL.

48. How anthracite coal to be sold: penalty.

FIREWOOD.

49. Sale of firewood regulated: penalty: proviso.

ICE.

50. To be sold by weight.
51. Standard weight: penalty.

STATUTES.

GAS METERS.

1876, c. 356, s. 1.

Apparatus for registering consumption of gas.

1. It shall be the duty of every Gas Company manufacturing, furnishing, and selling gas in the city of Baltimore, to place upon the premises of every consumer using gas, a correct apparatus or meter for registering the consumption of the same, and it shall be the duty of the company to see that said apparatus or meter is kept in proper working order and condition.

Ibid, s. 2.

Amount of gas registered.

2. It shall not be lawful for said company, under any circumstances, to charge or collect for any greater amount of gas than is registered by said apparatus or meter.

Ibid, s. 3.

Test by Inspector and Sealer of Gas Meters.

Certificate

When company to refund to consumer.

3. Any consumer may, at any time, cause said apparatus or meter to be tested by the Inspector and Sealer of Gas Meters of Baltimore City, who shall make said test in the presence of consumer and of an agent of the Gas Company, by which the gas may be supplied, if desired, and shall furnish to the consumer, a certificate, under oath, of the true condition and working of said apparatus or meter, and if it shall be found, upon any such test, that said apparatus or meter is registering gas in favor of said company, then in the absence of any fraud upon the part of the consumer, the said company shall refund to the consumer an amount in lawful money equal to the per centage that the said apparatus or meter has been registering too fast, upon the bills of said consumer, registered by said apparatus or meter, for the four months next preceding the said test, unless the said company can prove that such inspection and certificate do not show the correct result; and in case such refunding does take place, the said company shall also pay the expenses incurred in making said test.

GAUGERS OF CASKS AND LIQUORS.

4. Any citizen of the State of Maryland, on application to the Clerk of the Court of Common Pleas, in the city of Baltimore, and on paying one hundred dollars to the said clerk, shall be entitled to receive a license to act as gauger of casks and liquors for the term of one year from the date thereof. The person applying for said license shall, at the time of receiving the same, take and subscribe before said clerk an oath that he will honestly and faithfully discharge the duties of said office. 1872, c. 264, s. 1. Who entitled to receive a license to act as guager of casks and liquors. Oath.

5. No person engaged in vending or trading in or manufacturing casks or liquors individually, or as a partner, or as agent, clerk or employee of a trader, vender or manufacturer of said article, or either of them, or any commissioned officer, shall be licensed to act as gauger of casks and liquids. Ibid, s. 2. Who not eligible as gaugers.

6. Any person may sell, export or otherwise dispose of any foreign or domestic liquors in casks without having the same gauged by a licensed gauger, but in cases of difference between the buyer and seller as to the quantity, either party may call in a gauger, and his judgment shall bind the parties. Ibid, s. 3. Who may sell, export, &c. When gauger to be called in.

7. The gaugers shall procure and use a correct set of gauging instruments, and as soon as they have ascertained the capacity of any cask they shall distinctly mark, with marking irons, the capacity on the bilge near the bung, and prefix the letter M., for the State of Maryland, and the first letter of the surname of the gauger who does gauging; and any cask containing such liquor, to be merchantable, must be round at the bilge and heads, the staves thereof to be seasoned white oak, free from any injurious portion of sapwood, and not less than half an inch thick at the thinnest part, and not more than three quarters of an inch at the thickest part, and to be tight and secured with a sufficient number of good hoops; if of Ibid, s. 4. Gaugers to procure and use correct instruments. Capacity of casks. Marks. Merchantable casks.

iron, six; and if of wood, not less than twelve; and at least not
Deficient casks. less than twelve on all double barrels and hogsheads; and if any cask containing such liquor shall be found deficient in any of these respects by said gauger, he shall direct it to be coopered, or other casks substituted therefor, at the expense of the owner
Fraudulent casks. or seller; and if any such cask shall be found to be fraudulently made, the owner or seller thereof, or his agent, shall forfeit the cask to the use of the State.

Ibid, s. 5. 8. The said gaugers, in order to ascertain the capacity of
Baltimore standard of wine measure. casks, shall conform to the Baltimore standard of wine measure, and if any cask or vessel gauged or marked by said gauger shall in its capacity be found lacking or exceeding one or more gallons in any barrel, or two or more gallons in a cask
Penalty on gauger. of a larger size, the gauger shall forfeit and pay two dollars for each gallon so lacking or exceeding the number of gallons marked by him on the cask.

Ibid, s. 6. 9. If any person shall alter any mark, or number marked
Altering mark or number. or set down by any gauger, thereby to deceive and defraud the purchaser of distilled spirits, wine, molasses or other liquid
False mark or number. merchandise so gauged and marked, or shall put any false mark or number on said cask, or upon any certificate intended to counterfeit the mark or numbers of the gauger, he shall
Penalty. forfeit and pay twenty dollars for every offence, one-half to the informer, and the other half to the use of the State.

Ibid, s. 7. 10. Every gauger so licensed shall be entitled to demand
Gauger's fees. and receive from the person at whose request he shall gauge any cask or casks the following fees, to wit: for gauging casks not exceeding forty gallons, ten cents per cask; for casks of larger size, fifteen cents.

Ibid, s. 8. 11. Any person not beingproperly licensed, who shall act
Persons not licensed or acting beyond limits of city. as gauger, or being so licensed shall act as said gauger outside of the limits of the said city, shall forfeit and pay to the Sheriff
Penalty. of the City the sum of three hundred dollars; said penalty to

be imposed as a fine by the Criminal Court, on presentment and indictment by the grand jury and conviction in due course of law, and one-third of the penalty shall be paid by the Sheriff to the informer, and the residue shall be accounted for by the Sheriff to the treasury as other fines; if any person so licensed shall be guilty of a fraud by reason of collusion with any parties, he shall be deemed guilty of misdemeanor, and shall on presentment and indictment therefor and conviction thereof, forfeit and pay a fine of not less than five hundred dollars or more than one thousand dollars for every such offence, or be imprisoned, in the discretion of the court, for a time not exceeding three years, or both, and shall also be liable in damages at the suit of the party aggrieved. Fraud. Penalty.

HAY AND STRAW.

12. The Governor, by and with the advice and consent of the Senate, shall biennially appoint two Inspectors of Hay and Straw for the City of Baltimore. P. L. L., art. 4, sec. 410. Governor to appoint two inspectors.

13. Each of said inspectors shall give bond to the State of Maryland, in the sum of two thousand dollars, for the true and faithful performance of the duties of his office. Ibid, sec. 411. Each inspector to give bond.

14. All hay and straw brought to the city of Baltimore shall be weighed at the State hay scales, as provided in this article, and by one of the inspectors, at the rate of one hundred pounds to the hundred weight, making a reasonable allowance for the moisture thereof, as well as for the mud or other substances attached to the wagon, cart or sled containing the same; this section not to apply to hay or straw in bales brought to the city by water, railroad, wagons, carts or sleds. 1861, c. 35. To be weighed at State scales. Standard. Exception.

15. The said inspector shall be entitled to demand and receive for each and every load of hay and straw inspected by him, of whatever weight, one cent and one-half of a cent per 1865, c. 165. Inspector's fees.

hundred pounds; and for weighing hemp, cable, anchors, dye-woods, bark, etc., two cents per hundred pounds.

P. L. L., art. 4, sec. 414. Inspector to sell portable scales.

16. The inspector of hay and straw shall sell the portable scales, and pay the proceeds of said scales to the treasurer of the State.

Ibid, sec. 415. What certificate to contain.

17. The inspector shall give a certificate of every load of hay or straw weighed, stating the gross and net weight of such straw or hay, and wagon, cart or sled; and if any seller of such hay and straw shall neglect or refuse to have the same weighed on the day of the delivery thereof, he shall forfeit and pay for every such neglect or refusal the sum of five dollars. Penalty.

Ibid, sec. 416. Neglect, &c., to have hay and straw weighed.

18. If any person bringing hay or straw to said city shall neglect to have the same weighed by the said inspectors, or shall be detected in having stones, rubbish, wood or any thing else concealed in his load, or shall in any manner change the condition of his cart, wagon, carriage or sled, with a fraudulent intention, he shall forfeit and pay for each and every such offence the sum of five dollars. Penalty.

Ibid, sec. 417. Selling, &c., without inspection.

19. If any person, after having his hay or straw weighed and having obtained the inspector's certificate, specifying the quantity thereof, shall dispose of any part thereof, or in any manner diminish the same in quantity, thereby to defraud or deceive the purchaser thereof, he shall forfeit and pay for every such offence the sum of twenty dollars. Penalty.

Ibid, sec. 418. Inspectors may re-weigh wagons free of charge. If required to do so, entitled to pay.

20. The said inspectors may re-weigh carts, wagons, carriages or sleds as often as they may deem expedient, and if at any time either of them shall be required to do so by a purchaser of hay or straw, and it shall be found that his report of the weight of the cart, wagon, carriage or sled is correct, the person requiring the same shall pay twenty cents to said inspector; in other cases the re-weighing shall be free of charge.

21. The said inspector shall at all times when required weigh hemp, cables, anchors, dye-woods, bark, roots, etc. Ibid, sec. 419. Inspectors may weigh other articles.

22. One of the scales or apparatus for weighing shall be placed in the western section of the city, and the other in the eastern, but the governor may upon petition change the location of either, whenever and as often as he may deem proper, at the expense of the State.* 1864, c. 384. Where scales to be placed.

23. In addition to the charge hereinbefore authorized for the use of the State hay scales, the inspector shall be entitled to demand and receive fifteen cents for each and every load of hay or straw which shall remain half an hour on the premises after the weighing thereof, but shall be removed before night, and thirty cents for each and every load which shall be left on the premises until the next morning. 1864, c. 384. Additional pay of inspector.

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*This act of 1864, c. 384, further authorized the removal of the scales in the western section of the city, and the sale by commissioners appointed by the governor of the lot of ground and premises situate at the intersection of Franklin street and Pennsylvania avenue, then occupied by the State's scales, and the purchase of a lot of ground near the suburbs, for a hay market, to which the scales should be transferred, and on which an office should be erected for the inspector—said scales to be located at a place within the city limits, convenient to the Reisterstown and Frederick roads.

The act of 1874, c. 309, authorized the sale or lease to the Mayor and City Council of Baltimore, of a part of a lot in Baltimore city, belonging to the State of Maryland, located at the intersection of Fremont and Chatsworth streets, and known as the State hay scales lot.

By the act of 1876, c. 1, the Governor was authorized to convey by deed, to the Mayor and City Council of Baltimore, that portion of the State hay scales lot situated at the intersection of Fremont and Chatsworth streets, which he sold to them by virtue of the power and authority vested in him by above act of 1874, c. 309.

By the act of 1878, c. 401, the Board of Public Works was authorized to purchase for the use and the convenience of the Western hay scales, in the city of Baltimore, a lot of ground adjoining thereto, or, in their discretion, to procure the same by an exchange of a similar lot near to the said hay scales, belonging to the State.

P. L. L., art. 4, sec. 421.
To be adjusted monthly.

24. The weighing apparatus shall be adjusted at least once in six months by the standard of weights for the city of Baltimore, the expenses of which, together with all the expense for repairs, shall be paid by the inspectors.

1864, c. 384.
Inspectors to account to treasurer quarterly.

25. The inspectors shall severally account for, under oath, and pay over to the treasurer quarterly, all moneys received by them as inspectors, after retaining for their services two-thirds of all moneys received under section 15, and one-fifth of all moneys received under section 23 of this article.

1867, c. 381.
Another inspector to be appointed.
His duties, &c.

26. The Governor shall appoint a proper person to act as inspector of hay and straw at the scales erected under the act of 1867, c, 381;* and his duties, in all respects, shall be such as those by law required of the inspector of hay and straw at the western scales, and he shall have like rights, except so far as they are hereby changed, and such appointment shall be made in all respects in like manner and subject to like confirmation by the Senate, as is by law required in the appointment of inspectors of hay and straw in the city of Baltimore; and said scales shall be used for the same purpose as the scales established in the western section of said city are used for, and shall be subject to the same regulations. And the inspector hereby authorized to be appointed, and the inspector of the western scales now in operation, shall, from the time that the first named inspector shall enter upon the duties of his office, severally account for under oath, and pay over to the treasurer quarterly, all money received by them as inspectors, after receiving for their services three-fourths of all

Fees for weighing.

* By this act of 1867, c. 381, commissioners were appointed and authorized to purchase or lease and fit up in a suitable manner, a convenient lot of ground for erecting scales for weighing hay and straw, and the scales, fixtures and office necessary for that purpose, not to be situate south of the Frederick turnpike, west of Mount street, north of Pratt street, and east of the junction of the Franklin and Frederick turnpike roads.

moneys received by them for weighing and inspecting hay and straw, and one-fifth of all money received by them for weighing hemp, cable, anchors, dye-woods, bark, roots, etc.

1867, c. 241, s. 3. Inspector's duties. Live stock. Charges.

27. It shall be the duty of the inspector of hay and straw having charge of the eastern hay scales at Canton, in the city of Baltimore, to weigh all cattle and hogs required by law to be weighed, which may be brought to said scales for that purpose, and the said inspector shall be entitled to demand and receive for the use of the State, for the first time of weighing any live stock, except sheep, required by law to be weighed, two cents for every hundred weight, and one cent per head for every sheep, and for every second and subsequent weighing for cattle and hogs, two cents for every thousand weight, and sheep, one cent for every thousand weight, and all live stock not required to be weighed, the sum of six cents for every thousand weight.*

Ibid, s. 4. Record of expenditures, &c.

28. He shall keep a full record of all weights as ascertained and determined by him, of what, and for whom the same may be ascertained and determined, and all money by him received for weighing live stock, and all expenditures and disbursements, in books to be provided for him for that purpose, which books shall belong to the State, and shall at all times be subject to the inspection and order of the Comptroller; and he shall at the expiration of every six months, or within five days thereafter, upon his oath, taken before a justice of the peace for said city, make a full statement of all receipts for weighing all live stock weighed by him, for the six months immediately preceding said statement, and from whom receiv-

* By this act of 1867, c. 241, authority was given for the rebuilding of the hay scales and the buildings connected therewith, owned by the State and situate in the eastern section of the city, near the intersection of O'Donnell street, with the western line of Baltimore county, and to alter and adapt said scales to the weighing of live stock, as well as hay and straw, and to erect enclosures necessary for the safe keeping of live stock.

ed, and all disbursements by him made to the Comptroller; and if the balance in the hands of said inspector for weighing live stock for said six months, shall exceed the sum of two hundred dollars, he shall pay the excess into the treasury; but if there be no excess over and above two hundred dollars, after deducting all necessary expenses for receipts for weighing live stock, the said inspector shall retain the balance as compensation for his services for weighing such live stock.

Compensation

Ibid, s. 5.

29. He may upon failure or refusal of any agent or owner of live stock to pay for weighing the same, impound any number of live stock he may deem necessarry, or cause such fees to be paid; provided, no injury be done to said stock by confining them as aforesaid, that they be delivered to the owner or agent upon payment of all just and proper charges.

May impound for charges.

Proviso.

Ibid, s. 6.

30. If the inspector shall neglect, or delay to weigh or cause to be weighed any live stock brought to said scales for the purpose of being weighed, for a time not exceeding twenty-four hours after he shall have been requested to weigh the same, he shall forfeit and pay to the owner of such live stock, or his agent, the sum of ten cents an hour upon each and every head thereof for so many hours as he shall omit or neglect to weigh the same over and above the term of twenty-four hours, Sunday excepted, to be recovered in an action of debt before a justice of the peace, with costs.

Inspector neglecting to weigh, &c.

Penalty.

1870, c. 256.

31. The said inspector of hay and straw shall execute a bond to the State in addition to the bond now provided by law to be given by said inspector, to be approved by the Comptroller, in the penal sum of one thousand dollars, conditioned for the full performance of all acts and things required by him as weigher of live stock at said scales, and to pay all damages that may be sustained by reason of wilful omission, refusal or neglect to discharge said duties, which bond shall be filed with the Comptroller of the treasury; but said inspector or weigher

Inspector's bond.

of hay and straw for the said eastern hay scales at Canton, in the city of Baltimore, shall not be chargeable with the payment of a tax of fifty dollars for his commission, as required by the Act of Assembly of 1862, c. 282, s. 1, [now 1878, c. 23,] but shall be chargeable with, and pay to the clerk from whom he received his commission, the sum of ten dollars and no more.

Tax on commission.

32. The Governor, by and with the advice and consent of the Senate, is authorized to appoint an additional inspector of hay and straw for the eastern section of the city of Baltimore.*

1864, c. 339, s. 1. Appointment of additional inspector.

33. The said inspector, as aforesaid, by virtue of this act appointed, in the execution of his said office, shall conform to and be liable to all requirements, duties and provisions required of the existing inspectors, and enacted in reference thereto by any acts of assembly, now in force in relation to the same.

Ibid, s. 3. Inspector to conform to provisions required of other inspectors.

34. All fines and forfeitures imposed may be recovered with costs in the name of the State, before a justice of the peace, in the manner that small debts are recovered, one-half to the informer and the other half to the use of the State.

P. L. L., art. 4, sec. 423. Penalties, how recovered.

* By this act of 1864, c. 339, the said inspector was authorized under the direction of the Governor to purchase a lot of ground in the eastern part of the city, east of Harris' Creek, and south of Wilk street, and to erect thereon, and to keep in repair, suitable hay scales or apparatus for weighing hay brought to the city for sale.

By the act of 1876, c. 371, the Governor was authorized to appoint commissioners to lease or purchase a suitable and convenient lot, and have erected thereon scales and fixtures necessary for weighing hay and straw, and an office for the inspector; the scales to be situate north of Madison street, and south of Northern Boundary, and between Forrest Place, extended in a direct line to said Northern Boundary and Harford avenue; on the completion of the same, the inspector or weigher of hay, at and for the eastern scales, located at the corner of Buren and Monument streets, to remove thither, and perform the duties required of the weigher, and to receive the same for the inspection or weighing of hay and straw or other products as were allowed at the time of the passage of this act; and after such removal, the scales, building and lot of the said Eastern Hay Scales to be sold.

LIVE STOCK.

P. L. L., art. 4, sec. 458. Governor to appoint weighmaster.

35. The Governor, by and with the advice and consent of the Senate, shall biennally appoint a suitable and proper person to be weighmaster of live stock in the city of Baltimore.

Ibid, sec. 459. Bond of weighmaster.

36. The person so appointed shall execute a bond to the State of Maryland, with two securities, to be approved by the Mayor or City Council of Baltimore, in the penal sum of five thousand dollars, conditioned for the full performance of all acts and things required of him as weighmaster, and to pay all damages that may be sustained by reason of wilful omission, refusal or neglect to discharge the said duties; which bond shall be filed among the records of the Superior Court of Baltimore City, and may be sued by any person injured or damaged by such wilful omission, neglect or refusal.

Ibid, sec. 460. What stock to be weighed.

37. All beef cattle and hogs brought for slaughter within the corporate limits of the city of Baltimore, or within five miles of said limits, which have not been raised or grazed one year within said limits, or within five miles of the same, shall be weighed by said weighmaster before they shall be sold or slaughtered.

Ibid, sec. 461. Weighmaster to weigh all stock presented. To give certificate of weight to owner.

38. The said weighmaster shall, upon any day in the week except Sunday, weigh all live stock that may be offered at the live stock scales for that purpose, whether required by the last preceding section to be weighed or not, and shall give a certificate under his hand, setting forth the actual gross weight of any number of cattle or hogs, or other live stock so weighed by him, to their owner or his agent, making such allowance, in the nature of tare on account of any dirt, mud, filth, or other matter adhering to the same, as he may think just and proper.

Ibid, sec. 462.

39. He shall charge and collect for the use of the State for the first time of weighing any live stock, except sheep,

required by this article to be weighed, two cents for every hundred weight, and one cent per head for every sheep; for every second and subsequent weighing, for cattle and hogs, two cents for every thousand weight, and sheep, one cent for every thousand weight; and all live stock not required to be weighed, the sum of six cents for every thousand weight. Charges for weighing.

40. He shall keep a full record of all weights as contained and determined by him, of what and for whom the same may be so ascertained and determined, and of all moneys by him received as weighmaster, and of all expenditures and disbursements, in books to be provided by him for that purpose, which books shall belong to the State, and shall at all times be subject to the inspection and order of the Comptroller. Ibid, sec. 463. To keep record of all weights; to keep accounts of receipts and expenses; books to belong to State.

41. He shall, within the first five days of every quarter, upon his oath, taken before a justice of the peace of said city, make a full statement of all receipts for weighing, and from whom received, and of all disbursements by him made to the Comptroller, and shall pay over to said Comptroller all balances that may be in his hands. 1864, c. 325. Weighmaster to render quarterly account to Comptroller.

42. He shall number the pens or yards under his care used for receiving live stock, and shall mark in conspicuous places on the fences or gates thereof, in legible figures, the number of cattle, hogs, or sheep, the said pens or yards will respectively contain. P. L. L., art. 4, sec. 465. To number pens; number of cattle.

43. He shall, when receiving any live stock for weighing or exposure for sale, put the same into pens or yards, the nearest in capacity to contain the respective droves of the different owners thereof, and shall in no case divide and put portions of the same drove into different pens or yards, unless such division be actually necessary for the accommodation of the same, or to effect a division of such droves among the different owners thereof. Ibid, sec. 466. To put cattle in pens without separating droves.

1864, c. 328.

To make alterations in pens, yards, &c.

44. He may from time to time, as experience may suggest, and as the public accommodation and convenience may seem to require, make changes and alterations in the arrangement of the pens, yards, alleys and appurtenances thereof, and may, if he shall deem it necessary for the public accommodation, erect additional cattle scales; and may make such reasonable rules and regulations to be observed by the owners or other persons presenting live stock to be weighed, in the use of said pens, yards, alleys, scales, or appurtenances, as to him may seem expedient; provided, nevertheless, that no rules or regulations shall be made or be valid which shall give any preference or priority to any owner or other person in the use of said pens, yards, alleys, scales, or appurtenances, or in the order of weighing the stock, over any other owner or person whose stock shall previously have been brought in to be weighed, and shall have been duly reported as ready to be weighed; provided, however, that the designation of the pen or yard into which stock shall be put shall not be considered as giving any preference or priority; and provided, also, that the live stock of any kind, actually belonging to the government of the United States, or brought in to be weighed for delivery to the said Government under any then subsisting contract, shall always be entitled to be weighed in preference and priority to all other stock belonging to private parties, or which are presented to be weighed for delivery under private contract.

Proviso.

Proviso.

U. S. stock to have priority in weighing.

P. L. L., art. 4, sec. 468.

May impound for weighing fees.

45. He may, upon failure of any agent or owner of live stock to pay for weighing the same, impound any number of such live stock he may deem necessary to pay or cause such fees to be paid; provided no injury be done to said stock by confining them as aforesaid, and that they be delivered to the owner or his agent upon payment of all just and proper charges.

Proviso.

1874, c 328.

Clerk or assistant.

46. He may, whenever in his judgment it becomes necessary for the public accommodation, employ any clerk or assist-

ant weighmaster permanently or temporarily, and fix the compensation of the same; subject, however, to the approval of the Comptroller; provided, that the compensation of no employee shall exceed the sum of twelve hundred dollars per annum. Salary. Proviso.

47. He shall receive an annual salary of two thousand dollars; and all the salaries shall be payable monthly out of any moneys received by the weighmaster for the use of the State. 1864, c. 328. Salary of weighmaster, &c.

48. If any weighmaster shall omit or delay to weigh, or cause to be weighed, any live stock, for a time exceeding twenty-four hours after he shall have been requested to weigh the same, he shall forfeit and pay to the owner of such live stock, or his agent, the sum of ten cents an hour upon each and every head thereof for so many hours as he shall omit or delay to weigh the same over and above the term of twenty-four hours, Sundays excepted, to be recovered in an action of debt before a justice of the peace, with costs. P. L. L., art. 4, sec. 471. Penalty for delaying to weigh.

49. If any grazier, drover, or other person, shall sell or barter any beef cattle or hogs brought for slaughter within the corporate limits of the city of Baltimore, or within five miles of said limits, which have not been raised or grazed one year within said limits, or within five miles of the same, and which have not been weighed by said weighmaster, upon proof and conviction thereof before any judge or justice of the peace, he shall forfeit and pay a sum of not less than one nor more than ten dollars for each and every head of cattle or hogs so sold or bartered, at the discretion of the judge or justice, and to be recovered by action in the name of the State before a justice of the peace or court having jurisdiction thereof, one-half to the informer, and the other half to the clerk of said court for the use of the State. Ibid, sec. 472. Penalty for selling without being weighed.

Ibid, sec. 473.

Penalty for buying without being weighed.

50. If any butcher or other person shall purchase any beef cattle or hogs brought for sale within the corporate limits of said city, or within five miles thereof, which have not been weighed by said weighmaster, he shall be subject to the penalties and forfeitures imposed by the last preceding section.

1864, c. 328.

Police commissioners have authority over premises.

51. The Police Commissioners of Baltimore City shall have and exercise the like powers and authority over and within the premises composing State cattle scales, the pens, yards, alleys, scales and appurtenances, as if the said premises were really situate within the boundaries of Baltimore city.

1864, c. 328.

Grounds may be enlarged.

How purchases shall be made.

52. The weighmaster of live stock may enlarge the grounds now provided for the weighing live stock, and may for that purpose, purchase in the name and on behalf of the State, such additional extent of grounds as the public wants may, in his judgment, require; and may, if he deems it expedient, sell or exchange for the benefit of the State, such portions of the ground now belonging to the State, and purchase for said purpose; provided, that no such sale or purchase shall be valid or effectual unless and until the same shall have been approved by the Governor and Comptroller, nor shall the purchase money, in case of such purchase, or any part thereof, be paid until the Governor and Comptroller shall be satisfied as to the sufficiency of the title or titles of the vendor or vendors, and shall sign a certificate to that effect, to be filed in the office of the Comptroller; and in case of any such purchase, the purchase money therefor shall be paid out of any money in the treasury not otherwise appropriated, upon the execution and delivery of a conveyance therefor; and in case of such sale the purchase money therefor shall be paid to the Comptroller; and upon such payment the Comptroller, on behalf of the State, shall in the name of the State execute and deliver a deed therefor to the purchaser or purchasers thereof.

Proviso.

1864, c. 328.

53. In case any tort, trespass, or other wrong, shall be done by any person or persons whatever, to any of the property

belonging to the State, and composing parcel of, or appertaining to said State cattle scales, it shall be the duty of the weighmaster to sue for the same in the name of the State, as plaintiff, in the Superior Court of Baltimore City, in the Court of Common Pleas or Baltimore City Court, or before any justice of the peace of Baltimore, as the case may be; and no plea shall be received on behalf of any defendant to the jurisdiction of said court, either on the ground that the locality of the tort, trespass, or other wrong was in Baltimore county, or that the residence of said defendant was in some part of the State, other than Baltimore city. Proceedings in cases of tort, trespass, &c.

54. All assaults, riots, or other criminal acts which may be done or committed on the premises aforesaid, shall be cognizable by the Criminal Court of Baltimore, in the same manner as if the same had been done or committed within the limits of said city.* 1864, c. 328. Jurisdiction of Criminal Court extended over premises.

MANURE.

55. A cart load of manure shall contain forty cubic feet.† Ibid, sec. 489. Contents of load.

OYSTERS.

56. All oysters in the shell, disposed of in the city of Baltimore, or in the port of Crisfield, or at any oyster packing establishment in this State, shall be measured in an iron circular tub, of any capacity from one half bushel to three bushels, as may be agreed upon between the buyer and seller, said measure shall contain in quantity for each bushel thereof accord- 1872, c. 193; 1874, c. 221, s. 1. In the shell. Measurement.

* The act of 1870, c. 262, authorized the State weigher of live stock to have erected an additional live stock scale, with a house to be used as an office, and to be attached thereto; the said scale and house to be erected on the property belonging to the State used as a live stock yard. The act of 1870, c. 223, provided for improvements in vicinity of State live stock scales.

† 1862, c. 19, repealed sections 486, 487, 488, 490, 491, 492 and 493 of article 4 of Code P. L. L., relating to the Inspection and Measurement of Manure.

ing to the following dimension, that is to say, sixteen and one-half inches across from inside to inside at the bottom, eighteen inches across from inside to inside at the top, and twenty-one inches diagonal from the inside chime to the top, and the same shall be even or struck measure. All oysters in the shell sold in the city of Baltimore shall be measured by a licensed measurer. Any person may obtain a license therefor from the clerk of the Court of Common Pleas, paying therefor ten dollars, and taking an oath before said clerk for the faithful performance of his duty; said license shall hold good for one year. A measurer shall receive for his services one-half cent per bushel, to be paid equally by the buyer and seller. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than twenty nor more than fifty dollars for each offence and imprisoned until the fine and costs are paid.

Licensed measurer.

Penalty.

Ibid, s. 2.

57. The measure provided for in the preceding section shall be inspected and stamped by the proper officer in the city of Baltimore, and it shall be unlawful to use any other measure. Any person violating this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars for each offence and imprisoned until fine and costs are paid; provided, however, that nothing in this act shall be construed to apply to oysters shipped in the barrel on any steamboat which are to be sold in the barrel.

Measure to be inspected and stamped.

Penalty.

Proviso.

STEAM BOILERS.

1872, c. 153, s. 1.

58. The Governor shall biennially appoint two suitable persons who are well skilled in the construction and use of steam engines and boilers and in application of steam thereto, whose duty it shall be to inspect steam boilers in the city of Baltimore, as hereinafter specified and directed; said inspectors before entering on their duties shall make oath, before a justice

Governor to appoint inspectors of steam boilers.

Duties.

Oath.

of the peace, that they will faithfully perform the duties of their office without fear, partiality or favor; that they are not, and will not during their term of office, be connected with or interested in the manufacture of steam boilers, engines or machinery applicable thereto, and that they will not during their term of office accept any money, gift, gratuity or consideration from any person or persons, and shall give bond, to be approved by the Comptroller of the State, in the sum of five thousand dollars each, for the faithful discharge of their duties. Bond.

59. The city of Baltimore is hereby divided into two districts, which shall be known as the first and second steam boiler inspection districts; the first district shall embrace what is now known as the eastern and southern police districts; the second shall embrace what is now known as the middle and western police districts of said city, and the Governor in appointing the inspectors shall assign each to his respective district. Ibid s. 2. City divided into districts. Governor to assign districts.

60. The inspectors, before entering on the discharge of their duties, shall provide themselves with an office in a central part of said city, also with the necessary apparatus and appliances for the testing of steam boilers, and they shall give notice for three successive days, through the two daily papers having the largest circulation in said city, of the time and manner in which they shall receive the reports of the locations of steam boilers. Ibid, s. 3. Office, &c., of inspectors. Notice.

61. Every owner or renter using a steam boiler or boilers in said city shall, within ten days after the publication of the aforesaid notice, report to the inspector of the district the location of such boiler or boilers, under a penalty of fifty dollars for each day a boiler is used and neglected to be reported. Ibid, s. 4. Owner or renter using steam boiler to report to inspector. Penalty.

62. The inspector of each district shall give six days' notice in writing to each owner or renter of a steam boiler or boilers, or the engineer or person in charge, of the time when he will Ibid, s. 5. Inspector to give notice of time of inspection.

inspect such boiler or boilers, and such owner or renter shall have such boiler or boilers ready for inspection, in compliance with the requirements of said notice, and shall furnish such assistance as the inspector may require, under a penalty of

Penalty.

fifty dollars for such failure or neglect, and a further penalty of fifty dollars for each day any such boiler is used without a certificate of inspection.

Ibid, s. 9.

Duties of inspector.

63. It shall be the duty of each inspector, once at least in every year, to inspect all stationary steam boilers of three horse power and upwards, used within the limits of his district, subjecting them to a hydrostatic test of at least twenty-five per cent. in excess of the steam pressure allowed, and satisfy himself, by a thorough external and internal examination (if possible) with a hammer, that the boilers are free from danger, from corrosion or other defects, are well made of good material, the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction; that the flues and tubes, if any, are circular in form, the furnaces in proper shape, and the fire line of the furnace is at least two inches below the minimum water line of the boilers, and shall also satisfy himself that the safety-valves are of suitable dimensions, sufficient in number and well arranged, and that the weights are properly adjusted so as to allow no greater pressure in the boiler or boilers than the amount prescribed in the certificate of inspection; that there is a sufficient number of gauge-cocks, a steam gauge, a coupling-cock in suitable position for attaching the hydrostatic test, that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers, when they are under the pressure of steam, and that fusible metals are properly inserted so as to fuse by the heat of the furnaces when the water in the boilers shall fall below the prescribed limits, and that adequate and certain pro-

vision is made for an ample supply of water at all times; when the inspection is completed and the inspector approves the boiler, he shall make and subscribe a certificate of inspection, stating the condition of the boiler, the number of years or months it has been in use, and the pressure of steam allowed; and no greater pressure than that allowed by the certificate shall be applied to such boiler, in limiting pressure, whenever the boiler under test will, with safety, bear the same, the limit desired by the owner shall be the one certified, and such certificate of inspection shall be framed under glass, and kept in some conspicuous place on the premises where said boiler or boilers referred to are used; and if the inspector shall deliver or cause to be delivered to the owner or renter of any boiler or boilers a certificate of inspection without having first subjected the said boiler to the tests as herein provided, he shall forfeit his bond, and upon conviction shall be removed from office by the Governor.

Certificate of inspection.

Pressure of steam.

Penalty.

64. In addition to the annual inspection, it shall be the duty of the inspector to examine all boilers within the limits of their respective districts once at least in every three months, and if deemed necessary, apply the hydrostatic test; and if on such examination the inspector shall find evidence of deterioration in strength, he shall revoke the certificate and issue another, assigning a lower rate of pressure; and if the defect be of such character as to make the boiler dangerous, the inspector shall notify the owner or renter in writing, stating in the notice what is required, and order the use of the boiler discontinued until the necessary repairs are made; and if he considers it beyond repair, he shall condemn it; and if the owner or renter shall refuse or neglect to comply with the requirements of the inspector, and shall, contrary thereto, and while the same remains unreversed, use the boiler, he or they shall be liable to a penalty of not less than one hundred dollars for each day such boiler is used, and, in addition thereto, shall

Ibid, s .7.

Further duties of inspector.

Certificate.

Notice.

When boiler to be discontinued.

Penalty.

be liable for any damage to persons or property which shall occur from any defects, as stated in the notice of the inspector.

Ibid, s. 8.

Owner or renter aggrieved may demand re-examination.

Engineer, &c.

Oath.

Final decision.

Costs.

65. Any owner or renter of a boiler or boilers, who shall consider himself aggrieved by the action of the inspector, under the provisions of the preceding section, may, within ten days after such inspection, notify the inspector of the fact, and demand a re-examination of the said boiler or boilers, the owner or renter shall select a practical engineer, who, with the inspector, shall select a third person, skilled in the manufacture and use of steam boilers, which said two persons, after taking an oath as reviewers, shall, together with the inspector, carefully examine the said boiler or boilers, and the decision of any two of these shall be final; should the decision of the inspector be sustained, the said owner or renter shall pay the expense of such review; but if it be reversed, the inspector shall restore the certificate, and the expense of the review shall be paid by the State; such reviewers shall receive five dollars for each day or part of a day they are engaged in making such review.

Ibid, s. 9.

Using boiler without having it inspected.

Penalty.

Penalty.

66. Any person erecting or using a steam boiler or boilers without having the same inspected by the inspector of the district in which the said boiler or boilers is or are located, shall pay a fine of one hundred dollars, and fifty dollars for each day any such boiler is used without being inspected; and any person who shall alter or change a steam guage or weight on a safety-valve for the purpose of carrying a greater pressure of steam on a boiler than that allowed by the certificate of inspection, shall be liable to a fine of five hundred dollars; and any owner or renter of a steam boiler or boilers, who shall neglect or refuse to place his certificate of inspection on the premises, as prescribed in section 63 hereof, shall pay a fine of five dollars for each day's refusal or neglect.

67. The inspector shall have power to examine the engineers and assistants in charge of boilers, and if any engineer or assistant is found incompetent or addicted to intemperance, the inspector shall notify the owner or renter, and withdraw the certificate of inspection until such engineer or assistant is displaced. Ibid, s. 10. Inspector to examine engineers. When certificate withdrawn.

68. Before issuing any certificate of inspection, the inspectors shall demand and receive from the owner or renter of the boiler or boilers as a compensation for the inspection, and the examinations to be made during the year, as hereinbefore provided, the following sums: For every boiler of ten horse power or less, five dollars; when the boiler is above ten horse power, five dollars for the first ten, and twenty-five cents additional for each horse power in excess of that number. Ibid, s. 11. Inspectors' fees.

69. It shall be the duty of each inspector to keep a correct record of the locations of all boilers in his district, when each boiler was inspected, the condition of the same at the time of inspection, the instructions given to the engineers in charge, the certificates issued, and the amount of steam pressure allowed in each certificate, and the boilers condemned or ordered to be repaired; also a correct account of all money received or paid out, and shall report the same annually to the Comptroller of the State. Ibid, s. 15. Inspector's record. Report to State Comptroller.

70. The inspectors shall receive an annual salary of fifteen hundred dollars each, and all moneys collected, after deducting the necessary incidental expenses of the office, shall be paid over to the Treasurer of the State. Ibid. s. 13. 1874, c. 96. Inspectors' salary. Payments into State treasury.

71. Nothing in this act shall conflict with the ordinance of the Mayor and City Council of Baltimore which requires their permission for the erection of steam boilers in that city.* Ibid, s. 14. This act not to conflict with ordinances. Permission for erecting steam boilers.

*See p. 117, *ante*.

1878, c. 130, s. 15. Insurance in boiler insurance company. Certificate of inspection from company. Fees. Exemption.

72. Any owner or renter of a steam boiler or boilers, who has the same insured in a boiler insurance company doing business in this State, in compliance with the laws thereof, and having an established system of inspection, must immediately after the first annual inspection in each year of such insurance present to the State inspector of the district in which the said steam boilers are located the certificate of inspection of the said company, and the said company shall be charged and chargeable with a fee of one dollar for each and every boiler so inspected and insured, which shall be paid to the State inspector with such certificate, but when there is more than one steam boiler belonging to the same owner or renter so insured then the fee so chargeable to the insurance company shall be one dollar per boiler for the first five, and one dollar for each additional five or fraction thereof over and above the first five, then the said owner or renter shall thereupon be exempted from the requirements of this section.

1872, c. 157, s. 16. Neglect of duties.

73. If either inspector neglect to discharge his duties as prescribed in this act, he shall forfeit his bond, and shall be removed from office by the Governor.

Ibid, s. 17. Vacancies.

74. The Governor shall fill all vacancies that may occur as soon as possible.

Ibid, s. 13. Fines and penalties. How recovered.

75. All fines and penalties herein imposed shall be recoverable by indictment before the Criminal Court of Baltimore, or before any justice of the peace of said city, in the name of the inspector, for the benefit of the State.

WEIGHERS OF GRAIN.

1872, c. 241, s. 1. Weighers of grain appointed by Governor.

76. The Governor, by and with the advice and consent of the Senate, shall biennially appoint one weigher-general and five assistant weighers of grain in and for the city of Baltimore,

who shall hold their office for the period of two years, from the first Monday in May next ensuing their appointment and qualification, and until their successors be duly qualified. Term of office.

77. Every weigher of grain appointed under the provisions of the preceding section, before he proceeds to act as such, shall, under a penalty of five hundred dollars, take and subscribe the following oath, in addition to their oaths required by the constitution and laws, to wit: "I, A. B., appointed weigher of grain in the city of Baltimore, do swear that I will diligently and carefully weigh all grain that I shall be called upon to weigh, and that I will not receive, during the time I hold the office of weigher-general, or weigher of grain, any fee or reward from any one, directly or indirectly, for the discharge of my duty, and that I will not buy or sell any grain, or act as agent for any one, or assist in the buying, selling or consigning any grain for any one during the time I shall hold the said office; and in every other respect, fairly and honestly, without prejudice or partiality, will discharge all the duties of weigher-general, or weigher of grain, to the best of my skill and judgment, so help me God." Ibid, s. 2. Oath.

78. The weigher-general, before he enters upon the discharge of the duties of his office, shall give bond to the State of Maryland, with two securities, to be approved by the Comptroller, in the penalty of ten thousand dollars, conditioned for the faithful performance of the duties hereby imposed upon him. Ibid, s. 3. Weigher-general's bond.

79. Each assistant weigher shall give bond to the State, with two securities, to be approved by the Comptroller, in the penalty of five thousand dollars, with a like condition as the bond of the weigher-general. Ibid, s. 4. Assistant weigher's bond.

80. In the event of failure to perform any duties assigned the said weighers by this article, the said bond or bonds may be put in suit, by order of the Comptroller, for the benefit of Ibid, s. 5. Failure to perform duties.

the State, and judgment rendered thereon as on other official bonds.

Ibid, s. 6.

What grain to be reported to grain weigher's office.

Weigher-general's duties.

Proviso.

Penalty.

81. All grain arriving in the city of Baltimore must be reported to the grain weighers' office, whether by steamers, sail vessels of all descriptions, barges, or canal boats; and it shall be the duty of the weigher-general of grain to have weighed all grain carried to said city for sale, except grain carried to the city on wagons, carts, railroad cars, or through elevators;* provided, however, all grain sent to said city must be weighed by said weigher-general, if the owners of said grain shall request it to be weighed by him. It shall be the duty of the weigher-general to proceed to weigh all grain within at least two hours after the same is reported, and continue weighing until the weighing is completed; and for every failure to comply with this provision, the said weigher-general shall be liable to a penalty of twenty dollars, to be recovered before any justice of the peace in Baltimore city, one-half of the fine to go to the informer, and the other half to the State; the suit to be brought in the name of the State. If any grain shall be brought by water to Baltimore for sale in bags, the said weighers shall weigh the said grain on board the vessel or steamboat without removing it from the bags, if the buyer and seller shall mutually agree.

Ibid, s. 7.

Office of weigher-general.

Office hours.

82. The weigher-general shall keep an office in some station in the city of Baltimore convenient to the wharves or place where the trade in grain is chiefly carried on, and shall be in said office, except when upon duty weighing grain, from eight o'clock, A. M., until five o'clock, P. M., ready to receive

* The Court of Appeals in *Gill & Fisher* v. *Cucy*, weigher-general, June 28, 1878, held: that the Legislature intended by this section to except from the operations of this act all grain carried by water to Baltimore for sale, and carried there through the elevator. It must have been known to them that when so carried through the elevator, the grain would be accurately weighed by a fair and impartial person, standing between the buyer and seller. The elevators at Locust Point and Canton are referred to.

all applications for weighing and measuring, and to hear and determine all controversies between the buyer and seller in relation to grain bought or sold, as hereinafter provided, and in case of sickness or inability to attend in said office at any time, he shall appoint some one of the other weighers to attend to his duties in his absence. Duties.

83. The weigher-general, whenever application shall be made to him by any party interested in any grain to have the same weighed and measured, shall proceed in person, or direct some one of the assistant weighers to proceed at once and weigh the same. Ibid, s. 8. Application to weigh.

84. The weigher shall carefully weigh and determine the weight of all grain, and for that purpose shall procure, at his own expense, suitable weights and scales for that purpose. Ibid, s. 9. Weights and scales.

85. No weigher shall weigh any grain after it has been once sold and delivered on its arriving in said city, nor shall he during his continuance in office buy or sell, either directly or indirectly, or receive any grain by way of barter, loan or exchange, or in any way intermeddle with or busy himself in procuring to be sold or consigned to any merchant, or in loading any ship or vessel with grain, except the proper grain that may have been grown by the said weigher, under the penalty of two dollars for every bushel so bought or sold, and upon conviction for the offence he shall be dismissed from his office. Ibid, s. 10. Grain sold and delivered. Not to be interested. Penalty.

86. If any weigher shall accept or receive, directly or indirectly, any grautuity or reward for anything done by him in pursuance thereof, other than what is hereinafter allowed as his compensation, he shall, upon conviction, forfeit the sum of one thousand dollars, and ever after be incompetent to hold the office of weigher under the laws of this State. Ibid, s. 11. Gratuity or reward. Penalty.

87. Each weigher shall make a daily return to the weigher-general of the number of bushels of grain weighed by him, and the weigher-general shall make, or cause to be made, an Ibid, s. 12. Return to weigher-general.

Record. entry of the same in a well-bound book, showing the number of bushels weighed and measured for each person, and the said

Fees of weigher-general and measurer. weigher-general shall charge and receive one-fourth cent per bushel for weighing. and shall charge one-fourth cent per bushel for measuring; said one-fourth cent per bushel for measuring shall be paid by the seller to the measurer, and the first named aforesaid one-fourth cent per bushel for weighing shall be paid by the purchaser to the weigher-general.

Ibid, s. 13. 88. The weigher general shall make a return on the first

Weigher-general's return to the Comptroller. day of every month, or within ten days thereafter, to the Comptroller, verified by affidavit before some justice of the peace, of the number of bushels of grain weighed and the amount of money received therefor, and shall pay the amount thereof, after deducting necessary office rent and the payment of the

Clerks. wages of not more than two clerks, at a salary of not more

Salaries. than six hundred dollars per annum for each, to the treasurer

Payments to treasurer. upon the warrant of the Comptroller.

Ibid, s. 14. 89. The treasurer, upon the warrant of the Comptroller,

Allowance to weigher-general and assistants. shall allow and pay over to the weigher-general and the other weighers one-fourth cent per bushel upon all grain weighed by

Proviso. them, provided, the same shall not amount to more than two

Not to exceed what sum. thousand dollars in the aggregate for any one year for the weigher-general, and the sum of sixteen hundred dollars for each weigher, it being intended hereby not to pay said officers in gross more than two thousand dollars to the weigher-general and sixteen hundred dollars to each assistant.

Ibid, sub-sec. 1. 90. Said weighers shall carefully weigh one bushel in every

Mode of weighing. sixty of wheat, and one bushel in every one hundred of corn, rye and oats, for the purpose of ascertaining the average weight of the cargo or parcel of grain, and that in weighing grain sold, it shall not be necessary to measure sixty bushels of wheat, or one hundred bushels of other grain, before taking a draft for weighing; but it shall be the privilege of either

party, at any stage of the delivery of the grain, to require that any intermediate draft shall be weighed, and if each party shall have caused an intermediate draft to be weighed, the average weight of the two drafts shall be taken as the accurate weight of the said sixty, or one hundred bushels, as the case may be, and in case only one of the parties shall require an intermediate draft to be weighed, then the average of the said intermediate draft and the weigher's draft shall be taken as the weight of said sixty bushels, as the case may be.

91. The term grain used in this article shall be construed to mean wheat, rye, oats, corn, buckwheat, and barley, and the standard weight of wheat shall be sixty pounds to the bushel; rye and corn each fifty-six pounds to the bushel, and oats twenty-six pounds to the bushel; buckwheat forty-eight pounds to the bushel, and barley forty-seven pounds to the bushel; and in all contracts hereafter made, a bushel of either of said articles shall be determined by the said weights respectively, unless the parties to any such contract shall otherwise expressly stipulate.

Ibid, sub-sec 2.
Meaning of term Grain.
Standard weight.
Contracts.

92. The amount to be so paid under the warrant of the Comptroller of the treasury to the weigher-general and weighers, and for any other expenses which may accrue under this act, shall not exceed the amount to the credit of the weighing fund, as provided by law, and if there shall not be in the treasury, to the credit of said grain weighing fund, a sufficient sum, after paying the expenses incurred under this act, to pay in full the said salaries of the said weigher general and weighers, then ratable deduction shall be made between the said weigher-general and said weighers.

Ibid, sub-sec. 3.
Amount paid not to exceed grain weighing fund.
Deduction.

93. If either the weigher-general, or any assistant weigher, shall fail or refuse to make the report and pay over the money required of them by this article, or shall make a false report, on complaint of the Comptroller to the Governor (and it is

Ibid, s. 15.
Failure to report, &c.

hereby made his duty to complain whenever either of said officers shall fail to do their duty,) the governor shall forthwith suspend him from office, and he shall remain suspended until he complies with the provisions of this article; and if the weigher-general shall fail to comply for two weeks after the time provided by this article, he shall be dismissed from office.

Penalty.

Ibid, s. 16.

94. If the weigher-general, or any assistant weigher, shall make a false return, either in amount of weights or money received and paid over, he shall be liable on his bond, and be ever afterwards incapable of holding any office under the grain laws of this State.

False return.

Penalty.

Ibid, s. 17.

95. The Comptroller shall, whenever the weigher-general shall fail to make the return to the treasurer herein before required, send a copy of his bond to the State's Attorney for the City of Baltimore to put in suit; whose duty it shall be to proceed thereon for the speedy recovery of the penalty thereof, as upon other official bonds.

Comptroller's duty on failure of return.

Bond to be put in suit.

Ibid, s. 18.

96. The treasurer shall open an account with the grain weighing fund, and credit to said account or fund all money paid into the treasury by the weigher general, and the surplus of fees that may hereafter be received from any weigher holding office under the provisions of any other law, and pay the amounts directed by law to be paid thereout, and charge them to said fund, and shall invest the balance remaining in the treasury to its account for the benefit of said fund, to be hereafter disposed of under the direction of the General Assembly of Maryland, for buildidg a warehouse or warehouses in the city of Baltimore for the accommodation of the grain trade of this State.

Treasurer's account with grain weighing fund.

Grain warehouses in Baltimore.

Ibid, s. 19.

97. The weigher-general may appoint as many assistants, weighers and measurers of grain as the demands of trade require, and fix their compensation; provided it shall not be more than one fourth of a cent a bushel, one half to be paid

Assistants to weigher-general.

Compensation.

Proviso.

by the buyer and the other half by the seller, and may dismiss them for neglect of or improper discharge of duty, but before said measurers shall perform any duty, each shall take an oath before some justice of the peace for the faithful and impartial performance of the duties of the office. Neglect of duty. Oath.

98. No person except those appointed under this article shall weigh or measure any grain in the city of Baltimore that may arrive for sale, as provided by this law, under the penalty of twenty-five dollars for every offence, to be recovered in the name of the State, for the use of the informer, before any justice of the peace for the city of Baltimore. Ibid, s. 20. No person to weigh grain except those appointed. Penalty.

99. The weigher-general and the assistant weighers to be appointed by virtue of this act, unless prevented by sickness or inability, shall attend to their respective duties in person, and not by deputy, under a penalty of five hundred dollars, one-half to go to the informer, and the other to the State. Ibid, s. 21. To attend to duties in person. Penalty.

100. All receipts for grain deposited or stored in any elevator, or place of storage connected therewith, in this State, and known in trade as elevator receipts, shall henceforth, for all purposes of sale or other disposition whatsoever, be held to invest and imply title to such grain in the persons to whom, or to whose order such receipts shall have been issued, and to vest and imply absolute title in all subsequent holders to whom such receipts shall have been passed by or under any contract or transfer, valid and *bona fide* as between the parties thereto. 1874, c. 303. Elevator receipts.

WOOD CARTS.

101. The Governor shall biennially appoint, by and with the consent of the Senate, one competent person, whose duty it shall be to measure and stamp all carts or vehicles engaged in hauling cord wood from wharf and yard within the corporate limits of the city of Baltimore; and it shall further be the duty of the said measurer to measure and stamp all carts 1878, c. 183, s. 1. Appointment of measurer of vehicles hauling cord wood.

or vehicles engaged in hauling sawed and split wood, for the purpose of selling the same within the corporate limits of the
Deputies. city of Baltimore; the said measurer to have power to appoint deputies if he should find it necessary to facilitate the work; the said measurer or his assistants to give certificate to the owner or owners of said carts or vehicles, which shall hold good for one year from date; all such certificates to terminate on the first day of May annually, and shall be applied for on said day, or within thirty days thereafter, and in all cases where said certificate shall not have been renewed within the thirty days aforesaid, a new certificate shall be necessary, to be dated and paid for from the first day of May, as in case of renewal, unless some repairs or alteration be necessary to change
Fees. the same, for which services he shall receive the sum of one dollar for each cart or vehicle so inspected and marked by him, to be paid by the party at whose request the services were performed; the said measurer or his deputies to be in no way interested as clerks, or otherwise engaged in the purchase or sale of firewood, other than for his own use.

1876, c. 46, s. 2. 102. The said measurer or his deputies, before entering
Oath. upon their duties of office, shall take the following oath or affirmation, as the case may be, before some justice of the peace: "I do solemnly swear or affirm that I will faithfully, truly and impartially, according to the best of my skill and judgment, execute and perform the office and duty of measurer of carts according to the true intent and meaning of this act, so help me God."

1878, c. 183, s. 3. 103. Said measurer shall locate himself in some suitable
Location of measurer. section of the city where he can be found, where the greatest quantity of wood is for sale; the said measurers to plainly
Mark on carts. mark, by a brand on the standards of each side of said carts or vehicles, in such a manner as that the purchaser or consumer of firewood may see the quantity contained in each eighth, quarter, half or cord of wood so purchased by them,

the standard of measurement to be one hundred and twenty-eight cubic feet to the cord, of well stowed and packed cord-wood, or one hundred and eighty cubic feet of sawed and split wood. Standard of measurement.

104. If any owner of a cart or vehicle to be used in hauling firewood in the city of Baltimore shall neglect to have such cart or vehicle so inspected, and if any carter or person shall alter the marks of said carts or vehicles after the same has been so inspected, or shall alter the measurement of said firewood by increasing or taking from the same, or neglect to have said carts or vehicles stamped, as provided for in this act, by the first day of June of each year, or any dealer selling the aforesaid cord or sawed and split wood to any cart or vehicle not properly stamped by the measurer or his deputies, provided for by this act, he or they shall be subject to the penalty of five dollars for each offence, to be recovered as small debts are now recovered, before some justice of the peace, for the use of the city of Baltimore. Ibid, s. 4. Refusing to have cart inspected; or altering marks or measurement. Penalty.

105. In case of dispute between the purchaser and seller of any lot of firewood the measurer or his deputy, appointed under this act, may act as arbitrator between said parties, and his decision shall be final, for which service he shall receive the sum of six and a-quarter cents for each cord of wood so inspected and measured by him, to be paid by the party or parties at whose request said service was performed, the said measurer or deputy to give a certificate of the number of cords contained in each lot.* Ibid, s. 5. Dispute between purchaser and seller. Measurer to arbitrate. Fee. Certificate.

As to wood on wharves, see secs. 44–46, p. 326, *ante*.

* The acts of 1876, c. 46, and 1878, c. 183, are legislative enactments of the ordinances Nos. 77, June 17, 1872, and 42, June 2, 1874, which ordinances, Brown, C. J., decided in *Deans* v. *Mayor*, &c., in City Court, Dec., 1874, were passed by the Mayor and City Council without authority, as their power in the premises was abrogated by the act of 1870, c. 418.

CITY INSPECTIONS.

P. L. L., art. 4, sec. 28. Power to pass ordinances regulating inspections in city.

106. The Mayor and City Council may pass ordinances to establish and regulate inspections within the city, subject to the present or any future laws of the State.

WEIGHTS AND MEASURES.

P. L. L., art. 4, sec. 942. Corporation to make standards conform to State standards.

107. The Mayor and City Council shall pass such ordinances as will make the standard of weights and measures the same in the city of Baltimore as in the rest of the State.*

*The following is Art 96 of the Public General Laws, regulating Weights and Measures throughout the State:

1. The standards for weights and measures in this State, except as otherwise provided in this article, shall be such as are used at the custom house in the city of Baltimore.

2. The county commissioners of each county shall, except where otherwise directed by the local law, on or before the first day of May in each year, appoint some person as keeper of the standards of weights and measures, who shall safely keep and preserve the same, and when required, deliver them to the county commissioners, or to such person as they may appoint to receive the same, and who shall perform the several duties prescribed by this article.

3. The person so appointed shall, before he enters upon the duties of his office, give bond to the county commissioners, in the penal sum of five hundred dollars, conditioned for the faithful discharge of all the duties appertaining to his office.

4. All weights and measures used in this State in the vending of articles shall be inspected by the said standard keeper for the county, once in every year, under a penalty not exceeding twenty dollars, to be paid by the person owning or using the same, and when adjusted, shall be by the standard keeper branded, marked or stamped with the letters M. S., meaning thereby Maryland standard, in such manner, and on such parts of such weights and measures as in his judgment will be most lasting and effectual in preventing fraudulent practices or impositions in the use thereof.

5. The weights and measures so examined, branded or stamped, and no other, shall be used within this State in the vending of such articles as are directed by law to be or are usually sold by weight or measure, under a penalty of twenty dollars, and all articles sold within this State shall be sold by said weights or measures under the like penalty.

Article XXVIII.—Statutes.

108. They may regulate and fix the assize of bread, and regulate and establish the size of bricks that are to be used in the houses to be built in said city. Ibid, sec. 943. To regulate assize of bread and size of bricks.

6. All scale-beams used in the vending of articles in this State shall be inspected and stamped by the keeper of the standards of weights, as weights are directed to be stamped, and any person using scale-beams in this State not stamped, as herein directed, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

7. The keepers of standards of weights and measures shall attend at the different markets, towns and villages, in the county for which they shall respectively be appointed, at least once in each year, and at the different public inspecting warehouses in the said counties at least twice in each year, on some certain days to be appointed by the county commissioners, of which days public notice shall be given by advertisements inserted in some one or more newspapers in the counties in which there may be such paper printed, and also by advertisements set up at some conspicuous place in the said markets, warehouses, villages and towns, and shall inspect and adjust all beams and scales, weights and measures, used or intended to be used in the said county.

8. Each keeper of standards shall keep a book in which he shall register the names of the persons whose beams and scales, weights and measures, he has adjusted, together with the day of the month and year, and the number and description of the same so adjusted, which book he shall submit to the inspection of the county commissioners once in each year, or oftener if required.

9. If any person shall neglect or refuse to have his beams and scales, weights and measures, inspected and adjusted as herein directed, when required to do so by the proper officer, he shall forfeit and pay five dollars for every day during such delinquency.

10. If any standard keeper shall be informed or have reason to suspect that any person is using, or has in his possession with a fraudulent intention, any false beams, scales or measures, he shall examine the same, and if he find them, or any of them, to be false, he shall seize the same as a forfeiture, and adjust and sell them at public auction, and shall annually return a statement of the money received therefor under oath to the county commissioners.

11. If any weight or measure which shall have been branded or stamped, as herein required, shall be broken, injured, altered, or changed, or condemned by the standard keeper, and shall be found thereafter in the use of any person within this State, such person shall forfeit and pay twenty dollars for each offence.

12. Each standard keeper shall receive such compensation for the discharge of his duties as the county commissioners shall think proper to allow,

ORDINANCES.

1. The sections 330 to 353 of Art. IV of the Public Local Laws City of Baltimore, and the Act of 1864, c. 254,

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which shall be levied on the assessable property of the county and collected as other county charges.

13. Whenever any standard keeper shall be applied to, to adjust scales, weights and measures, by adding to or diminishing the same, or to adjust scale-beams, he shall be allowed an additional reasonable compensation therefor, to be paid by the party so applying for his services.

14. The one-half of all fines and forfeitures imposed by the preceding sections of this article shall go to the informer, the other to the use of the county, and in all suits therefor, the informer shall be a competent witness.

15. Nothing contained in the preceding sections of this article shall apply to the city of Baltimore, or to any private house-keeper not in trade or pursuing some kind of merchandise as a business.

16. All measures of dried fruit used in this State shall be fixed and uniform, and tried by the standards herein established, and the measure to be filled even, without rise or heap, and the fruit not packed or pressed in the measurement thereof, and every person violating the provisions of this section shall be subject to a fine of five dollars, to be recovered before a justice of the peace as other debts, one-half to the informer, and the other half to the use of the State.

17. Act of 1872, c. 162. Oats shall be bought and sold in this State by struck measure or by weight, at the rate of twenty-six pounds to the bushel.

18. Potatoes in this State shall be sold by weight, at the rate of fifty-six pounds to the bushel, and any person offending against the provisions of this section shall be subject to a fine of ten dollars, to be recovered before any justice of the peace of the city or county where said offence may be committed.

1861, c. 78, provides that the provisions of section 18 shall not apply to the sale of potatoes in the counties of Frederick, Washington, Allegany, Anne Arundel, Carroll and Montgomery.

19. Hay and straw, which may be sold by weight in this State, shall be sold by the nett hundred, and every twenty hundred pounds nett weight shall be a ton.

20. Act of 1867, c. 317. The size and dimensions of the corn barrel measure shall be as follows: twenty-one inches in diameter (clear of staves) at the bottom, (and twenty-three inches in diameter clear of staves) and shall hold five struck bushels of corn; and all the lime sold in this State, or

relating to the Inspection of Flour, having been repealed by the Act of 1870, c. 418, Ordinance No. 54, May 28, 1861, which provided for the appointment of Reviewers of Flour

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delivered in this State, to any person or persons, shall be measured in a bushel measure of the following dimensions, viz: twelve inches (clear of staves) at the bottom, and fifteen inches in diameter (clear of staves) at the top, and shall be fifteen high inside, perpendicular measure, and in all cases where the lime has already slackened, it shall require two such bushels to make one bushel of quick lime; any person violating the provisions of this section shall, on conviction in any court of this State, or before any justice of the peace, be fined not less than fifty dollars nor more than five hundred dollars, one-half to the informer, and the other half to go to the public school fund of the State.

21. Quercitron and all other ground bark, sumac and all other articles sold by weight, shall be sold by the one hundred pounds for one hundred weight, and twenty hundred shall be considered and taken for a ton, and so in proportion for any greater or smaller quantity.

22. The count of all staves and heading shall be by the short hundred, so that one thousand pieces shall be computed as one thousand staves or heading, as the case may be, and any inspector or dealer in staves or heading, attempting to account or compute at any greater rate than one thousand pieces to the thousand, and in that proportion for a greater or less number, shall be deemed guilty of a misdemeanor, and be subject to indictment, and upon conviction shall be fined not exceeding one hundred dollars, one-half to the informer, and the other half to the State.

23. No person shall sell any package or parcel of cotton, woolen or other dry goods, having any mark thereon or attached thereto, indicating or stating a greater number of yards or larger quantity than is actually contained in such package or parcel, and any auctioneer, commission merchant, or other dealer, so selling, shall in each case forfeit and pay to the purchaser of each package or parcel double the value of the quantity of goods which on actual measurement it shall be found there is wanting in such package or parcel to make up the number of yards or quantity marked thereon.

24. All sums not exceeding one hundred dollars, forfeited and payable under the preceding section, shall be recoverable by the purchaser before a justice of the peace as other debts, and all sums exceeding one hundred dollars by action of debt in the court having jurisdiction thereof in the city or county where such sales were made.

25. Act of 1868, c. 445. All charges for freight, measurement, weighing, inspection, wharfage and commission on grain, shall be made on the number of bushels as ascertained by weight and not by the running measure, and any one found guilty of a violation of this section shall on conviction thereof before a justice of the peace, be fined not less than five nor more

to hear appeals from the Inspectors of Flour, is omitted, as it is abrogated by the operation of the said Act of 1870, c. 418.*

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than fifty dollars, one-half to the informer, and the other half to the use of the State; provided that any one feeling himself aggrieved by any such judgment, shall have the right of appeal to the Circuit Court of the county or the Baltimore City Court, as the case may be, on giving bond in the usual form to prosecute such appeal, and for the payment of the judgment and costs if such judgment should be affirmed.

*REPEALS.—All those sections of article 4, Public Local Laws, City of Baltimore, title Inspections, from section 272 to section 567, also the following acts supplementary and amendatory thereto, to wit: the act of 1861, chapter 35; the acts of 1862, chapters 116, 199, 254, and 283; the acts of 1864, chapters 189, 328, 339, 346, 369 and 384; the acts of 1865, chapters 6, 165, 192 and 194; the acts of 1867, chapters 148, 241, 368 and 381; and the acts of 1868, chapters 128, 295 and 458, relating to inspections, except sections 410 to 423, inclusive, and sections 458 to 474, all inclusive, and sections 495 to 547, inclusive, relating to tobacco, were repealed by the act of 1870, c. 418.

All acts and parts of acts inconsistent with the provisions of the act of 1870, c. 418 were repealed, it being the intent and purpose of that act to repeal all acts or parts of acts in any manner authorizing or directing inspections in this State, except such as relate to the weighing of hay and straw, to the weigher of live stock and the inspection of tobacco.

Blitz v. *James et. al.*, 31 Md. 264, construed section 481, Art. 4, P. L. L., repealed by act of 1870, c. 418. The act of 1870, c. 426, repealed the act of 1868, c. 295, and enacted and added an article to the Public General Laws, entitled Manures and Fertilizers.

INSPECTION OF TOBACCO.—The act of 1872, c. 36, repealed by implication the acts of 1864, c. 346, 1867, c. 368, and 1868, c. 458 relating to inspection of tobacco, so far as the same conflicted with the act of 1872, c. 36, and enacted in lieu thereof a new article regulating the inspection of tobacco, and transferred the same from Article 4, Public Local Laws City of Baltimore, to the Public General Laws. The acts of 1872, c. 228, 1874, c. 394 and 1878, c. 386, amended the act of 1872, c. 36. The act of 1876, c. 316, authorized the building of a new tobacco warehouse in the city of Baltimore, and the acts of 1876, c. 333 and 370, provided for settlement of claims of persons connected with tobacco warehouses, or where property was destroyed by fire while stored in same; the act of 1878, c. 47, relates to burnt tobacco warehouses, Nos. 1 and 2.

INSPECTIONS.—GAS METERS.

2. Annually in the month of February there shall be appointed, as other city officers are appointed, a suitable, experienced and competent person, who is not a stockholder in or an employee of any gas company, or interested in any way in the manufacture of gas meters or illuminating gas, as inspector and sealer of gas meters,* who, before he enters upon the discharge of his duties, shall give bond and security to the satisfaction of the Mayor in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office, and take an oath or affirmation before some officer legally qualified to administer the same, to faithfully, diligently and impartially discharge the duties of his office.

No. 47, s. 2, May 22, '61. Inspector and sealer of gas meters appointed. Bond. Oath.

3. It shall be the duty of the said inspector and sealer of gas meters whenever required in writing, and, on the pre-payment of a fee hereinafter specified, to inspect, examine, test, prove and ascertain the accuracy of the registration of any and all gas meters, used or intended to be used for measuring or determining the quantity of carburetted hydrogen or illuminating gas, consumed by any person or persons in this city; and when proved to be or made correct within the meaning of this ordinance, to stamp, seal or mark all such meters, and each one of them, with some appropriate, distinct and intelligible device, to be approved by the Mayor.

Ibid, s. 2. His duties. Stamp of inspector.

4. The said inspector and sealer of gas meters is authorized to purchase for the use of the city such apparatus as will be required by him for the proving, testing and accurate registration of gas meters in use in the city of Baltimore.

Ibid, s. 3. Apparatus.

* See act of 1876, c. 356, p. 480, *ante*.

Ibid, s. 4, No. 77, June 8, '64. To inspect and prove gas meters.

5. The inspector and sealer of gas meters shall, with said apparatus, inspect and prove the gas meter of any consumer at his written request, and in his presence if he so desire, upon the payment in advance to the said inspector and sealer of gas meters the sum of one dollar for each and every meter removed from the premises, proved, tested, sealed and replaced, and if any meter on being so tested shall be found to register inaccurately as defined by this section to the injury of the consumer, the fee paid by said consumer shall be returned, and a like amount shall be paid to the inspector and sealer by the gas company, person or persons whose manufacture of gas has been consumed, as a remuneration for the removal, testing, correcting, sealing and replacing of such meters; and every such meter shall be considered correct, and sealed accordingly, which shall register quantities varying from the true standard measure of gas if not more than two per centum in favor of either the company or the consumer; the apparatus used by the inspector and the mode of testing practised by him to be approved by the Mayor, and in all cases in which an appeal from the decision of the inspector and sealer of gas meters as to the accuracy of any meter tested shall be made, such case shall be referred to and adjudged by a suitable person to be appointed by the Mayor, and whose decision shall be final.

Fee to inspector.

When fee to be returned.

Gas company.

Two per cent.

Appeal.

Referee.

Ibid, s. 5, No. 54, Aug. 7, '67. New meter to be inspected.

6. It shall not be lawful for any new meter to be furnished or put in use in this city by any gas company which shall not have been previously proved to be correct, and sealed by the inspector and sealer authorized by this ordinance, except during such time as from any cause the office shall be vacant, or said inspector and sealer shall, after request made, refuse or neglect to prove, and if correct, seal the meters furnished at his office by any gas company for that purpose, and for said proving and sealing the company

shall pay said officer the sum of twenty-five cents for each and every new meter so proved and sealed as aforesaid; any gas company convicted before a justice of the peace of violation of the provisions of this section, shall forfeit the sum of ten dollars, and a further sum of five dollars for each and every day that such meters are allowed to be continued in use after a notice ordering its discontinuance has been served upon such company by the inspector and sealer of meters. Penalty against gas company. Fine.

7. No meter shall be set unless it be sealed and stamped in the manner required by the preceding sections. Ibid, s. 6. Meters to be sealed and stamped.

8. It shall not be lawful for any gas company to put in use in the city of Baltimore, any gas meter which shall have been discontinued, or any meter that has been in the use of any other consumer, unless the same has been re-inspected and re-stamped by the inspector and sealer of gas meters; any gas company convicted before a justice of the peace, of the violation of the provisions of this section, shall forfeit the sum of ten dollars, and the further sum of five dollars for each and every day that each of said meters are allowed to be continued in use, after a notice has been served upon such gas company by the inspector and sealer of gas meters. No. 47, July 9, '69. Used gas meters to be re-inspected and re-stamped. Penalty on gas company. Notice from inspector.

9. It shall be the duty of the inspector and sealer of gas meters, whenever he receives a written request to do so, to visit the meter on the premises of any consumer of gas, and impart to such consumer such instructions relating to the proper manner of regulating the meter, or filling it with water or spirits, as desired, for which services the consumer shall pay to the inspector the sum of twenty-five cents. No. 47, s. 7, May 22, '61. Inspector to visit premises. Instructions. Fee.

10. The inspector and sealer of gas meters hereby authorized shall enter in a book prepared for him for that purpose, the date of testing, number, size, name of manufacturer, and registration of any meter proved and sealed, or condemned Ibid, s. 8; No. 54, Aug. 7, '67; No. 77, June, 8, '64. Inspector's record.

as aforesaid, and the number of premises visited for giving instruction, and shall make a full report thereof annually to the Mayor and City Council, and shall receive an annual salary of five hundred dollars, to be paid as the salaries of other city officers are paid, in addition to the fees to be charged as hereinbefore prescribed, but no fees to be charged or allowed, however, in any case where the Mayor and Council, in their corporate capacity, are concerned.

Report.

Salary.

Fees.

Ibid, s. 9.

11. If any person or persons shall counterfeit, or wilfully deface the seal placed upon any gas meters by the inspector and sealer, the person or persons so offending, on conviction before a justice of the peace, shall forfeit and pay the sum of ten dollars.

Counterfeiting or defacing seal.

Penalty.

ILLUMINATING GAS.

No 53, s. 1, May 28, '61.

12. Annually in the month of February there shall be appointed, as other city officers are appointed, a suitable, experienced and competent person, known as a practical chemist, who is not a stockholder in or an employee of any gas company, or interested in any way in the manufacture of illuminating gas in this city, as inspector of illuminating gas such as is now furnished by any gas company of this city or such as may be furnished hereafter by any company, person or persons for the same purpose, who, before he enters upon the discharge of his duties, shall give bond, with approved security to the satisfaction of the Mayor, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of the office, and take an oath or affirmation before any officer legally qualified to administer the same, to faithfully, diligently and impartially discharge the duties of the office.

Inspector of illuminating gas appointed.

Gas company.

Bond of inspector.

Oath.

Ibid, s. 2.

13. It shall be the duty of the said gas inspector to inspect, test and determine the purity and illuminating power of the carburetted hydrogen or illuminating gas fur-

Duties of inspector.

nished by any gas company, person or persons in Baltimore to consumers, and to report to the Mayor at least once in each week, in writing, the condition of said gas as to purity and illuminating power, said weekly report to be published at the discretion of the Mayor, in any two of the city papers, to be designated by him. Report.

14. The quality of the illuminating gas supplied by any gas company, person or persons in the city of Baltimore shall be determined at the place where the Mayor and gas inspector shall place the necessary apparatus, and shall be with respect to its illuminating power such as to produce from the English parliamentary standard burner, having fifteen holes and a seven inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to that produced by twelve standard sperm candles of six to the pound, each consuming one hundred and twenty grains of sperm per hour, and such gas shall not contain more than twenty grains of sulphur in any form in one hundred cubic feet of gas. Ibid, s. 3. Quality of gas. Illuminating power.

15. If the carburetted hydrogen or illuminating gas supplied by any gas company, person or persons in the city of Baltimore, shall be at any one time of less illuminating power or of less purity than according to the standard established by the preceding section, it shall be so reported by the gas inspector, the company, person or persons so supplying the same shall be subject to a penalty of one hundred dollars, to be recovered before any justice of the peace for the use of the city, for each and every day during which such violation shall continue; provided, however, that if it shall appear that such deviation from the above named standard could not have been prevented by ordinary care and prudence, but was occasioned by some unavoidable cause, then the said penalty shall not be enforced. Ibid, s. 4. Defective gas. Penalty. Proviso.

Ibid, s. 5. Apparatus.

16. The said gas inspector shall purchase for the use of the city all necessary apparatus and materials required for the proper discharge of his duties, and shall place them in such location as the Mayor and gas inspector shall deem proper.

Ibid, s. 6. Salary.

17. The salary of the gas inspector shall be three hundred and sixty-five dollars per annum, to be paid out of the city treasury as the salaries of other city officers are paid.*

HAY AND STRAW.

No. 33, s. 60, R. O. Sale of hay and straw regulated.

18. Any person bringing loose hay or straw to the city for sale, in wagon, cart or other carriage, and having sold the same, shall, on delivery thereof, return to the State scale, and have the empty vehicle weighed, and obtain from the weigh-master a receipt of the nett weight thereof, and

* The above enactments as to gas meters and illuminating gas, were authorized by 1858, c. 417, (see also p. 480, *ante*,) which provides: that the Mayor and City Council of Baltimore be authorized to establish by an ordinance or ordinances, and therein and thereby to enforce by proper penalties, an inspection and measurement of carburetted hydrogen or illuminating gas, and of meters for measuring the same in that city, and also to provide for the appointment of one or more inspectors and measurers, not exceeding four, for that purpose, whose duties and salary or compensation, by foot or otherwise, may be provided for by the said ordinance or ordinances.

That in any case in which the said inspectors and measurers, or any one of them, shall have adjudged the said gas to be below a proper standard, to be settled by the said ordinance or ordinances, or any meter to be defective, no recovery shall be had for any bill or account for the supply of gas during such deficiency of meter or inferiority of gas; and if any person or persons or any incorporated company shall shut off the gas supplied to the person or persons who may refuse to pay for such inferior gas, or according to the measurement of such defective meter, such person or persons, or incorporated company, shall be liable to damages, to be trebled by the court or justice of the peace before whom any action relating to the refusal to supply the said gas may be brought, and that after the expiration of thirty days after the rendering of any such judgment, no former recovery shall be pleaded.

For law for inspection of Illuminating Oils from petroleum or its products see p. 282, &c., *ante*.

give the same to the purchaser of his hay or straw; and any person delivering any parcel of hay or straw to a purchaser, of less weight than charged for, shall be fined twenty dollars for each and every offence. Penalty.

REPORTS OF INSPECTORS.

19. Every inspector holding his appointment under this corporation, (unless otherwise directed by the ordinance providing for his appointment and prescribing his duties,) shall on the last day of March, June, September and December, in each and every year, make on oath or affirmation, as the case may be, a true statement to the Mayor of the City of Baltimore, of all the articles inspected by him in pursuance of the duties of his office. No. 58. R. O. Inspectors to report quarterly to Mayor.

STREETS.

20. Such articles as are to be inspected or gauged under ordinances or statutes, may be placed on the footways of any of the streets, lanes or alleys of the city, such articles, however, to be arranged so as not to obstruct the passage through the streets or over the footways from the stone or other pavement to any house, store, cellar, or back yard, or from any house, store, cellar or back yard to the pavement, without the consent of the owner or occupier; every person so offending shall forfeit and pay the sum of five dollars. No. 33, s. 7, R. O. Inspection of goods on streets regulated. Penalty.

WEIGHTS AND MEASURES.

21. Three persons shall be annually appointed keepers of the standards of weights and measures, whose duty it shall be safely to keep and preserve the same, and when required, to deliver them to the Mayor, or such other person as he may appoint to receive the same, and to perform the several duties prescribed by the ordinances respecting weights and meas- No. 43, s. 1, R. O. Keepers of standards appointed.

ures; and before they shall enter upon the duties of their appointment, they shall each give bond to the Mayor and City Council of Baltimore, in the penal sum of one thousand dollars, conditioned for the faithful discharge of all the duties appertaining to his office. Two of the said keepers shall be the keepers of the standard of weights and of liquid measures, and the other of dry and long measures.

Bond.

Two keepers of weights and liquid measures one keeper of dry and long measures.

No 1, Feb. 14, '61

Offices.

22. The keeper of the standards of weights and measures shall each keep an office in a central location, in their respective districts, where they shall attend daily between the hours of eight and ten A. M.

No. 33, s. 1. Mar. 21, '59.

Comptroller to procure sets of weights and measures.

23. It shall be the duty of the Comptroller to procure one set of weights and measures for the use of the appropriate inspectors, and one standard set of the same, to be kept in his office as a guide to the inspectors, and by which the weights and measures of the inspectors shall be regulated.

Ibid, s. 2.

What standard shall be.

24. The standard of weights and measures to be deposited in the Comptroller's office shall be the same as the standard of weights and measures of the United States, and the same shall be the standard for the city of Baltimore.

Ibid, s. 3.

Inspectors to adjust weights and measures.

25. It shall be the duty of each inspector to compare and adjust his weights and measures, at least once a quarter with the standard set in the Comptroller's office, and any inspector failing so to do shall forfeit and pay a sum of twenty dollars, to be collected as other fines and forfeitures are now collected.

Penalty.

No. 49, s. 2, R. O.

Dimensions of dry measures.

26. It shall not be lawful for any person, under a penalty of two dollars for each offence, to use any bushel, half bushel, peck or half peck, or quarter peck measure, unless the same be of the dimensions following, to be measured from inside to inside, to wit: every bushel measure shall not be less than fifteen and a quarter inches in diameter at the top, fourteen

and a half inches in diameter at the bottom, twelve inches and three-eighths of an inch deep, and the staves three-fourths of an inch in thickness; every half bushel measure shall not be less than twelve and one-half inches in diameter at the top, eleven and one-half inches in diameter at the bottom, nine and one-half inches deep, and the staves at least one inch thick; every peck measure shall not be less than ten inches in diameter at the top, nine and one-quarter inches in diameter at the bottom, seven inches and five-eighths of an inch deep, and the staves three-quarters of an inch thick; every half peck measure, when joined to the peck, shall not be less than eight inches and five-eighths in diameter at the top, and nine inches and an eighth of an inch in diameter at the bottom, four and one-half inches deep, and the staves five-eighths of an inch thick; and every half peck measure, when made separate from the peck, shall not be less than nine inches and one-eighth of an inch in diameter at the top, eight inches and five-eighths of an inch in diameter at the bottom, four and one-half inches deep, and the staves five-eighths of an inch thick; every quarter peck measure shall not be less than six inches and an eighth of an inch in diameter at the top, and five inches and seven-eighths of an inch in diameter at the bottom, four and three-quarter inches deep, and staves one-half of an inch thick.

Ibid, s. 3.

Weights, &c., to be stamped.

27. All weights and measures used within the city of Baltimore in the vending of articles, shall be inspected and stamped, or branded by said standard keepers, under a penalty of not exceeding twenty dollars, to be paid by the person or persons owning or using the same, and when adjusted, shall be by the said standard keepers, branded or stamped with the letters B. S., meaning thereby Baltimore standard, in such manner and on such parts of the said weights and measures as in their judgment shall be most lasting and effectual in preventing and detecting fraudulent practices or

impositions in the use of such weights or measures, and the like inspection shall be repeated once in every year, and the branding or stamping renewed when necessary, and such weights and measures, so examined and stamped, or branded as aforesaid, and no other, shall be used in the city of Baltimore in the vending of such articles as are directed by law to be or are usually sold by weight or measure, under a penalty not exceeding twenty dollars.

Penalty.

Ibid, s. 4.

Stamp for dry measures.

28. All dry measures shall be inspected and branded agreeably to the provisions of the preceding section, except that in lieu of the letters B. S., they shall be branded with letters, Baltimore standard; and any person or persons convicted of counterfeiting said brand, or of branding on any measure any other letters for the purpose of deception, shall forfeit and pay for every such offence ten dollars.

Penalty for counterfeiting.

Ibid, s. 5.

Scale beams to be stamped.

29. All scale beams used in the vending of articles in the city of Baltimore shall be inspected and stamped by the keeper of the standard of weights, as weights are directed to be stamped; and any person offending herein shall forfeit and pay a sum not exceeding twenty dollars for each and every offence.

Penalty.

Ibid, s. 6.

Patent balances &c., to be stamped and inspected once in each year.

30. All patent balances, platforms or scales used in the said city for weighing by venders of articles, shall be inspected and stamped or branded by the keeper of the standard of weights and measures, as is provided for with regard to weights and other scales or balances, and upon the weights used in weighing therewith by having stamped upon them the letters B. S., in such manner and on such part thereof as in the judgment of the standard keeper of weights and measures will be most lasting and effectual in preventing and detecting fraudulent practices or impositions in the use thereof, and the like inspection shall be repeated once in every year, and the branding renewed when necessary; and

every person using a patent balance, platform or scales in the city not stamped as herein directed, shall forfeit and pay a sum not exceeding twenty dollars for each and every such offence. Penalty.

31. If, upon examination, the standard keeper of weights and measures shall find any patent balance, platform or scales untrue, it shall be condemned by him, whereupon he shall stamp or brand upon it the word "condemned;" and any person or persons who shall afterwards use such condemned patent balance, platform or scales until the same shall have been re-adjusted, stamped and branded by the keeper of the standard of weights and measures, shall each forfeit and pay for each offence, a sum not exceeding twenty dollars * Ibid, s. 7. When found untrue to be condemned. Penalty for using condemned balances, &c.

32. If any weight or measure which shall have been branded or stamped, agreeably to the provisions of this ordinance shall be broken, injured, altered or changed, or condemned by the standard keeper, and found thereafter in the use of any person within the city of Baltimore, every such person shall forfeit and pay twenty dollars for every such offence. Ibid, s. 8. Penalty for using altered weights, &c.

33. The standard keepers shall respectively have and receive as a compensation for the discharge of the duties required of them, the following sums, to wit:—For every bushel-measure, eighteen cents; for every half bushel, peck and half peck measure, twelve cents; for every five gallon measure, twelve cents; for every half gallon, quart, pint, half pint, gill or half gill measure, six cents; for ever fifty-six pounds or fifty pounds weight, six cents; for every twenty-eight, twenty-five, fourteen or seven pounds weight, five cents; for every set of weights, from four pounds to half Ibid, s. 9. Fees of standard keepers.

* See case on p. 273, *ante*.

an ounce, twenty-five cents; for every single weight under seven pounds, four cents; for every yard measure, six cents; for stamping every scale beam not exceeding eighteen inches, twelve cents; if above eighteen inches, twenty-five cents; for inspecting patent balances, platforms or scales, with their weights, which weigh less than one hundred pounds, fifty cents; if over one hundred pounds and less than one thousand pounds, seventy-five cents; if above one thousand pounds, one dollar; and all patent balance platforms, or other patent weighing apparatus, shall be tested to the amount of the capacity which they are calculated to weigh.

No. 38, s. 1, June 12, '58. To inspect once a year and no oftener.

34. It shall be the duty of the inspector of long and dry measures, and the inspectors of weights and liquid measures, to inspect all articles which are provided for to be inspected by them, once a year, and no oftener; the inspection year to date from the first day of March in each and every year, and end with the last day of February ensuing.

Ibid, s. 2.

Penalty.

35. For a violation of the provisions of the preceding section, the inspectors so violating shall, on conviction thereof before any justice of the peace, forfeit and pay the sum of twenty dollars for each and every violation, half of the fine to go to the informer.

No. 49, s. 10, R. O. To visit markets, stores, &c.; to inspect weights, &c.

36. The keepers of the standards of weights and measures shall attend at the different markets, warehouses, stores and shops within the city, at least once in each and every year, as provided in preceding two sections, and shall inspect and adjust all beams and scales, weights and measures therein used or intended to be used; and each of them shall keep a book in which he shall register the names of the persons whose beams and scales, weights and measures he has so adjusted, together with the day of the month and year, and the number and description of the same so adjusted, which

Books to be kept.

book he shall submit to the inspection of the Mayor once in every year, or oftener, if the Mayor shall require it.

Ibid, s. 11.

37. If any person or persons shall refuse or neglect to have his, her or their beams and scales, weights and patent balances, and measures, inspected and adjusted as aforesaid, when required so to do by the proper officer, he, she or they shall forfeit and pay five dollars for every day during such delinquency; and if any of the said inspectors, or any of the clerks of the markets, are informed or have reason to suspect that any person or persons are using or have in their possession, with a fraudulent intention, any false beams, scales, weights, patent balances or measures, it shall be their duty, and they are hereby authorized to examine the same, and if they find them, or either of them, false, to seize the same as a forfeiture, and after having the same adjusted, to sell them at public auction.

Penalty for refusal to allow inspection.

Duties of inspectors and clerks of markets.

Ibid, s. 12.

38. The standard keepers shall return upon oath or affirmation to the Register, annually, a statement of the money they may receive in the performance of the duties prescribed by this ordinance, and the Mayor shall divide the city into two districts, to be called the eastern and western districts.

Annual return to Register.

Ibid, s. 13.

39. Whenever any one of the standard keepers aforesaid, shall be applied unto to adjust scales, weights and measures, by adding to or diminishing the same, or to adjust scale beams or patent balances, he shall be allowed a reasonable compensation therefor, in addition to the fees of office he is hereby authorized to receive.

Additional compensation.

CHARCOAL.

No. 50, s. 1, R. O.

40. One person well skilled in the quality and measure of charcoal shall be annually appointed, as other city officers are, to measure all charcoal brought to the city of Baltimore for sale; and the said measurer shall, with the appro-

Measurer of charcoal appointed.

Deputies. bation of the Mayor, have power to appoint one or more deputies; the said measurer being responsible for the official acts of said deputy or deputies; and the said measurer and each of his deputies, before entering upon the duties of his Oath. office, shall make oath or affirmation before the Mayor that he will faithfully execute the duties of his office according to the best of his knowledge and ability.

Ibid, s. 2. 41. The Mayor shall designate stands for the measure-
Mayor to designate stands. ment of charcoal, and establish such and so many as in his judgment the public convenience may require.

Ibid. ss. 3, 4, No. 19, Apl. 17, '60. 42. All charcoal brought to the city of Baltimore for
Charcoal to be measured. sale shall be measured by the person or persons appointed to measure the same, who shall give to the seller a certificate of the quantity thereof; and for each certificate shall be entitled to receive twenty-five cents, if the quantity do not exceed twenty-five bushels; thirty-seven and a half cents, if more than twenty-five and less than fifty bushels; and fifty cents, if more than fifty bushels. It shall not be lawful for any person or persons, except as mentioned in the succeeding section, to sell or offer for sale any charcoal within the limits of the city of Baltimore, without first having the same inspected in accordance with the above provi-
Penalty. sions, under a penalty of five dollars for each and every offence, to be collected as other fines and forfeitures are collected.

No. 43, May 7, '61. 43. The retailers of charcoal bringing the same into the
Retailers of charcoal exempt. city of Baltimore for the purpose of retailing it by the bushel or the barrel, shall not be required to have the same measured, under the provisions of the preceding section.

No. 48, May 22, '61. 44. The measurer of charcoal shall estimate and allow
Standard for measuring. for each bushel of charcoal measured by him, twenty-seven hundred and forty-seven seventy one-hundredths cubic inches, making full allowance for a cone or heaped measure.

45. No measurer of charcoal shall, either directly or indirectly, be concerned in the purchase or sale of charcoal, under the penalty of twenty dollars for each and every offence. No. 50, s. 5, R. O. Measurer not to deal in charcoal.

46. If any person bringing charcoal to the city for sale, in any wagon, cart, or other carriage, shall practice any device or fraud to deceive in quantity, the driver of such wagon, cart, or other carriage, shall forfeit and pay ten dollars for each and every offence. Ibid, s. 6. Penalty for fraud.

47. Any person may retail charcoal out of any wagon, cart, or other carriage, in any of the streets, lanes or alleys in the city, by applying to the Comptroller for a license to that effect, for which the person so applying shall pay two dollars; and if any person shall sell or offer for sale charcoal, by retail, without first obtaining such license, he shall forfeit and pay for every such offence two dollars. Ibid, s. 7. Retailing charcoal. License. Penalty.

COAL.

48. It shall not be lawful for any person or persons to sell anthracite or other coal, except bituminous, in any other way than by the ton, half ton, quarter ton, or fraction of a ton, as established by law, which is 2,240 pounds, under a penalty of ten dollars for each and every offence; and should it be deficient in weight at the time of delivery, an additional penalty of ten dollars for each and every offence; provided, that nothing herein contained shall prevent the selling of a single bushel, half bushel or peck of coal. No. 69, R. O. Anthracite coal to be sold by the ton of 2,240 lbs. Penalty. Proviso.

FIREWOOD.

49. It shall not be lawful for any person or persons to sell, or offer for sale, in any of the streets, lanes, alleys or highways of the city, any firewood, otherwise than by the No. 33, s. 37, R. O. Sale of firewood regulated.

cord, half, quarter or eighth of a cord;* and every person offending herein, or delivering any quantity or parcel of firewood to a person of less measurement than he has sold or offered for sale, shall for each and every offence pay a fine of five dollars for each load; provided, nothing herein contained shall be so construed as to prevent persons from selling wood by the armful, or loads of chips or brush.

Penalty.

Proviso.

ICE.

No. 61, s. 1, R. O.

Ice to be sold by weight.

50. All ice exposed for sale in the city shall be sold by weight, except in such cases where it may be otherwise agreed upon between the buyer and seller; and it shall be the duty of all sellers of ice to be furnished, at the time of delivery, with a suitable steelyard, balance, or other apparatus for weighing, duly adjusted and stamped, as provided by ordinance, with which to weigh the quantity of ice sold, if required by the buyer.

Ibid, ss. 2, 3.

Standard weight.

Penalty.

51. The standard weight of the bushel of ice shall be held and taken at sixty pounds avoirdupois, and of smaller measures in proportion. The penalty for each and every violation of this and the preceding section shall be five dollars.

* See secs. 101-105, p. 509, &c., *ante*.

ARTICLE XXIX.

JAIL.

STATUTES.

1. Mayor and Council to appoint visitors: their powers and duties: ordinance to be passed: effect of same: provisos.
2. Title to property: powers and privileges.
3. Oath of visitors.
4. Three to form a quorum.
5. Election of president and secretary.
6. Their duties.
7. Times of meeting.
8. Power to make by-laws and visit jail.
9. To provide for prisoners and repair jail.
10. To keep criminals separate from persons waiting trial: labor.
11. To require vagrants to work.
12. May employ and pay others by consent.
13. To keep accounts of expenses.
14. Appointment and duties of warden.
15. Pay and fees of warden: appeal.
16. Bond of warden.
17. Oath.
18. Visitors to prescribe number of assistants: warden to appoint and remove.
19. Commitments to be directed to warden.
20. To conduct prisoners to and from court.
21. To account for all jail fees.
22. His compensation.
23. May be removed by visitors.
24. Visitors to report expenses annually to Mayor and City Council.
25. Warden not to sell liquors, and penalty for so doing.
26. No liquors to be brought into jail.
27. No person except attorneys, &c., to visit prisoners.
28. Penalty against warden for bringing liquor into jail.
29. Penalty against assistants, &c., for bringing liquor into jail or admitting unauthorized persons.
30. Labor.
31. Prisoners to be kept on prison fare.
32. Who to visit condemned persons.
33. Persons under sentence of death: how to be treated.

CONVICTS.

34. Convicts to be kept at hard labor.
35. To be kept separate from persons awaiting trial, &c.

VAGRANTS, &c.

36. Warden to send list of vagrants to criminal court: justices' costs.

ORDINANCE.

Five visitors of the jail appointed: their duties.

STATUTES.

1868, c. 3.

Mayor and Council to appoint visitors or superintendents.

Proviso.

Powers and duties of visitors.

Proviso.

Ordinance to be passed.

Effect of same.

1. The Mayor and City Council have power to provide by ordinance for the appointment, as other city officers are appointed, of Visitors or other Superintendents of the Jail of said city, and to prescribe the powers and duties of such visitors or superintendents; provided, that until the Mayor and City Council of Baltimore shall have acted in the premises, the powers and duties of the Visitors of the Jail of Baltimore City shall be such as are prescribed by the sections of this article; and provided further, that when the said Mayor and City Council shall have by ordinance prescribed the powers and duties of the Visitors of the Jail of Baltimore City, then, and in that event, the operation of the sections of this article, from section 4 to section 33, inclusive, shall cease, and the said sections, from section 4 to section 33, inclusive, shall be *ipso facto* repealed.

Ibid, s. 2.

Title to property.

Powers and privileges.

2. All titles to property of any and every kind now held by the Visitors of the Jail of Baltimore City, shall be and they are hereby transferred to and vested in the Mayor and City Council of Baltimore, to all intents and purposes, and all powers and privileges heretofore conferred upon the said Visitors of the Jail of Baltimore City, shall be and they are hereby conferred upon the Mayor and City Council aforesaid.

Ibid, s. 3.

Visitor's oath.

3. Each visitor so appointed shall, before he proceeds to act, take and subscribe before the Mayor the oath of office

prescribed in the sixth section of the first article of the constitution.*

4. Three Visitors shall at any time form a quorum for the transaction of business. P. L. L., art. 4, sec. 571. Quorum.

5. They shall choose annually, at their first meeting in the month of April, or at some subsequent meeting, a president and secretary from among the members of the board. Ibid, sec. 572. President and secretary.

6. The president shall preside at all meetings of the board; the secretary shall keep the minutes of their proceedings. Ibid, sec. 573. Duties.

7. They shall meet on the first Tuesday of every month, or at such other times as they may direct; special meetings may be called at any time by the president or any two members, on giving three days' notice in writing to the members. Ibid, sec. 574. Time of meeting.

8. They shall have full power and authority as often as they may deem it necessary to visit the jail, and the prisoners confined therein; to make by-laws for the internal police and good government thereof, and for the preservation of the buildings and other property. Ibid, sec. 575. Power to make by-laws and visit jail.

9. They shall regulate and provide the diet of the prisoners, procure necessary bedding and clothing for their use; make such repairs, alterations and improvements in Ibid, sec. 576. To provide for prisoners and repair jail.

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*This act of 1868, c. 3, repealed sections 567, 568, 569, and 570, of Art. 4 of P. L. L., and substituted the above for sections 567, 568 and 569. The oath of office referred to is as follows:

I, ——, do swear, (or affirm,) that I will support the constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of —— according to the constitution and laws of this State.

and about the jail as they may deem necessary, and provide medicines and attendance for such of the prisoners as are sick.

Ibid, sec. 577. To keep criminals separate from persons awaiting trial. Labor.

10. They shall keep all persons confined in said jail by sentence of a court for offences punished by confinement therein at hard labor in some useful employment, and shall frame such regulations as shall be necessary to the industry, quiet and discipline of such persons, and shall have them kept separate from persons in confinement awaiting trial, or for other causes.

Ibid, sec. 578. Vagrants to work.

11. They shall also require all vagrants confined in said jail to work and labor about the premises.

Ibid, sec. 579. May employ and pay others by consent.

12. They may, with their consent, employ other persons confined therein in such work and labor in and about the premises as may be consistent with their safe keeping, and shall keep an account of the earnings of such persons, and shall, upon their discharge, allow them two-thirds of the net proceeds thereof, to be ascertained by the visitors.

Ibid, sec. 580. To keep accounts of expenses.

13. They shall keep regular books of accounts, in which the whole expenses of the jail, whether for supplies, salaries of officers, repairs or incidentals, shall be distinctly stated.

Ibid, sec. 581. Warden. Duties.

14. They shall appoint a fit person as warden of the jail of Baltimore city, who shall take charge of the prison and prisoners therein, and exercise during his continuance in office the same powers and be subject to the same penalties and forfeitures, and be responsible for escapes, in the same manner and to the same extent as the sheriffs of the respective counties, and shall perform such other duties as shall be required of him by said Visitors.

Ibid, sec. 583. Pay and fees of warden.

15. He shall be entitled to collect and receive in his own name, but for the use of the Visitors, all jail fees; and in case of dispute between the warden and any prisoner, or the master of any apprentice, in relation to the amount of fees

demanded by the warden, which shall be the subject of contest before a justice of the peace for said city; either party against whom judgment shall be given, whatever may be the amount in dispute, may appeal to the Baltimore City Court. Appeal.

16. The said warden shall, before he enters upon the duties of his office, give bond to the State, with at least two securities, to be approved by the Visitors, in the penalty of ten thousand dollars, conditioned for the faithful performance of his duty as warden, and for the safe keeping of all such persons as shall be committed by legal authority to the jail of Baltimore city; which bond shall be filed and recorded in the Criminal Court of Baltimore. Ibid, sec. 583. Bond of warden.

17. He shall also take and subscribe an oath that he will duly and faithfully execute the duties and trusts, and exercise the powers committed to and vested in him as warden of the jail of Baltimore city, Ibid, sec. 584. His oath.

18. The Visitors shall prescribe the number and duties of the assistants who may be necessary to be employed by said warden, but the warden shall have the appointment and removal of such assistants, subject to the approval of the Visitors. Ibid, sec. 585. Visitors to prescribe number of assistants: warden to appoint and remove.

19. All commitments of prisoners to the jail of Baltimore city shall be directed to the warden of said jail, whose duty it shall be to receive the prisoners from the officers having them in charge. Ibid, sec. 586. Commitments to be directed to warden.

20. He shall conduct all prisoners in his custody to and from the courts, when the said courts shall direct him to do so * Ibid, sec. 587. To conduct prisoners to and from court.

* See further under article XIV, Courts, p. 203, &c., *ante*.

Ibid, sec. 588. To account for jail fees.

21. He shall account with the Visitors for all sums of money which he may collect as jail fees for prisoners confined in the jail, or from any other source connected with the institution.

Ibid, sec. 589. His compensation.

22. The Visitors shall allow such compensation to the warden and his assistants as they may think reasonable and proper.

Ibid, sec. 590. May be removed by visitors.

23. They may, at their will and pleasure, remove said warden from office and appoint another in his stead.

Ibid, sec. 591. Visitors to report annually to Mayor and Council expenses of jail.

24. They shall annually make out and lay before the Mayor and City Council, a full statement of all the public money received by them from the Register of the said city, or from any other source, and the manner in which it has been expended, with an estimate of what will be necessary for the following year, which estimate shall be levied on the property in said city and paid to the Visitors.

Ibid, sec. 592. Warden not to sell liquor. Penalty.

25. No warden, or any person by him employed, shall keep a tavern for the sale of spirituous liquors within the said jail, or within one-eighth of a mile of the limits thereof; and if the warden, or any person by him employed, shall, either by themselves or others, dispose of, sell or retail, or be concerned with others in the disposal, sale or retailing of any spirituous liquors of any kind to any person or persons coming to said jail on a visit, or to any prisoner or prisoners confined therein, he shall forfeit and pay the sum of twenty dollars, to be recovered by indictment and applied to the use of the city.

Ibid, sec. 593. No liquors to be brought into jail.

26. No cider, beer, wine, brandy, rum, whiskey, or other spirituous liquor, shall be brought within the jail lot by any warden or other person having charge thereof, or by any prisoner, visitor, or any other person, except by order of the attending physician or physicians thereof, and except

such small quantities as may be absolutely wanted to be consumed by the warden and his family and assistants.

27. No person except the attorney or attorneys of a prisoner shall be permitted to visit a prisoner or prisoners within said jail or lot, unless by special license from the warden, or some judge or justice, or other person legally authorized to give the same. Ibid, sec, 594. No persons except attorneys, &c., to visit prisoners.

28. If any warden shall introduce, or suffer to be introduced, within the jail lot knowing it to be done contrary to law, any such spirituous liquors, he shall forfeit and pay the sum of one hundred dollars for each and every offence, to be recovered by indictment, one-half to the informer and the other half to the use of said city. Ibid, sec. 595. Penalty against warden for bringing liquor into jail.

29. If any assistant warden, or other person having charge of said prison or prison lot, shall introduce any such spirituous liquors, or suffer them to be introduced, knowing it to be done contrary to law; or shall admit any person or persons (with the exception of the attorney of a person confined in said prison,) to enter said jail or lot without license as aforesaid, each and every of them so offending shall be suspended from his office, and be incapable of holding any office or charge within said prison or lot for the space of one year thereafter. Ibid, sec. 596. Penalty against assistant warden, &c., for bringing liquor into jail or admitting unauthorized persons.

30. All persons convicted of offences in the Criminal Court of Baltimore, and who are sentenced to imprisonment in Baltimore city jail, shall be put to and required to labor during such confinement. Ibid, sec. 597. Labor.

31. All persons hereafter sentenced to be imprisoned in said jail for offences by the said court shall be kept on prison fare, and not be allowed any other food or drink, unless by the written direction of the physician of the jail. Ibid, sec. 598. Prisoners to be kept on prison fare.

Article XXIX.—Statutes.

Ibid, sec. 599.

Who to visit condemned prisoners.

32. No admission of visitors shall be allowed to condemned prisoners during their confinement, except the official visitors of the jail, ministers of the gospel, physicians and legal counsel.

Ibid, sec. 600.

How prisoners under sentence of death to be treated.

33. Nothing contained in the last three preceding sections shall apply to prisoners in the said jail who are under sentence of death.

CONVICTS.

P. L. L., art. 4, sec. 158.

Convicts to be kept at hard labor.

34. All persons confined in the jail of Baltimore city for offences punished by confinement in said jail shall, after conviction, be kept occupied at hard labor in some useful employment, and the Visitors of the said jail shall frame

Regulations.

such regulations as may be necessary to the industry, quiet and discipline of the persons confined in said jail who may have been convicted of any offences punishable as aforesaid by confinement, and ordered to be confined therein.

Ibid, sec. 159.

To be kept separate from persons awaiting trial, &c.

35. All persons confined in said jail under the provisions of the preceding section shall be kept separate from such persons as are in confinement awaiting trial, or for other offences.

VAGRANTS, &c.

1862, c. 8.

Warden to send list of vagrants to Criminal Court.

36. The warden of the jail of the city of Baltimore shall prepare and send to the judge of the Criminal Court of Baltimore, on each and every Saturday, a full and complete list of the names of all persons who are committed to his custody by the justices of the peace of said city, either as vagrants or in default of security to keep the peace; and the judge of the said court shall have full power to review the said commitment, and upon examination of the various cases so reported to him by the warden of the jail as aforesaid, he shall discharge or recommit the said parties for a term not to exceed six months, as in his discretion may be most conducive to the preservation of public peace and order.

Article XXIX.—Ordinance.

The justices of the peace of the city of Baltimore are hereby prohibited from charging costs in the cases above named, unless the parties are recommitted by order of the judge of said court.* Justices' costs.

ORDINANCE.

No. 45, May 16, '61.

There shall be annually appointed, in the month of February, as other city officers are appointed, five discreet persons, to be known as or called the Visitors of the Jail of Baltimore City, whose duties shall be such as are prescribed in sections, Statutes, of this article.† Five visitors of the jail appointed. Their duties.

* See art. LII, Vagrants.

† The present jail was erected under the provisions of ordinances No. 42, May 23, '51, No. 20, Apl. 20, '58, No. 28, May 31, '58 No. 13, Feb. 4, '59, No. 17, Feb. 18, '59, No. 7, Mar. 26, '61. See as to contract for building jail, *Mayor*, &c., v. *Reynolds*, 20 Md. 1.

ARTICLE XXX.

JONES' FALLS.

STATUTES.

IMPROVEMENT.

1. Jones' Falls to be improved.
2. Mayor, &c., may acquire necessary property: may assess damages and benefits: other powers.
3. Limits of Jones' Falls to be defined: title to land, wharves, &c.
4. Mayor, &c., may change grades of streets.
5. May provide for expenses.
6. What sections of public local law not applicable: proviso.
7. Ordinance confirmed.

STOCK.

8. Authority to issue bonds: ordinances: proviso.
9. Authority to issue additional bonds.
10. Registered or coupon bonds.

WALLS.

11. Owners of property binding on Jones' Falls to build walls: rebuilding or repairing walls: costs, lien.

ORDINANCES.

IMPROVEMENT.

1. Regrading, &c., streets in flooded district: grades.
2. Excavation, &c., of Jones' Falls: authority of Mayor and City Commissioner.
3. Purchase or condemnation: appeal.
4. Sewer.
5. Appropriation.
6. Powers of Mayor and City Commissioner.
7. Preference to home work and material.
8. Surrender of property by owners: purchase or condemnation: appeal.
9. Plans and proposals for bridges over Jones' Falls: work to be done by Baltimore mechanics and workmen.
10. Overflow of falls: duty of City Commissioner: Register to pay.

STOCK.

11. Issue to amount of 2,500,000.
12. How bonds to be issued.

WALLS.

13. Building, repairing, &c., walls.
14. Refusal or neglect: duty of City Commissioner: cost: a lien.

STATUTES.

IMPROVEMENT.

1870, c. 115.

Jones' Falls to be improved.

1. The Mayor and City Council of Baltimore are hereby authorized and empowered to make such improvements in connection with Jones' Falls as in the judgment of the Mayor and City Council of Baltimore are desirable; and for this purpose to change the course, lines and boundaries of the said stream, in whole or in part; to widen and deepen the same; to lay out and construct on the sides of and adjacent to the said stream, streets, avenues and wharves; to construct all such sewers and drains in said city as shall be deemed requisite in connection with the said improvement; and generally to do all such things and exercise all such powers as, in the judgment of the said Mayor and City Council of Baltimore, shall be necessary to be done and exercised for the accomplishment of any plan or plans for the improvement of Jones' Falls, which have been or may be adopted by the said Mayor and City Council of Baltimore.

Ibid, s. 2.

Mayor, &c., may acquire necessary property.

2. The Mayor and City Council of Baltimore shall have the power at any time to acquire all property of every kind and description which it may be necessary or advisable, in the judgment of the said Mayor and City Council of Baltimore, to acquire for the accomplishment of the purposes mentioned in the first section of this act, and shall moreover have full power to provide for the ascertainment of the value of all property, and rights of property, which it is thus authorized to acquire; and also to ascertain whether any and what amount, in value, of damages will be caused by the construction of the aforesaid works of improvement in connection with Jones' Falls, or any of them, to the owner or possessor of any property, or rights of property, within the said city, for which said owner or possessor ought to be compensated; and also to

May assess damages and benefits.

ascertain what amount of benefits will be caused by the construction of the aforesaid works of improvement, or any of them, to the owner or possessor of any property, or rights of property, within the said city, for which such owner or possessor ought to pay a compensation; and to provide for assessing and levying, either generally on the whole assessable property of said city, or specially on the property of persons benefitted, the whole or any part of the amount of damages and expenses which shall be ascertained will be incurred in constructing such works in connection with the improvement of Jones' Falls as the said Mayor and City Council of Baltimore have

Other powers.

determined or shall determine to make; to provide for granting appeals to the Baltimore City Court from the decisions of any commissioners, or other persons appointed in virtue of any ordinance; to ascertain the value of the property which the city may wish to acquire for the purposes aforesaid, or the damages which will be caused, or the benefits which will accrue by the construction of the aforesaid works of improvement; and to secure to every owner or possessor of any property, or right to property, which the said Mayor and City Council thus purpose to acquire, or which may be thus decided to be damaged or benefitted, the right, on application within a time to be prescribed by any ordinance of said Mayor and City Council, to have decided by a jury trial the true value of the property proposed to be acquired for the purposes aforesaid, and whether any and what damage will be caused, or any and what benefit will accrue to the owner or possessor of the property so assessed for damages and benefits respectively; and further, to provide for collecting and paying over the amount of compensation adjudged to each person entitled, or investing it in stock of the said corporation, bearing not less than five per cent. interest for the use of the person so adjudged to be entitled to the same, and to provide for the collection by sale of the property assessed or otherwise of all sums assessed as benefits as aforesaid, and generally to enact and pass all

ordinances, from time to time, which shall be deemed necessary and proper to exercise the powers and effect the objects for the exercise and accomplishment of which this act is passed.

Ibid, s. 3.

3. The Mayor and City Council are hereby authorized and empowered to define and locate the limits of Jones' Falls within the city of Baltimore, and to acquire by purchase or condemnation, under proceedings for which provision is made in the second section of this act, the absolute and exclusive right and title to all the land and rights of property embraced within the said limits; and in the ground covered by all streets or avenues which the said Mayor and City Council shall lay out and condemn on the sides of said stream, the said Mayor and City Council of Baltimore shall have an estate in fee simple; and the said Mayor and City Council of Baltimore shall have power, and it is hereby authorized to construct wharves or quays along the margin of said stream, or use the said streets and avenues for wharf or quay purposes, and collect tolls and wharfage from all vessels or boats using the same.

Limits of Jones' Falls to be defined.

Title to land.

Wharves, &c.

Ibid, s. 4.

4. The Mayor and City Council of Baltimore are authorized and empowered to make such changes in the grades of the streets in the city as shall, in the judgment of the said Mayor and City Council, be necessary and requisite for the proper construction of the works connected with the improvement of Jones' Falls, which said Mayor and City Council may determine to construct; and it shall not be necessary, in order to make such changes in the grades of said streets, to obtain the assent of any of the proprietors of the ground fronting on said streets, or affected by such changes.

Mayor, &c., may change grades of streets.

Ibid, s. 5.

5. The Mayor and City Council of Baltimore are hereby authorized to make such provisions as to them shall seem best, for defraying the cost of the grading and paving of any streets or avenues which they may lay out and condemn along the margin or sides of said Jones' Falls.

May provide for expenses.

Ibid, s. 6. What sections not applicable hereto.

6. None of the provisions of Article IV. P. L. L., in reference to constructing sewers and opening and paving streets in the city of Baltimore, [Art. XLIV, and XLVII,] shall apply to the construction of the sewers, and to the opening and paving of the streets and avenues, for which provision is made in this act, save in so far as the said provision may be made applicable thereto by an ordinance or ordinances of the Mayor and City Council of Baltimore passed for that purpose; and provided further, that no appeal shall lie from the decisions of the Baltimore City Court in proceedings in said court under this act.

Proviso.

Ibid, s. 7. Ordinances confirmed.

7. All of the provisions of an ordinance of the Mayor and City Council of Baltimore, entitled An ordinance to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, approved January 31st, 1870, [No. 12,] shall have the same force, effect and operation, and be in all respects as valid, as if the said ordinance had been passed after the approval of this act, or had been passed after the enactment of a law by the General Assembly of Maryland authorizing and empowering the Mayor and City Council of Baltimore to pass such an ordinance.

STOCK.

1870, c. 113. Authority to issue bonds.

8. The Mayor and City Council of Baltimore are authorized to issue bonds to an amount not exceeding two millions five hundred thousand dollars, from time to time, as the same may be required in the course of the construction of the works connected with the improvement of Jones' Falls, for the construction of which provision is made by the ordinance of the Mayor and City Council of Baltimore, entitled An ordinance to provide for the improvement of Jones' Falls, within the limits of the city of Baltimore, and to open avenues and construct sewers on the borders thereof, the said bonds to be issued in sums of not less than one hundred dollars each, redeemable in thirty years, and bearing interest of six per

centum, per annum, payable quarterly, transferable as other city bonds, as provided in sections one and two of an ordinance of the Mayor and City Council of Baltimore, entitled An ordinance to authorize the issuing of the bonds of the city of Baltimore for the purpose of providing means for the improvement of Jones' Falls, approved January 31st, 1870, [No. 12,] provided, that said bonds shall not be issued unless the said last mentioned ordinance shall be approved by the votes of a majority of the legal voters of the said city, cast at the time and places provided for in the said last mentioned ordinance. [See p. 553, *post.*] Ordinances. Proviso.

9. The Mayor and City Council of Baltimore are hereby authorized to issue bonds to an amount not exceeding one million five hundred thousand dollars, in addition to the amount of two million five hundred thousand dollars heretofore provided for; the issue of said additional bonds to be made on the terms and conditions and in pursuance of the provisions of an ordinance of the Mayor and City Council of Baltimore, entitled An ordinance supplementary to an ordinance entitled an ordinance to authorize the issuing of the bonds of the city of Baltimore for the purpose of providing means for the improvement of Jones' Falls, approved January 31, 1870, being No 12, and to authorize an additional issue of one million five hundred thousand dollars for the same purpose, approved 1874. 1874, c. 179, s. 1. Authority to issue additional bonds. Ordinances.

10. Such portion of the bonds of the two million five hundred thousand dollars issue authorized by the Act of Assembly to which this is a supplement, as have not already been issued, may be issued as registered or coupon bonds, on the terms and conditions and in pursuance of the provisions of the above recited ordinance, approved 1874, in relation thereto.* Ibid, s. 2. Registered or coupon bonds.

*The above recited ordinance was submitted to the voters of the city, April 21, 1874, and rejected.

WALLS.

1864, c. 163.

Owners of property binding on Jones' Falls to build walls.

11. The Mayor and City Council of Baltimore may, whenever they deem it necessary, compel any individuals, companies, or bodies politic, owning property binding on Jones' Falls, within the limits of the city, to wall up such property, so far as the same may bind on the falls, with a good and sufficient stone wall, to such height as in their judgment the public good may require, and to have the same backed up or filled in with earth, so as to secure the same and the adjacent property from danger of being inundated with water; and the said Mayor and City Council may, whenever they deem it necessary, compel any individuals, companies, or bodies politic,

Rebuilding or repairing walls.

to rebuild or repair, in a good and sufficient manner, any stone wall owned by them and binding on Jones' Falls, within the city limits; and should any individuals, companies, or bodies politic, neglect or refuse to wall up Jones' Falls, rebuild or repair any such wall within the limits of the City of Baltimore, when required so to do by the Mayor and City Council, the said Mayor and City Council may cause the same to be done; and they are hereby authorized and empowered to recover the

Costs.

costs of such wall, rebuilding or repairing, by suit at law, from the party or parties who may have refused or neglected to build, rebuild or repair such wall, and the cost of such wall

Lien.

shall be a lien on the property so walled up or repaired.*

ORDINANCES.

IMPROVEMENT.

No. 131, Nov. 9, 1874.

Regrading, &c., streets in flooded district.

1. The City Commissioner is hereby authorized and required to have regraded, rekerbed and repaved the following herein named streets, comprising all the streets, lanes, alleys and pub-

* The act of 1821, c. 252, on same subject was declared unconstitutional in *Mayor, &c., Baltimore* v. *Lefferman*, 4 Gill, 425. See *Lester* v. *Mayor, &c.*, 29 Md. 419; 38 Md. 229.

lic throughfares within the district flooded by the freshet of Jones' Falls, July 14, 1868, or so much of the same as may be necessary; the grades of the same shall be changed so that the lowest point on those streets shall not be below the heights specified and mentioned on the following named streets, said heights being the number of feet above mean tide, namely: Centre street, between Calvert and Front streets, 21 feet; Franklin street, between Calvert and Holliday streets, 21 feet; Bath street, between Calvert and Front streets, 20½ feet; Pleasant and Hillen streets, between Courtland and High streets, 20 feet; Saratoga street, between Courtland and Gay streets, 18 feet; Lexington street, between Calvert and Holliday streets, 16 feet; Fayette street, between Gay and High streets, 14½ feet; Baltimore street, between Gay and High streets, 13 feet; Swan and Plowman streets, between Centre Market and High street, 12 feet; Second street and Fish Market Space, between Gay street and Jones' Falls, 11 feet; Lombard street, between Commerce and Albemarle streets, 10 feet; Pratt street, 7 feet at Commerce street, 8½ feet at Centre Market Space, and thence to Albemarle street, 9 feet; and the grades of Calvert, Davis, North, Holliday, Gay, Frederick, Harrison and Front streets, Centre Market Space, Mill and Concord streets, and East and West Falls avenues, and all other streets, alleys or public thoroughfares or highways intersecting with the before named streets within the flooded district aforesaid, shall be regraded, rekerbed and repaved as much as may be necessary, to conform to the regraded streets before named. Grades.

2. The Mayor and City Commissioner are hereby authorized to take charge of the improvement of Jones' Falls, and to have the same excavated to its normal depth or original bed; divest the stream of its abrupt curvatures near Centre street bridge, and between Bath and Gay street bridges, at their discretion; to raise the walls of the stream to such a height as they in their judgment may deem essential; to construct the bridges that Ibid. s. 2. No. 4, Nov. 21, '74. Excavation, &c. of Jones' Falls.

span the stream from Madison street, inclusive, to the Basin, all in such manner as to offer no impediment to the passage of the entire body of water that may be contained within the walls of the stream; the said improvement to be commenced prior to the regrading and repaving of the streets, &c.; and the Mayor and City Commissioner are hereby authorized and directed to proceed forthwith with all such work, in such manner as in their opinion shall expedite the same, and, at the least cost, fully protect the interests of the city.

Authority of Mayor and City Commissioner.

Ibid, s. 3.

3. The Mayor and Comptroller shall be empowered to purchase such property or properties as may be required to straighten, if at a reasonable price the same can be obtained; if not, to have the same condemned by the usual processes for condemnation of property for public use, with the right of appeal to the owner or owners to the Baltimore City Court.*

Purchase or condemnation.

Appeal.

* By Ordinance No. 27, March 21, 1876, the Commissioners for Opening Streets were authorized and directed to condemn, for the purpose of improving Jones' Falls, as authorized by Ordinance No. 131, of 1874, such properties as may be deemed necessary to straighten the bed of said falls, according to the plan adopted by the commission under said ordinance, No. 131, and shown on said plan, now in the City Commissioner's office, along the east side of said falls, from a point south of Monument street, at the letter A to B, to C to D, to E to F, south of Hillen street, all in yellow letters, and on the west side of said falls to a point south of Monument street at the letter G to H, to J to K, south of Centre street; and from the point north of Bath street at the letter L to M, south of Hillen street, shown also by yellow letters on said plan; also to condemn such properties as may be deemed necessary for the same purposes on the east side of Jones' Falls, between Hillen and Gay streets; and that they proceed to said condemnation according to the laws for opening streets, so far as the same may be applicable, except that no benefits are to be assessed upon the property holders; and that any person or persons, or body corporate, who may be dissatisfied with the assessment of damages which shall be made by said commissioners, may appeal to the Baltimore City Court, at the time, in the manner, and after like notice by the Register, as provided for in the Baltimore City Code in the condemning and opening streets; and the Register of the City shall perform such duties in relation thereto as are required of him by the ordinance relating to opening and widening streets; the amount of damages as finally awarded to be paid out of the sum appropriated for the improve-

4. A sewer shall be constructed on the west side of the said falls of such dimensions as may be deemed necessary, in the discretion of the City Commissioner. Ibid, s. 4. Sewer.

5. The sum of eight hundred thousand dollars, or so much thereof as may be necessary for the accomplishment of the work herein provided, is hereby appropriated out of the sales of bonds provided for the improvement of Jones' Falls. Ibid, s. 5. Appropriation.

6. The Mayor and City Commissioner may, as to them may be deemed most conducive to the end, proceed in such order as to them may be deemed most expedient to the proper completion of the whole work, so that there may be as little interference as possible with the business operations of the citizens engaged in trade or manufactures in the flooded district. Ibid, s. 6. Powers of Mayor and City Commissioner.

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ment of Jones' Falls under the aforesaid ordinance, No. 131, of 1874, approved November 9th, 1874.

And by Ordinance No. 53, June 29, 1877, for the purpose of enabling the Mayor and City Commissioner to carry out the proposed plan of improvement of Jones' Falls, in conformity with the Act of Assembly of 1870, c. 115, secs. 1 and 7, (pp. 543 and 546, of this Article,) the Mayor and City Comptroller were authorized to purchase so much of the property lying between East Falls avenue, Aliceanna, President and Lancaster streets necessary to widen Jones' Falls, in accordance with the plan agreed upon by the said Mayor and City Commissioner, if the same could be purchased at a price not exceeding thirteen thousand dollars; and provided further, that if the owner or owners of said land would not agree to sell the same for a sum not exceeding said amount of thirteen thousand dollars, then the Mayor and City Comptroller were authorized to have the same condemned by the usual processes for condemnation of property for public use, with the right of appeal to the owner or owners to the City Court; the purchase money for said property to be taken out of the Jones' Falls Improvement Fund.

And by Ordinance No. 2, Dec. 5, 1877, the Mayor and City Council are authorized to purchase all the residue of that lot or parcel of ground bounded by President street on the east, East Falls avenue on the west, Aliceanna street on the north, and Lancaster street on the south, being the remainder of the lot of ground so bounded, the purchase of a portion of which for the improvement of Jones' Falls was authorized and directed by Ordinance No. 53, June 29, 1877; provided, however, that the remainder of the said lot can be purchased for the sum of twelve thousand dollars cash; the purchase money for said property to be taken out of the Jones' Falls Improvement Fund.

Ibid, s. 7.

Preference to home work and material.

7. In the purchase of material needed in the improvement and in the letting of work, preference shall be given to workmen and manufacturers of our own State, when the same can be done on as favorable terms as by dealing with those without the limits of our own State.

Ibid, s. 8.

Surrender of property by owners.

Purchase or condemnation.

Appeal.

8. Any party or parties owning property or having rights to property within what is termed the "flooded district" may surrender the same if it shall be so affected by any change of grade as to prevent its use for its present purposes, and it shall be the duty of the Commissioners for Opening Streets to either purchase the said property for the Mayor and City Council of Baltimore, at an equitable price, or to condemn the same by the usual processes for condemnation of property for public use, with the right to appeal to the owner or owners to the City Court in case of dissatisfaction with any award or awards.

No. 43, Mar. 29, '75.

Plans and proposals for construction of bridges over Jones' Falls.

Contract.

Proviso.

Work to be done by Baltimore mechanics and workmen.

9. The Mayor and the City Commissioner, in the improvement of Jones' Falls, and the City Commissioner, when acting otherwise than as a member of the board for the improvement of Jones' Falls, in the construction of bridges over Jones' Falls, are hereby directed to advertise for plans and proposals for the construction of all bridges over Jones' Falls; said plans to conform to such conditions and specifications as may be deemed essential by said commissioners or commissioner, and set forth in said advertisement, and the contract for building said bridge or bridges shall be awarded to the lowest responsible bidder, in the usual manner; provided, however, that it shall be inserted in the contract, and to be part thereof, to be secured by the bond given, that the aforesaid bidder shall have the work for said bridges done at the city of Baltimore, by mechanics and workmen who at the time of said signing are citizens of Baltimore city, and the work to be done, and all the material that can be furnished, to be by Baltimore contractors.*

*As to bridge over Jones' Falls and tracks of Northern Central Railway at Calvert street and bridge, between Monument street and the railway

10. Whenever there is a prospect of an extraordinary rise in the waters of Jones' Falls, so as to threaten an overflow upon the adjacent property, it shall be the duty of the City Commissioner, upon receiving information to that effect from any of the residents or property holders in that vicinity, to take prompt and active measures, and employ a sufficient force to prevent the obstruction or damming up of the said waters, and to draw on the Register, with the approbation of the Mayor, for the amount of any expenses that may be incurred in any such service.

No. 6, s. 22, Feb. 14, '63. Overflow of falls. Duty of City Commissioner. Register to pay.

STOCK.

11. By ordinance No. 12, Jan. 31, 1870, an issue of bonds to an amount not exceeding $2,500,000 was authorized from time to time, as the same may be required in the course of the construction of the works connected with the improvement of Jones' Falls, for the construction of which provision is made by the ordinances of the Mayor and City Council of Baltimore, the proceeds from the sale of which bonds shall be used for the construction of the said works for the improvement of said Jones' Falls, in the manner provided in the aforesaid ordinances, and for no other purpose whatever.*

Issue to amount of $2,500,000.

12. The said bonds shall be issued in sums of not less than one hundred dollars each, redeemable in thirty years, and bearing interest at the rate of six per cent. per annum, payable quarterly, and transferable as other city bonds.

Ibid, s. 2. How bonds to be issued.

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bridge north of Madison street, see Art. XL, Railroads, sub-title, Northern Central Railway.

*This ordinance was duly submitted to the voters, and approved.

REPEALS.—By ordinance No. 40, May 27, 1874, the ordinance entitled An ordinance supplementary to an ordinance entitled an ordinance to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, and to open avenues and construct sewers on the borders thereof, approved April 24, 1872, No. 51, together with all ordinances supplementary thereto, was repealed.

The ordinances enacted *previously* to and repealed by the passage of or-

WALLS.

No. 70, ss. 1 and 2, May 18, '64. Building, repairing, &c., walls.

13. The City Commissioner is hereby authorized and directed, whenever he shall deem it necessary, to notify the owner or owners of property binding upon Jones' Falls, within the limits of the city, to have the same walled upon the line of said Jones' Falls, with a good and sufficient stone wall, to

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dinance No. 51, approved April 24, 1872, entitled an ordinance supplementary to an ordinance entitled an ordinance to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, and to open avenues and construct sewers on the borders thereof, repealed by this ordinance of May 27, 1874, are: ordinance No. 13, January 31, 1870, to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, and to open avenues and construct sewers on the borders thereof; ordinances No. 101, Nov. 19, 1870, supplementary and amendatory of ordinance No. 13, January 31, 1870; No 33, March 27, 1871, making further provision for the improvement of Jones' Falls and repealing inconsistent provisions of preceding ordinances; No. 67, May 5, 1871, to pay for the survey of Jones' Falls and discontinue the work; No. 105, June 19, 1871, to make further provision for the improvement of Jones' Falls and authorizing the examination of additional plans, and No. 3, Nov. 17, 1871, repealing a section of No. 13, January 30, 1870.

The ordinances enacted *since* the passage of ordinance No. 51, April 24, 1872, and which were repealed by ordinance No. 40, May 27, 1874, are: ordinances No. 113, October 25, 1872, amendatory of sections in ordinance No. 51, April 24, 1872; No. 57, May 7, 1873, supplementary to ordinance No. 51, April 24, 1872; No. 87, July 8, 1873, amendatory of ordinance No. 51, April 24, 1872; No. 90, October 11, 1873, supplementary to ordinance No. 87, July 8, 1873; and also ordinance No. 4, approved February 12, 1874, to authorize the issue of bonds to amount of one million five hundred thousand dollars, which was submitted to the voters and rejected.

DECISION.—Leasehold property in the city of Baltimore belonging to the eastate of W. was condemned by the Board of Commissioners for the improvement of Jones' Falls, pursuant to ordinances of the Mayor and City Council and Acts of Assembly authorizing the improvement. The Board of Commissioners awarded only the sum of $6,666.67, and the administrator of W. being dissatisfied with the award, appealed to the City Court. Upon a trial before a jury, the jury brought in and returned their inquisition and awarded as damages for the property condemned the sum of $10,000. This inquisition was filed in court on November 29, 1873. On December 1st fol-

such height as said commissioner may direct, and to have the same backed up or filled with earth, so as to secure such property from inundation by water, and when the same shall have been walled up wholly or in part, to rebuild or repair in a good and sufficient manner any such stone wall.

14. If any person or persons, or body politic, shall refuse or neglect to have any such wall built, rebuilt, or repaired, as above provided for, within two months after receiving notice from said commissioner, as set forth in the preceding section, it shall then be the duty of said commissioner, and he is hereby authorized and directed to cause such wall to be built, rebuilt, or repaired, as specified in said notice, and the cost thereof

Ibid, s. 3.

Refusal or neglect.

Duty of City Commissioner.

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lowing, the Mayor and City Council of Baltimore filed a motion to set aside the inquisition. This motion was overruled by the court on January 31, 1874, and on the same day "judgment on inquisition" was entered on the docket. On May 16th following, an order for a *fieri facias* on said judgment was filed, but the clerk, under the instructions of the court, refused to issue it. On May 9th a petition was filed praying the court to direct the clerk to issue the *fieri facias* as ordered; and on the same day the Mayor and City Council of Baltimore filed a motion to strike out the docket entry of judgment. Both of these motions were overruled. A demand was made by the administrator of W. upon the Mayor, Register and Comptroller of the City to pay him the $40,000 so awarded him as administrator by the jury, or to invest that amount in city five per cent. stock for his use and benefit, pursuant to the provisions of the ordinance for the improvement of Jones' Falls. This demand was refused. Thereupon the administrator of W. filed his petition asking that a writ of *mandamus* might issue, commanding the Mayor, Comptroller and Register to take all necessary and legal means to pay him the said sum of $40,000, or to invest the amount in city five per cent. stock. The court dismissed the petition.

On appeal by the petitioner it was held:

1. That the judgment upon the inquisition of the jury having been entered inadvertently by the clerk, without authority, ought to have been stricken out.

2. That no authority was conferred upon the court to enter such judgment by the Acts of Assembly or ordinances under which the proceedings were had.

3. That the application for a *mandamus* was properly denied.

Merrick, adm. v. *Mayor, &c., Baltimore*, 43 Md. 219.

Cost, a lien.

shall be a lien upon the property so walled up, repaired, or rebuilt, as aforesaid, to be recovered in due course of law from the owner or owners or body politic, so refusing to build, rebuild, or repair, after notice as aforesaid.*

* By ordinance No. 13, Feb. 8, 1826, the improvement of Jones' Falls was directed to be made agreeably to the lines established by the Commissioners of the City and Wardens of the Port, acting as a board for that purpose, under an ordinance passed July 23, 1818, and the several lines were thereby confirmed for the purpose of giving free passage to the waters of Jones' Falls, and in conformity with an Act of Assembly, passed December session, 1817, vesting in the Mayor and City Council the right to the bed over which the said falls flows, the City Commissioner and Warden of the Port were by said ordinance (No. 13, Feb. 8, 1826,) authorized and required to notify, in writing, any person or bodies corporate, who had encroached on the bed of Jones' Falls, as located in the year 1811, to have such obstructions removed; and if any person or persons, or body corporate, who had so encroached as aforesaid, should not remove or cause to be removed such obstructions, within the space of six months after they had been notified as directed, they were severally made subject to a fine of fifty dollars, and a further sum of twenty dollars for every month thereafter that they neglected to remove such obstruction. The City Commissioner and Warden of the Port were further directed to remove any piles or other obstructions placed in Jones' Falls by any of the city authorities. The City Commissioner was authorized and directed, with the approbation of the Mayor, to notify the owners of the property binding on Jones' Falls, to have the same walled agreeably to the lines afore referred to, with a good and sufficient stone wall, to such height as in their judgment the public good required, and to have the same backed up or filled with earth, so as to secure the adjacent property from danger of being inundated with water, and every person or body corporate who refused or neglected to have the same done within six months after receiving notice from the Board of Commissioners, to forfeit and pay twenty dollars for every week thereafter, until the same was completed. It was further provided by said ordinance, that the authority aforesaid should cause any of the public property binding on said falls to be walled up and filled in so as to correspond with the private improvements by them directed to be made, taking especial care to ascertain that such property belonged to the public before they improved the same, and that it should be lawful for the City Commissioner to cause private property to be secured by a stone wall, when in his opinion an equivalent in ground was given for the same, subject, however, to the approbation of the Mayor.

ARTICLE XXXI.

JURORS.

STATUTES.

1. Judges of Supreme Bench to select list of jurors, and when: number list to contain.
2. Collector to file with clerk of Superior Court list of taxable males: pay of collector for so doing.
3. What clerks of courts to do after list is prepared: sheriff or his deputies to attend: their duties.
4. Penalty for frauds relating to drawing.
5. Sheriff to summon twenty-three men as grand jurors.
6. Twenty-five first in order on list to serve in Superior Court.
7. Baltimore City Court.
8. Court of Common Pleas and Baltimore City Court.
9. Criminal Court.
10. Names drawn to be entered in books: books to be certified by judges, and called jury books.
11. Where books to be deposited: sheriff to summon juries drawn for each court.
12. Duty of sheriff when juror drawn disqualified.
13. Petit jurors, how long to serve: how and for what to be excused: penalty for non-attendance.
14. Summoning talesmen: duty of sheriff.
15. When talesmen to be summoned from regular panels of other courts: in such case, so many regular panels to be exchanged: how long exchange to continue.
16. Jury lists, how revised and kept up: juror exempt for two years after service.
17. Special juries to be summoned from jury lists.
18. Penalty on sheriff.
19. Any two judges may act.
20. State's Attorney may challenge five jurors peremptorily.
21. Grand Jury to visit jail.
22. Provisions construed: neglectful officers: proviso: penalty.

PAY, &C.

23. Pay and mileage of jurors.

EXEMPTION.

24. Certificates of membership of militia company: honorary members: certificate: exemption from jury duty: proviso.

ORDINANCE.

1. Clerks of courts to furnish names of jurors to Register.
2. Certificate to be presented to Register: Register to pay amount.

STATUTES.

P. L. L., art. 4, sec. 601; 1867, c. 401, s. 4.

Judges of Supreme Bench to select list of jurors, and when; number list to contain.

1. The judge of the Superior Court of Baltimore City, the judge of the Court of Common Pleas, the judge of the Baltimore City Court, the judge of the Circuit Court of Baltimore City, and the judge of the Criminal Court of Baltimore, shall meet at such place in the city of Baltimore as the said judges shall appoint, on such day in the month of March in each and every year, as the said judges shall agree upon; and it shall be the duty of the said judges meeting as aforesaid, at such meeting, or at such adjourned meeting, as they shall hold for the purposes hereinafter mentioned, in the month of March of each and every year as aforesaid, to select the names of seven hundred and fifty persons, qualified under the law of this State to serve as grand and petit jurors in said city.*

Ibid, sec. 602.

Collector to file with Clerk of Superior Court list of taxable males.

2. In order to assist the said judges in making out the list of jurors aforesaid, the collector of taxes of the city of Baltimore shall, before the first day of February in each and every year, lodge with the clerk of the Superior Court of said

* Where there was no meeting of the judges, or a majority, or any two of them, in March, 1866, or at any time afterwards, for the purpose of making the selection required by the above law, but one of the deputy clerks of the Superior Court formed the list from persons on the list of the former year, who had not served as jurors, he making up the requisite number from a list furnished by the city collector, and the list so made by him he presented, *seriatim* and separately to the judges in their respective court rooms, and without any very particular examination, it was approved and adopted by them *separately*, and without consultation with each other; and from such list a grand jury was selected.

It was held a fatal defect, and that no body of men assembled as these were, without, (as the requirements of the jury law had not been complied with,) authority of law, have the right to act as a grand jury; and in this case the final judgment of conviction of the prisoner was reversed. To guard for the future against the fatal consequences of neglect, from any cause, to pursue the strict requirements of this jury law, the act of 1867, c. 269, (sec. 22 of this article) was passed. This last law has qualified the construction of the jury law by declaring that the provisions thereof shall be construed merely as directory. *Clare* v. *State*, 30 Md. 163.

city, for the use of said judges, a certified list of all the taxable male inhabitants of the said city, setting out their names and places of residence, so far as the same may be ascertained; and the said collector shall receive for such service, a compensation to be fixed by said judges, and shall be paid as jurors are paid.

Pay of Collector for so doing.

3. The said judges having prepared the said list, shall require the clerks of the several courts of Baltimore city, or a majority of them, to meet in such one of the court rooms of the said city, at such time as they shall appoint, not less than ten days before the beginning of the May term of the Superior Court of Baltimore City, and the names selected by the said judges shall be inscribed upon ballots, which shall be of equal size, color and appearance, and shall be closely folded, and shall be placed in a box prepared for that purpose by the clerks themselves. And the Sheriff of Baltimore City, or such of his deputies as he shall designate, shall attend before the said clerks, and it shall be the duty of the said Sheriff, or his deputy as aforesaid, in the presence of the said clerks and such other persons as may choose to attend court, to draw one by one, all the ballots contained in the said box, and as the said ballots are drawn, the names appearing thereon shall be duly recorded in the order in which they shall be drawn by the said clerks, or under their personal direction and inspection, by some person to be appointed by the judges aforesaid.

1865, c. 44.

What clerks of courts to do after list is prepared.

Sheriff or his deputies to attend.

Their duties.

4. Any officer, deputy, or person whatsoever, who shall fraudulently mark, or designate, or open, or leave open, or cause or knowingly permit to be marked or designated, or opened, or left open, any ballot or ballots for jurors, which shall be prepared for the purpose of being drawn under this article, or who by any fraudulent contrivance, device, or collusion whatsoever, shall prepare, or arrange, or cause or knowingly permit to be prepared or arranged, any ballot or ballots aforesaid, so that the same or any thereof may be

1861, c. 51, ss. 2, 3

Penalty for frauds relating to drawing.

known or recognized in the drawing thereof, or for the purpose of their being so known or recognized; and any person or persons who shall in any way fraudulently or collusively deal, or conspire, or contrive to deal with the ballots aforesaid, or any of them, or the drawing thereof, or with the preparation or folding of said ballot or ballots, or with the wheel aforesaid, so that the fair operation and lawful and impartial execution of the provisions of this article, in regard to the selection of jurors in the city of Baltimore, shall be knowingly prevented or interfered with, or with intent to interfere with or prevent the same, or permit or allow the same to be interfered with or prevented, shall be guilty of felony, and upon conviction thereof shall be sentenced to be confined in the penitentiary for a term of not less than one nor more than three years. Nothing in this section shall be held to affect the liability of any person or persons for any forfeiture imposed by section 18, hereinafter, of this article.

1864, c. 106.

Sheriff to summon twenty-three men as grand jurors.

5. The Sheriff of Baltimore City shall, before each term of the Criminal Court of Baltimore, summon twenty-three persons from the list prepared by the judges to serve as grand jurors for the ensuing term of said court.

1864, c. 106.

Twenty-five first in order on list to serve in Superior Court.

6. The twenty-five names first in order on the said list shall constitute the jurors for the Superior Court of Baltimore City for the three weeks to ensue after the commencement of the next term of the said court.

Const., art. 4, s. 28; 1867, c. 401, s. 4.

Baltimore City Court.

7. The twenty-five names next in order on the said list shall constitute and be the jurors for the Baltimore City Court for three weeks to ensue after the commencement of the next term of the said court.

P. L. L., art 4, sec. 606.

Court of Common Pleas.

8. The twenty-five names next in order on the said list shall constitute and be the jurors for the Court of Common Pleas for the three weeks to ensue after the commencement of the next term of the said court.

9. The twenty-five names then next drawn on the said list shall constitute and be the jurors for the Criminal Court of Baltimore for the three weeks to ensue after the commencement of the next term of the said court. P. L. L., art. 4, sec. 607. Criminal Court.

10. After all the names in the box are drawn, it shall be the duty of the said judges to cause the names of the said several panels and the names of the other persons drawn as aforesaid, to be entered in six several books, in the order in which the said panels and the names as aforesaid were drawn as aforesaid; and the said books shall be certified by the said several judges to be true copies of each other, and shall be denominated jury books for Baltimore city. Ibid, sec. 608. Names drawn to be entered into books. Books to be certified by judges and called jury books.

11. When the said jury books are prepared and certified, as directed in the foregoing section, it shall be the duty of the said judges, or a majority of them, to cause one of the said books to be deposited in the custody of the clerk of the Superior Court of Baltimore City; one in the custody of the clerk of the Court of Common Pleas; one in the custody of the clerk of the Baltimore City Court; one in the custody of the clerk of the Criminal Court of Baltimore; and one in the custody of the Sheriff of Baltimore City; and one shall be retained by the said judges, or by such one of their number as they shall appoint, for the purpose of verifying the lists of persons so delivered as aforesaid to the clerk as aforesaid, or to the Sheriff of Baltimore City; and when the said book is delivered to him—the said Sheriff of Baltimore—he shall immediately summon the several jurors drawn for the several panels named in the said book, to serve in the court for which they have been respectively drawn, at such time as shall be designated by the court. Ibid, sec. 609. 1867, c. 401, s. 4. Where books to be deposited. Sheriff to summon juries drawn for each court

12. If any of the jurors so set down on the lists as aforesaid shall be legally disabled or excused from attending, the sheriff, on being notified thereof, shall complete the said panel Ibid, sec. 610. Duty of Sheriff when juror drawn disqualified.

or panels in which jurors are needed, by summoning in the stead of such juror or jurors, the persons whose names are set down in the said jury book next after the regular panels as aforesaid; and he shall summon such person or persons in the order in which they are thereupon set down, and not otherwise.

Ibid, sec. 611.

Petit jurors, how long to serve.

13. Every petit juror sworn upon any special panel shall continue to serve thereon until discharged by the court, notwithstanding the expiration of his term of three weeks, aforesaid; but no one summoned as a juror shall be excused from service except in open court, on good cause shown to the satisfaction of the court; and if any juror summoned, and not excused, shall fail to attend the said court until duly discharged, he shall be fined, for the use of the said city, not less than twenty, nor more than two hundred dollars, to be recovered by attachment, or such other appropriate process as the said court may direct.

How and for what to be excused.

Penalty for non-attendance.

1868, c. 175.

Summoning talesmen. Duty of Sheriff.

14. If at any trial of any cause in any of the said several courts as aforesaid, tales *de circumstantibus* shall be ordered, it shall be the duty of the sheriff to summon as such talesmen those who are entered in said book, and who are not upon the regular panels as aforesaid, and such talesmen shall be summoned and called to be sworn or affirmed on their *voir dire*, or otherwise, in the order in which their names are set down on the said jury book, unless the said sheriff, or his deputy in that behalf, shall swear that he has made true and diligent search for such persons as do not appear, and that they cannot be found; or unless, being summoned, such persons have failed to appear; in that event, such of the talesmen as have been properly summoned and have appeared, shall be called to be sworn in the order in which their said names are recorded in the jury book aforesaid, or whenever, in the Superior Court of Baltimore City, the Court of Common Pleas, or the Baltimore City Court, it shall be necessary to

summon talesmen, the judges of the said courts respectively, instead of or in addition to resorting to the foregoing provisions of this section for the summoning of talesmen, may order the sheriff to summon as such talesmen, any of the jurymen in attendance upon either of the other of the said courts who may not then be engaged as part of any special panel.

P. L. L., art. 4, sec. 613. When talesmen to be summoned from regular panels of other courts. In such case so many regular panels to be exchanged

15. If it should so happen that the said lists of persons competent to act as jurors, other than the regular panels as aforesaid, should at any time be exhausted as talesman, it shall also be competent for the sheriff to summon as talesmen any of the regular panels in any of the other of said courts in Baltimore city who may be at the time of such summons not engaged as part of any special panel in any of the said courts; but it is herein provided that whenever any part of the regular panel of any court shall be by the sheriff as aforesaid summoned to attend in any other as talesmen, jurors of the regular panel of the court in which talesmen are required, or so many of them as shall be needed, shall be by the said sheriff notified to attend in the courts from which regular jurors have been withdrawn; and the said jurors shall attend accordingly in the said courts until the regular jurors of said court are discharged from the court in which they shall be required to serve as talesmen as aforesaid.

How long exchange to continue.

Ibid, sec. 614. Jury lists, how revised and kept up.

16. It shall be the duty of the judges aforesaid to assemble on the fourth Monday of the May term of the Superior Court of Baltimore as aforesaid, and thereafter from three weeks to three weeks during the said term, and also ten days before the commencement of each of the regular terms of the Superior Court as aforesaid during each year, and at such meetings the said judges shall cause the said Sheriff of Baltimore City to attend as in this law hereinbefore provided; and the said judges, or a majority of them, shall then cause the names of those who have served on the regular panels of the courts afore-

said to be stricken from the jury lists, and the said persons shall not be liable to serve again as jurors for the period of two years, reckoning the said two years from the said preceding second Monday in May as aforesaid; and the said judges shall then add to the said jury list such number of names as shall make up the whole number of seven hundred and fifty names; the said additional names to be drawn by the sheriff, or his deputy, from a list thereof to be made by the judges, as provided in section 2, and to be added to the prior list, and recorded in the order in which they shall be drawn; and then from the said whole number the panels shall be taken for the Superior Court, Court of Common Pleas, City Court, and Criminal Court, in the manner heretofore provided in this law; and all the regulations prescribed by this law for the government of the said judges, and of the sheriff, or his deputy as aforesaid, in reference to jurors, shall apply to all grand or petit jurors to be thereafter selected and summoned for the said city during the year aforesaid, and the jury books hereinbefore directed to be prepared shall be corrected and certified by the said judges as corrected, and be preserved as hereinbefore directed.

Juror exempt for two years after service.

Ibid, sec. 615.

17. All special juries authorized by law to be summoned shall be summoned by the Sheriff of Baltimore City, from those whose names may be inscribed in the jury book as then revised.

Special juries to be summoned

Ibid, sec. 616.

18. If any Sheriff of Baltimore City, or any deputy thereof, shall wilfully violate the provisions of this article relating to juries, the said sheriff shall forfeit the sum of one thousand dollars, which shall be recovered by civil action in the name of the State against the sheriff and the sureties on his bond in that behalf, and one-half of the penalty shall be paid to the informer, who shall be a competent witness.

Penalty on Sheriff.

Ibid, sec. 617.

19. Any two of the judges named in section 1 of this article may constitute a quorum at any meeting held under

Any two judges may act.

the provisions of this article, and may exercise all the powers hereby reposed in the said judges.

20. In all criminal cases in which the person indicted has or may have the right of peremptory challenge, the State's Attorney shall have the right to challenge peremptorily any number of jurors not exceeding five. Ibid, sec. 618. State's Attorney may challenge five persons peremptorily.

21. The grand jury shall at each term of the court visit the jail, and inquire into its condition, the manner in which it is kept and the treatment of the prisoners, and report the same to the court. P. L. L., art. 50, sec. 18. Grand jury to visit jail.

22. All the provisions of this article relating to the mode of drawing and summoning jurors shall be construed as directory merely, and no indictment or presentment for any felony or misdemeanor shall be quashed, nor shall any judgment upon any indictment or presentment, whether after verdict, by confession or otherwise, be stayed or reversed, nor shall any challenge to the array of jurors be allowed because of any failure by the judges, or the clerks, or the sheriff, to comply with the provision of law relating to the drawing of jurors in the city of Baltimore; provided, nevertheless, that if any officer concerned in the drawing of said jurors shall wilfully neglect to perform any duty imposed upon him by law, he shall be liable to indictment in the Criminal Court of Baltimore, and upon conviction shall be fined the sum of one thousand dollars.* 1867, c. 269, s. 3. Provisions construed. Neglectful officers. Proviso. Penalty.

PAY OF JURORS.

23. Jurors shall receive two dollars and a-half per day for each and every day they shall attend the several courts of this State as jurors, and fifteen cents for each mile over five miles for going to and returning from the court once in each term, 1865, c. 78. Pay and mileage of jurors.

As to juries in the Circuit Court, see sec. 16, Art. XIV, Courts, p. 201, *ante*.

to be paid by the counties or city respectively in which such courts are held.

EXEMPTION.

1870, c. 182, s. 22.

Certificates of membership of militia company.

24. All certificates of membership of any legally organized volunteer company of the militia shall be signed by the commanding officer thereof, which certificates shall be issued on or before the first day of April in each year to such persons as may then compose the uniformed and active members of said company; every such company may receive and have as many

Honorary members.

honorary members as it has active and uniformed members, and no more, on payment in advance by each person desiring to become such honorary member, of not less than ten dollars per annum, which said money shall be received by the commanding officer of the company and be by him applied to the payment of armory rent or the purchase of uniforms for the rank and file of the active members of his company, or to such purposes as may be authorized by the by-laws of said company; and the commanding officer of every company shall, on or before the first day of June and December of every year, render to the Adjutant General an account of the money so received and expended by him, and every such honorary mem-

Certificate.

ber shall be entitled to receive a certificate of honorary membership of the company, to be signed as aforesaid, and bearing date at the time of its issue; which certificates of membership, whether of uniformed and active members or of

Exemption from jury duty.

honorary members, shall exempt the person therein named from jury duty, for the period of one year from the date of

Proviso.

his said certificate; provided, he files his said certificate with the clerk of the court before the drawing of the jury.*

*An honorary member of any legally organized volunteer company of the militia of the State, is, by virtue of above sec. 22, of 1870, c. 182, entitled to exemption from jury duty for the period of one year from the date of his certificate of membership, provided the same be filed with the clerk of the court before the drawing of the jury. Sections 584 and 585, [viz: 584. 'All citizens of the United States residing in the city of Baltimore, and between

Article XXXI.—Ordinance.

ORDINANCE.

1. The clerks of the several courts of this city are requested to furnish to the Register of this city, as soon as they can conveniently do so, after the discharge of the jurors, who have

No. 22, Mar. 24, '66.
Clerks of courts to furnish names of jurors to Register.

the ages of 21 and 65, shall be bound when summoned to serve on juries in the courts of said city, except those who are infirm in body or in mind, ministers of the gospel, practitioners of law, practitioners of medicine, teachers of day schools, officers of the general government, civil officers of the State, executive officers of the said city, and members of the General Assembly, and of the City Council, when severally in session. 585. The court to which any juror may be summoned, on application, may excuse such juror if suffering under family affliction, or under a necessity of speedily going abroad, but pressure of engagements, whether of business or of pleasure, is not to be deemed a sufficient justification for being relieved from jury service,] of the Code of Public Local Laws relating to the City of Baltimore, as it was reported by the commissioners to the General Assembly, and adopted by the act of 1860, c. 1, form no part of the existing laws of the State; they having been repealed by implication, by virtue of the act of 1860, c. 308, [sec. 601, &c., P. L. L., art. 4, p. 558, *ante*,] which provided for the selection of jurors for Baltimore city. The words "qualified under the law of this State," as used in sec. 1, of act of 1860, c. 308, [p. 558, *ante*,] refer to the qualification of jurors, prescribed by Art. 50, of the Code of Public General Laws of 1860. *Albert, Sheriff*, v. *White*, 33 Md. 297.

Decision of Brown, C. J., in City Court, May, 1874, in *John Leffler* v. *Jacob Brandt, Jr.* In this case one of the grounds of a motion for a new trial by the defendant is that one of the jurors, although over twenty-one years of age, had not arrived at the age of twenty-five, and that this fact, in proof of which affidavits had been filed, was not known to the defendant or his counsel until after the verdict was rendered. Article 50, section 1 of Code P. G. L., provides that "no person shall be summoned and returned upon a panel as a juror who may not have arrived at the age of 25 years." Section 3 provides that "all persons over 70 years shall be exempt from attendance as jurors." Section 6 enacts that "no sheriff shall summon any person to serve as a juror in any court where he hath knowledge that such person hath any matter of fact depending for trial at the same court, and no person having such matter of fact depending for trial shall be admitted as a qualified juror; and such disqualification shall be allowed as a good cause of challenge; but no verdict of a jury shall therefor be set aside or judgment thereon stayed, arrested or reversed."

The provision as to the age of twenty-five years is taken from the Act of Assembly of 1797, chapter 87, section 5, and that as to the age of seventy

served as such in any of the said courts, a list of the names of such jurors, showing the number of days each juror has attended as a juror, the term in which said service was rendered, and the amount due each juror.

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years is taken from the act of 1858, chapter 139. The provision contained in section 6 is taken from the act of 1715, chapter 37, section 9.

The provision as to the age of seventy years is declared to be an exemption from attendance as a juror, and the disqualification mentioned in section 6 is only a cause of challenge, but not a ground for setting aside a verdict. Is the prohibition contained in section 1 against summoning and returning on a panel a juror who may not have arrived at the age of twenty-five years, such a disqualification as would justify the court in setting the verdict aside on motion? The section itself is not explicit on the point: In *Shane* v. *Clarke*, 3 H. & McH. 101, decided in 1792, the General Court of Maryland, Chase, C. J., being absent, set aside a verdict because one of the jurors had not taken the oath of fidelity to the State directed by the act entitled "An act for the better security of the Government." (1777, c. 20.) No opinion was given by the court and the brief entry is: "Let there be a new trial. A non-juror is totally incapacitated to serve on a jury." But in the case of the *Tide-water Canal Company* v. *Archer*, 9 G. & J. 197, it was in 1839, decided in an able opinion by Magruder and Purviance, J., sitting in Harford County Court, that it is the policy of our statutes regulating the qualifications of jurors to require an objection to a juror to be made by a challenger before he is sworn, and that it can only be taken advantage of in that mode. I shall, therefore, consider the question as an open one in this State, to be settled by the weight of reason and authority. The objection is one of strict law. There is no allegation against the suitableness of the juror in any respect, except in the qualification of age. It was competent for the defendant to have made the proper inquiries, and after having satisfied himself on the subject, to have made the objection before the juror was sworn, but this he neglected to do. He waited until he had lost his case. If a party to a suit may omit to make such inquiries until after a verdict has been rendered against him, and may then set it aside on the discovery and proof of the existence of a good cause of challenge against any one of the jury, it would introduce an additional element of uncertainty in the administration of justice, and lead in many cases to great and unnecessary delay and expense. These considerations are, in my judgment, conclusive, against allowing the motion, unless I should be compelled to do so by a great preponderance of the authorities. But I find on examination that the weight of the authorities, and especially of those of more modern date, is decidedly in favor of sustaining the verdicts of juries against all similar objections. In the *People* v. *Jewitt*, 6 Wend. 386, it was decided by the Supreme Court of the State of New York that it is not a good plea to an indictment that one of the grand jurors who found the same, is not a freeholder. The court say, "this, in a civil

2. On the presentation of a certificate from any of the clerks of the several courts of this city by any juror, or his legal representative, to the Register of the City for payment after the said Register shall have received from the clerk of said court the list of jurors as provided in the preceding section, and it shall appear on examination of said list so received as aforesaid, that the certificate presented for payment is correct, the said Register is hereby authorized and directed to pay such juror, or his legal representative, the amount due as shown by said certificate.*. Ibid s. 2. Certificate to be presented to Register. Register to pay amount due.

case, would not be sufficient ground *per se* for setting aside the verdict of a jury, although the law expressly requires that petit jurors shall be freeholders."

In the case in Massaachusetts of *Amherst* v. *Hadley*, 1 Pick. 38, a juror was drawn more than twenty days before the sitting of the court, contrary to the statute, but the fact did not come to the knowledge of the defendant until after a verdict against him. The court held that this was no cause for setting aside the verdict upon motion, and that it would not sustain a writ of error. The court say: "The ancient cases are more strict in regard to irregularities of this sort, and there is some conflict among the authorities, which is a thing that often happens in matters of practice, as practice is susceptible of continual improvement. The plaintiffs are not to lose all their expense and trouble for an irregularity by which the defendants have not been injured, and which was occasioned by an officer over whom the plaintiff had no control." In the case of *Barnett* v. *Matthews*, 40 Howard, Pr. Rep. 428, it was held in New York that the verdict of a jury will not set aside as irregular because one of the jurors was an alien, an unnaturalized citizen, where the objection was not raised and proper challenge made when the jury was drawn. In such cases the parties are concluded, although the act forming the objection may not have come to their knowledge until after trial; and in the case of the *United States* v. *Baker*, 3 Benedict, 68, it was decided by Blatchford, J., of the District Court of the United States, that nothing that is a cause of challenge to a juror before verdict can be used to set aside a verdict. Where one of the jurors in a criminal trial was deaf, and the defendant was ignorant of the fact when the jury was empanneled, it was held that it was no cause for setting aside the verdict.

* The above ordinance recites the act of 1865, c. 78, sec. 23 of this Article.

ARTICLE XXXII.

LIBRARIAN.

ORDINANCES.

1. Appointment.
2. Duties.
3. Salary: bond.
4. Schedule of stationery and printed matter required for the fiscal year by departments, to be furnished librarian.
5. Librarian to advertise for proposals for stationery and printed matter: contracts.
6. Account of stationery and printed matter furnished departments: report to Mayor and City Council.
7. Not applicable to Commissioners of Public Schools.
8. Appointment of Assistant Librarian: bond: oath.
9. When Librarian *ex-officio*.
10. Salary.
11. Duties of Assistant Librarian: books: contracts: annual statement.

ORDINANCES.

No. 129, Nov. 5, '74. Appointment.

1. A City Librarian shall be annually appointed when and as other city officers are appointed.

Ibid, s. 2. Duties.

2. The said Librarian shall, under the supervision and direction of the Register of the City, take under his charge and keeping all the books and documents of every description, and the archives, records, papers and proceedings of the corporation (except those relating to the titles of City property) now in the possession of the city authorities, or which may hereafter come into their possession, and also all the ordinances, resolutions and proceedings of the City Council after each and every session thereof; and the said Librarian shall arrange and classify, so as easily to be found when needed, all the books,

documents, records, papers, ordinances and resolutions and proceedings hereby placed and hereafter to come under his charge and keeping; and the said Librarian shall furthermore carefully collect and arrange and safely keep a complete series of ordinances and resolutions and proceedings of the Mayor and City Council, and all other books, papers and memorials relating to Baltimore, from its beginning as a town to the present time, and shall continue the same annually; and he shall not permit any book or books, or documents of said series to be taken or removed by any one from the City Library, and he shall permit no other book, document, record or paper of any sort to be taken from the City Library, except by city officers, and then only on a written receipt from such city officer or officers for the same, which receipt shall be written in a book to be kept for that purpose, and shall be duly cancelled on the return of the book, document, record or paper so borrowed; and the said Librarian shall see that no books, documents, records or papers of any sort be lost or mislaid by said city officers; he shall also carefully index in a book, to be kept for that purpose, all the books, documents, records and papers of said library; a room for which shall be provided in the City Hall, and properly furnished for the reception and custody of said library, under the direction of the City Register, City Librarian, and the Superintendant of said City Hall.

3. The salary of the City Librarian shall be fifteen hundred dollars per annum; and he shall give a good and sufficient bond, to be approved by the Mayor and Register, in the sum of five thousand dollars, for the faithful performance of his duties in the premises. Ibid, s. 3. Salary. Bond.

4. Each of the departments of the city government shall, on or before the first day of December in every year, furnish to the City Librarian a schedule of all stationery and printed matter, which may be required for the use of such department for the year commencing on the first day of January thereafter. No. 74, s. 1, May 9, '76; No. 57, June 29, '77. Schedule of stationery and printed matter required for the fiscal year to be furnished Librarian.

Ibid, s. 2.

Proposals for stationery and printed matter.

5. It shall be the duty of the City Librarian, twenty days prior to the first day of January in each year, to advertise for proposals for furnishing all such stationery and printed matter as may be required by the respective departments of the city government for the ensuing fiscal year; no proposals shall be received from any but those actually engaged in the printing and stationery business in Baltimore; such proposals, when received, shall be opened, and the contracts awarded in the manner prescribed by sections 51 to 54 of Article I of this Code; the right to reject any bid that shall not be deemed for the best interest of the city, is hereby reserved. All contracts which may be awarded in pursuance of the provisions of this section shall contain a clause stipulating that any stationery or printed matter which may be required for the use of any department of the city government, over and above the quantity specially designated in said contracts, shall be furnished by the contractors at the same rate charged for articles which are specifically mentioned in said contracts, and if any supplies are required which are not mentioned in said contract they shall be furnished at the lowest market rates.

Contracts.

Ibid, s. 3.

Account of stationery and printed matter furnished departments.

3. It shall be the further duty of the City Librarian to furnish to each of the departments of the city government, from time to time, upon the requisition of the heads of said departments, the stationery and printed matter which may be necessary for the use of said departments, and to keep an accurate account of all supplies which may be so furnished; and he shall annually report to the Mayor and City Council the quantity of stationery and printed matter which he shall furnish to the respective departments during the preceding fiscal year, and the expense of the same.

Report to Mayor and City Council.

Ibid, s. 4.

Not applicable to Commissioners of Public Schools.

7. The provisions of this ordinance shall not be applicable to the Commissioners of Public Schools.

8. The City Librarian, with the approval of the Mayor, is hereby authorized and directed to appoint an assistant, who shall perform such duties of the office as the Librarian shall from time to time prescribe and direct, and for whose acts the Librarian shall be held responsible; the Librarian shall have power to require from said assistant a bond approved by the Mayor, with condition for the faithful performance of his duties, with such penalty and such security as he may deem proper; and before he enters upon the duties of his office, the said assistant shall take the oath prescribed to the officers of the corporation. No. 112, June 10, '76. Appointment of Assistant Librarian. Bond. Oath.

9. In the event of the necessary absence of the Librarian, from sickness or other cause, the assistant, with the approbation of the Mayor, shall have full power and authority to perform all the duties of the Librarian. Ibid, s. 2. When Librarian *ex-officio*.

10. The salary of the Assistant Librarian of the City shall be nine hundred dollars per annum, payable monthly. Ibid, s. 3; No. 41, June 4, '77. Salary.

11. The Assistant Librarian shall attend at the City Library daily from 9 A. M. to 3 P. M., and at such other hours as the City Librarian may require his services; he shall, under the direction of the City Librarian, open a set of books in which shall be entered all requisitions made upon the City Librarian from the different departments of the city government from time to time, and shall charge to each department all books, stationery and printed matter they may receive from said Librarian; he shall keep a correct list of all books, stationery and printed matter in charge of said Librarian; he shall make a record of all bids received for books, stationery and printed matter, and note all bids received and those rejected; he shall copy and file away all contracts made or entered into between bidders and the City Librarian; and annually prepare a general statement of all the transactions of the City Librarian's office. Ibid, s. 4. Duties of assistant. Books. Contracts. Annual statement.

ARTICLE XXXIII.

LICENSES.

STATUTES.

BILLIARDS.

1. Licenses for billiard tables: provisos.
2. Penalty.
3. Right of municipal corporations to impose further tax.

WOOD.

4. Wood hucksters to be licensed: costs.
5. One license not to include more than two persons.
6. Penalty for retailing without license.
7. Masters and owners of vessels excepted.

PEDDLERS.

8. Permit to peddle notions and small wares: stock in trade: revoking permit.

PAWNBROKERS.

9. Licensing and regulating pawnbrokers.

THEATRICAL AND PUBLIC AMUSEMENTS.

10. Licensing, regulating, &c. theatrical, &c., amusements.

DUTY OF SHERIFF.

11. Alphabetical list to be made by Sheriff of Baltimore: to be returned to grand jury: notice to be published: Sheriff's fees.

ORDINANCES.

AMUSEMENTS.

1. Penalty for keeping unlicensed billard tables, &c.: terms of license: tax.
2. Persons applying for license to give bond: Mayor may transfer license: proviso.
3. What games at billiards are lawful.
4. Minors not to be permitted to play at billiards, &c.
5. Nine and ten-pin alleys to be licensed: cost of license: penalty.
6. Assent for same required: proviso.
7. Not to be used after 11½ o'clock at night.
8. Minors not to be permitted to play: penalty.
9. Shuffle boards to be licensed tax: penalty.
10. Theatrical performances to be licensed: penalty: tax for theatrical exhibitions: for circus: for rope dancing, &c.: for live animals: for other exhibitions.

Article XXXIII.—Statutes.

11. Penalty for performing without license.
12. Payment in lieu of license.
13. Balls: penalties.
14. Licenses for balls.
15. Musical parties regulated: concerts for charitable purposes.
16. Penalty for defacing bills descriptive of performance.
17. Mayor authorized to refuse or revoke license.
18. City Solicitor to institute proceedings.

DOGS.

19. Not to go at large without licensed number.
20. Amount of license.
21. Persons may be appointed to destroy dogs: dogs destroyed, how to be disposed of: compensation.
22. Dogs running at large during certain months: how disposed of: provisos.
23. Licensed dogs to be muzzled: penalty.
24. Penalty for removing a licensed collar or muzzle.
25. Execution of ordinance.
26. Powers of Mayor when complaints are made against troublesome dogs: penalty.
27. Poisoned meat, &c., not to be thrown in streets.
28. Appropriation.

PAWNBROKERS.

29. Mayor to grant license: license: term.
30. Who may be pawnbrokers, and where.
31. Bond.
32. Powers of pawnbrokers.
33. Deposits.
34. Charges: books.
35. Form of action on bond.
36. Duty of Register and city officers.
37. Not to sell spirituous liquors: Mayor may revoke license.
38. Fines and penalties.

SELLING IN STREETS.

39. Mayor authorized to grant licenses to sell certain articles on footways.
40. Oranges, &c., not to be sold without license: penalty.
41. Extent of license: penalty.
42. Notice to be given: proviso.

STATUTES.

BILLIARDS.

1. A license may be granted to any person who may apply for permission to keep a billiard table, for which license there shall be paid the sum of fifty dollars, and for every additional billiard table kept by the same person or persons, he, she or they shall pay a license of twenty-five dollars; *provided*, that all said additional tables shall be kept in the same apartment; *provided*, that this act shall not apply to any billiard table kept for private use.* 1870, c. 250. License for billiard table. Provisos.

*An incorporated club, owning and keeping a billiard table, at which members and strangers play at a charge of six and a quarter cents per game,

1865, c. 56. Penalty.

2. Any person or persons keeping or exhibiting for use a billiard table or tables, without first obtaining a license therefor, shall for each and every table so kept or exhibited, forfeit and pay the sum of five hundred dollars, one-half to the informer and the other half to the State.

P. G. L., art. 56, sec. 8. Right of municipal corporations to impose further tax.

3. Nothing herein contained shall impair the rights of the corporations of the cities of Baltimore, Annapolis, Frederick, or the commissioners of any incorporated town in this State, to impose a further tax on billiard tables.

WOOD.

1862, c. 173. Wood hucksters to be licensed. Costs.

4. The clerk of the Court of Common Pleas may issue licenses to retail and huckster wood on any of the wharves in the city of Baltimore, upon the payment of one hundred dollars for the use of the State.

P. L. L., art. 4, sec. 948. One license not to include more than two persons.

5. Not more than two persons shall be included in any one license, and the names of both shall be expressed therein, and such license shall be annually renewed.

1862, c. 173. Penalty for retailing without license.

6. No person shall retail or huckster wood on any wharf in the city of Baltimore under a common trader's license, or without having first obtained a license for said purpose, as provided in the preceding two sections; and any person so offending shall be fined one hundred dollars, one-half for the use of the State and the other half for the use of the person who shall prosecute for the same.

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to be paid by the members only, which charge, however, does not defray the expense of keeping the table, is liable to the above tax. *The Germania* v. *The State*, 7 Md. 1.

A license required to be obtained by the payment of money is a tax. *Lucas* v. *Lottery Commissioners*, 11 G. & J. 490; *McEvoy* v. *Mayor, &c. Balt.* 3 H. & J. 193.

7. Nothing contained in the preceding sections shall prevent masters and owners of vessels from selling or retailing wood without a license.* P. L. L., art. 4, sec. 950. Masters and owners of vessels excepted.

PEDDLERS.

8. The Mayor of Baltimore may grant a permit to such number of poor persons as to him may seem proper to peddle, within the limits of Baltimore city, notions and small wares without a license; provided, that the stock in trade of any such peddler shall not exceed twenty-five dollars in value, and provided, that said Mayor may at any time revoke any such permit. 1878, c. 414. Permit to peddle notions and small wares. Stock in trade. Revoking permit.

PAWNBROKERS.

9. The Mayor and City Council have power to pass all ordinances to provide for the licensing and regulating pawnbrokers within the city of Baltimore.† P. L. L., art. 4, sec. 27. Licensing and regulating pawnbrokers.

THEATRICAL AND PUBLIC AMUSEMENTS.

10. The Mayor and City Council have power to provide for licensing, regulating or restraining theatrical or other public amusements within the city of Baltimore.‡ P. L. L., art. 4, sec. 906. Licensing and regulating theatrical, &c., amusements.

* See p. 326, *ante*.

† The following is added to Article 56 of the Code of Public General Laws by the act of 1874, c. 256:

Any person applying for the same and paying the sum of one hundred dollars may obtain a license to carry on the business of a pawnbroker. If any individual, co-partnership or firm shall use or exercise the business or occupation of a pawnbroker, without having procured a license as required by this act, he shall be subject to a penalty of five hundred dollars for each offence, one-half for the use of the State and the other half to the informer.

By act of 1874, c. 231, the Clerk of the Court of Common Pleas is allowed two *per centum* commission for receiving and paying over public moneys received for licenses, fines or otherwise; the clerks of the other courts of the State are allowed five *per centum*.

‡ See Theatrical Exhibitions, Art. LI.

NOTE.—The following decision of Supreme Court U. S. reverses the decision of the Court of Appeals of Md. in 31 Md. 279.

A statute of Maryland required all traders resident within the State to

DUTY OF SHERIFF.

1866, c. 151.

Alphabetical list to be made by Sheriff of Baltimore.

11. It shall be the duty of the Sheriff of Baltimore City, annually, in the month of April, to make, or cause to be made, an alphabetical list of the names of all the persons, or bodies corporate, or politic, in each ward of the city of Baltimore, who shall be exercising or pursuing any business, or be doing any act or thing, or shall be in the use or occupation of any house or place, for any purpose for which a license is made necessary by Article 56 of the Code of Public General Laws, and to

To be returned to grand jury.

return such list to the grand jury of said city at as early a period as practicable after the first day of May then next ensuing; and the said sheriff shall, within the first week of the

Notice to be published.

month of April, cause a notice to be inserted in the daily papers of the city, cautioning all persons and bodies corporate or politic whom it may concern to obtain a license or renew the same on or before the first day of May then next ensuing;

Sheriff's fees.

and said sheriff shall be entitled to and receive twenty-five

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take out licenses, and to pay therefor certain sums regulated by a sliding scale of from twelve dollars to one hundred and fifty dollars, according as their stock in trade might vary, from one thousand to more than forty thousand dollars. The statute also made it a penal offence in any person not being a permanent resident in the State [see 1868, c. 413] to sell, offer for sale or expose for sale, within the limits of the city of Baltimore, any goods, wares or merchandise whatever other than agricultural products and articles manufactured in Maryland, either by card, sample or other specimen, or by written or printed trade-list, or catalogue, whether such person be the maker or manufacturer thereof or not, without first obtaining a license so to do, for which license [to be renewed annually] a sum of three hundred dollars was to be paid. Held, that the statute imposed a discriminating tax upon non-resident traders trading in the limits mentioned, and that it was *pro tanto* repugnant to the Federal Constitution, and void. *Ward* v. *Maryland*, 12 Wallace, 418.

In *State* v. *McCarty*, in Criminal Court, May 10, 1876, Gilmor, A. J., held that: Since this decision of the Supreme Court, section 41 of Art. 56 of the P. G. L. applied to the case of non-resident traders in this State, and that under this section a non-resident was on the same footing as a resident trader, and was required to take out license.

cents for every license obtained by any person whose name shall be contained in the list or lists so returned by him, to be paid by the party applying for each license; but the failure of said sheriff to give the notice herein directed shall not excuse any neglect to obtain a license, as required by the Public General Laws.

ORDINANCES.

AMUSEMENTS.

No. 36, s. 5, R. O.; No. 10, Apl. 9, '67; No. 27, Apl. 5, '66; No. 46, July 2, '60.

1. No billiard table, rondo table, or bagatelle table, shall be erected, set up, kept, or in any respect whatever used for the purpose of either gaming or entertainment within the city, without a license for that purpose previously obtained from the Mayor, under the seal of the corporation, under a penalty not exceeding twenty dollars for each and every day that such billiard table, rondo table, or bagatelle table, may have been set up, kept, or erected, without license; and every license granted as aforesaid shall be expressed to be only for the term of one year from the date thereof; and for every license for the keeping of a billiard table, rondo table, or bagatelle table, that shall or may be granted under this ordinance, the person obtaining the same shall forthwith pay or secure to be paid to the Comptroller, for the use of the corporation, the sum of twenty-five dollars for each billiard table, twenty-five dollars for each rondo table, and twenty-five dollars for each bagatelle table, which shall be in lieu of every other tax imposed upon such tables by the corporation.

Penalty for keeping unlicensed billiard tables, &c.

Terms of license.

Tax.

No. 36, s. 6, R. O.

2. Before any such license shall be granted, the person or persons applying for the same shall give bond to the Mayor and City Council of Baltimore in the sum of three hundred dollars in the case of billiard tables, and one hundred dollars in the case of bagatelle tables, with security to be approved by the Mayor, conditioned for the allowing to be played upon such table such game or games only as are or shall be permit-

Persons applying for licenses to give bond.

ted by the ordinances of the city, and also for the absolute prohibition of every other game or games whatever; and the

Mayor may transfer license.

Mayor shall, or may when thereto required, transfer or assign such license for the residue of the term for which it may have

Proviso.

been granted; provided, he shall consider the proposed assignee to be a fit person to have such license, who shall also give bond as aforesaid; and if the Mayor shall, by proper and competent testimony, be satified that any billiard table or bagatelle table license as aforesaid shall be used or employed contrary to the ordinances of the city, he shall thereupon have the right and authority to revoke such license; and the person licensed to keep such table shall, moreover, be liable to such fine or fines as this or any other ordinance of this city imposes on such offence.

Ibid, s. 7.

What games at billiards are lawful.

3. Every game or games played upon billiard tables shall be deemed and considered unlawful, and are hereby prohibited, except only the game played with two balls, the game played with three balls, the game played with four balls, and the game commonly called pool, such being the usual games of billiards.

No. 31, May 10, '69.

Minors not to be permitted to play at billiards, &c.

4. It shall not be lawful for any person or persons who may have a permit or license to erect or keep a billiard saloon, or billiard table, as mentioned in the preceding sections, to allow any minor to play at any game in said saloon, or on any billiard table, under a penalty of ten dollars for the first offence, and twenty dollars for every subsequent offence.

No. 36, s. 8, R. O.

Nine and ten pin alleys to be licensed.

5. If any person or persons shall erect, set up, keep, maintain, or in any respect whatever use for amusement or entertainment within the city, any bowling saloon, bowling alley, nine or ten pin alley, or any other device or structure, in or upon which one or more pins are set up, for the purpose of casting, throwing, pushing or rolling against such pin or pins, one or more balls, or other missiles, without having obtained

a license therefor, for which license there shall be annually paid, if said structure be located within the limits of direct taxation, the sum of fifty dollars, and out of the limits of direct taxation twenty-five dollars, such person or persons shall forfeit and pay a penalty of twenty dollars for each and every day he, she or they may so offend. Cost of license. Penalty.

6. No license shall be granted to any person or persons applying to open a saloon, alley, or structure, under the provisions of the preceding section, unless said applicant or applicants shall obtain the assent in writing of a majority of the property holders in the immediate square where said alley is to be located; provided, that this section shall not apply to any saloon, alley, or structure, which has been heretofore licensed and never discontinued. Ibid, s. 9. Assent for same required. Proviso

7. If any proprietor or proprietors of any such bowling saloon, bowling alley, device or structure, shall suffer or allow any person or persons to play upon or use, in any manner whatever, such alley, device, or structure, after half-past eleven o'clock at night, and before sunrise in the morning, he, she, or they, as the case may be, shall forfeit any pay two dollars for each and every such offence. Ibid, s. 10; No. 14, Mar. 5, '66. Not to be used after 11½ o'clock at night.

8. It shall be unlawful for any person or persons, who may have a permit or license, to erect or keep any such saloon, alley, or other device or structure, as mentioned in section 5, to allow any minor to play at any game, under the penalty of ten dollars for the first offence, and twenty dollars for every subsequent offence.* Ibid, s. 11. Minors not to be permitted to play. Penalty.

9. It shall not be lawful for any person or persons to keep a shuffle board in the city, unless he, she or they shall first obtain from the Mayor a license therefor, and for every such Ibid, s. 12. Shuffle boards to be licensed.

* See further as to Licenses, under Auctions, Art VI; Carriages, Horses, Boats and Scows, Art. VIII; Comptroller and Register, Art. XI; Health, Art. XXIII; Inspections Weights and Measures, Art. XXVIII; Markets, Art. XXXV.

Tax. license there shall be paid to the Comptroller the sum of twenty dollars; and if any person or persons shall keep a shuffle board in violation of this section, he, she or they so Penalty. offending shall forfeit and pay the sum of one dollar for each and every day.*

No. 37, s. 1, R. O. Theatrical performances to be licensed. 10. No person or persons, within the limits of the city, shall act, exhibit, play, or perform any play, farce, interlude, show, opera or other theatrical or dramatical performance, entertainment or show, or public exhibition, for gain, without a license for that purpose had and obtained from the Mayor, Penalty. under the seal of the city, under the penalty of twenty dollars for each and ever offence; which said license shall express for what it is granted and the time it is to continue; and the fol- Tax for theatrical exhibitions. lowing tax or fine shall be imposed and laid upon each license granted as aforesaid, which tax or fine shall be paid, or secured to be paid, to the Comptroller of the City on the granting of For circus. such license, as follows, to wit: for circus or feats of horsemanship in a building permanently erected for that purpose, three dollars for each performance; for circus or feats of horsemanship performed under a covering of canvass or any other material temporarily erected for that purpose, ten dollars for each For rope dancing, &c. performance; for rope or wire dancing, or puppet shows, fifteen For live animals. dollars for each week; for exhibitions of living animals, five For other exhibitions. dollars for each day or night of exhibition; for all other public exhibitions for gain, five dollars per week.

Ibid, s. 2. 11. It shall be the duty of every proprietor of any theatre Penalty for performing without license. or museum, before they permit any person or persons whatsoever to use such theatre or museum for the purpose of acting, playing or performing any play, farce, interlude, opera or other theatrical or dramatic performance, or any scene, selection or portion of any play, farce or drama of any description, for gain, to obtain from the Mayor the license required by this ordinance,

* See Gaming, Art. XXI, and Sabbath-breaking, Art. XLII.

either in their own names or in those of the managers of such performance, under a penalty of twenty dollars.

12. The owner or lessee of any hall or theatre, on the payment to the Comptroller of fifty dollars, shall have the occupants of his or their hall or theatre exempted from license for one year. No. 101, June 24, '71. Payment in lieu of license.

13. It shall not be lawful for any person or persons to hold a ball where an admission fee is charged, without first obtaining from the Comptroller of the City a license or permit so to do, under a penalty of not less than ten nor more than twenty dollars. No. 19, Mar. 19, '64; No. 10, Feb. 26, '64. Balls. Penalty.

14. A tax or license for all balls shall be levied as follows: the tax or license for all balls shall be one dollar per day or night when the admission fee does not exceed twenty-five cents; three dollars per day or night when it exceeds twenty-five cents, but is not over fifty cents; five dollars per day or night when it exceeds fifty cents, but is not over one dollar, and ten dollars per day or night when it exceeds one dollar, and on all fancy, masked, or rag balls, a tax of ten dollars per day or night when an admission fee is charged. No. 10, Feb. 26, '64. Licenses for balls.

15. The tax or license for musical parties shall be one dollar per night, when the admission fee does not exceed twenty-five cents, and three dollars per night when it exceeds twenty-five cents but not over fifty cents, and five dollars per night when it exceeds fifty cents. But the Mayor is authorized to grant, free of expense, all applications for license for concerts or performances of any kind, where the proceeds are intended for charitable purposes. No. 37, s. 3, R. O. Musical parties regulated. Concerts, &c., for charitable purposes.

16. It shall not be lawful for any person or persons to destroy, tear, or otherwise deface any bill (posted in such places as may be permitted) descriptive of any performance paying a license to the city for permission to hold such exhibition; and any person or persons violating the provisions of Ibid, s. 4. Penalty for defacing bills descriptive of performance.

this section shall forfeit and pay for each and every offence the sum of two dollars.

Ibid, s. 6.

Mayor authorized to refuse or revoke licenses.

17. The Mayor shall have full power and authority to refuse to grant licenses under this ordinance, and also have full power and authority to revoke any license granted by virtue of this ordinance, should he think proper so to do.

Ibid, s. 7.

City Solicitor to institute proceedings.

18. Whenever the City Solicitor shall be notified of any violation of the provisions of this ordinance, it shall be his duty immediately to institute legal proceedings against the offender or offenders, to recover from him, her, or them, the penalty or penalties prescribed by this ordinance.

DOGS.

No. 64 s. 1, R. O.

Dogs not to go at large without licensed number.

19. No dog or bitch shall be permitted to run at large within the limits of the city of Baltimore, unless the said dog or bitch shall have a collar about his or her neck, to which shall be attached a licensed number, to be regularly furnished by the Comptroller of the City, who is hereby required to have the same prepared.

Ibid, s. 2.

Amount of license.

20. All owners of dogs shall pay to the Comptroller of the City, annually, the sum of two dollars and fifty cents for every dog, and the sum of ten dollars for every bitch belonging to them; provided, they intend to let the same run at large; and the evidence of the payment of the said tax shall be a receipt of the Register for the same, and the number attached to the collar of the dog or bitch, which number shall be so arranged as to designate which are dogs' or bitches' licenses; and if any dog or bitch be found to be improperly or falsely numbered, the owner or owners of the said dog or bitch shall be liable to a fine of ten dollars, to be recovered as are all fines under the corporation.

Penalty on owners.

Ibid, s. 3.

Persons may be appointed to destroy dogs.

21. It shall be the duty of the Mayor specially to authorize, by commission, a suitable person or persons to seize or kill all dogs running at large unless licensed so to do, as provided

for by this ordinance; and such person or persons so authorized shall convey all dogs so killed or seized to either of the police stations—the officer in charge of either of which stations, shall count the number of dogs so killed, cause the ears of the same to be taken off, or the animal in some other way to be marked, so as to prevent a return of the same by the person or persons so authorized to kill said dogs, and thereupon, and after being satisfied that said animals have been buried, or in some other way conveyed beyond the city limits, so as not to become a nuisance, shall give a certificate of the same, to be sworn to before one of the police justices of the peace, by the person so authorized as aforesaid, and such certificate so sworn to shall entitle the person to whom such certificate shall be given to the sum of fifty cents for every dog so killed, to be paid by the Register.

Dogs destroyed, how to be disposed of.

Compensation.

22. If any dog or bitch be found running at large between the first day of June and the first day of October, in each and every year, with a collar with licensed number thereto attached, as required by the preceding sections 19 and 20, and having the name and residence of the owner marked upon it, it shall be caught and removed to some suitable place to be provided for the purpose, and kept there until called for; provided, however, that if such dog or bitch shall not be claimed within forty-eight hours after being confined, it shall be killed, as provided for in the preceding section; and provided further, that the owner of such dog or bitch, claiming the same, shall first pay to the Register, for the use of the city, a fine of five dollars. and the sum of two dollars to the officer catching and confining such dog or bitch, to cover the expense of keeping the same.

Ibid, s. 4.

Dogs running at large during certain months, how disposed of.

Proviso.

Further proviso.

23. Every animal of the dog kind, licensed under this ordinance, shall be muzzled when required by proclamation of the Mayor, when running at large; and if any such licensed dog or bitch shall be found running at large without a proper

Ibid, s. 5.

Licensed dogs to be muzzled.

Penalty.

muzzle, the owner or owners thereof shall be fined the sum of two dollars, to be collected as all other city fines are collected, to be paid into the city treasury.

Ibid, s. 6.

Penalty for removing a licensed collar or muzzle.

24. If any person or persons, other than the owner of any dog or bitch, shall remove therefrom the licensed collar or number, or muzzle, as aforesaid, such person or persons shall be liable to a fine of not less than two nor more than five dollars, for every such offence; the same to be collected as all other city fines are collected, and to be paid into the city treasury.

Ibid, s. 7.

Execution of ordinance.

25. Except when the duties of the Mayor and Comptroller are herein particularly specified, the execution of this ordinance shall be put in especial charge of the Marshal of Police.

Ibid, s. 8.

Powers of Mayor when complaints are made against troublesome dogs.

26. On complaint being made to the Mayor of any dog or bitch within the city, which shall by barking, biting, howling, or in any other way or manner, disturb the quiet of any person or persons whomsoever, the Mayor, on being satisfied of the truth of such complaint, shall direct a police officer to give notice thereof to the person or persons keeping or permitting such dog or bitch to be kept or to remain in his or her house, or on his or her premises; and in case such person or persons shall, for the space of one day after such notice, neglect to cause such dog or bitch to be destroyed or removed, so as to prevent the disturbance, he shall forfeit and pay a sum not exceeding five dollars for every day which shall elapse until such dog or bitch be removed or destroyed as aforesaid.

Penalty.

Ibid, s. 9.

Poisoned meat, &c., not to be thrown in streets.

27. No poisoned meat or any poisonous substance shall be cast into any of the streets, lanes or alleys of the city for the purpose of destroying dogs; and any person or persons violating the provisions of this section shall, on conviction, be subject to a fine of ten dollars.

28. The sum of five hundred dollars is hereby annually placed at the disposal of the Mayor to carry out the provisions of this ordinance, to be taken out of any money in the treasury not otherwise appropriated.

Ibid, s. 10; Res. No 97, June 11, '58; No. 189, July 26, '61; No. 94, July 14, '62; No. 118, July 24, '62; No. 108, June 10, '63; No. 118, June 28, '65; No. 269, June 8, '67
Appropriation.

PAWNBROKERS.

29. The Mayor is hereby authorized to grant licenses, under the corporate seal, to such person or persons as shall produce to him satisfactory evidence of his, her or their good character, to exercise or carry on the trade or business of pawnbrokers, which license shall designate the house in which such person or persons shall respectively be licensed to carry on the said trade or business; and each person receiving the said license shall pay therefor the sum of two hundred dollars, and the license granted, as aforesaid, shall continue for the term of one year from the date thereof, and may be renewed on application to the Mayor each and every year on payment of the same sum.

No. 38, s. 1, R. O.; No. 64, Oct. 2, '67.
Mayor to grant license.
License.
Term.

30. No person shall use, exercise or carry on the trade or business of a pawnbroker in the city, without having such license as aforesaid, nor in any other house than the one designated in the said license, unless in case of removal, the Comptroller shall, on application, endorse on said license the house to which the party shall have removed.

No. 64, s. 1, Oct. 2, '68; No. 38, s. 3, R. O.
Who may be pawnbrokers, and where.

31. Every person so licensed as aforesaid shall, at the time of receiving such license, enter into an obligation to the Mayor and City Council of Baltimore, with good and sufficient sureties, to be approved by the Mayor and the presidents of both branches of the City Council, or a majority of them, in the penal sum of five hundred dollars, conditioned for the faithful observance of this ordinance, and such other ordinances as may be passed on this subject.

No. 38, s. 2, R. O.
Bond.

32. Each and every pawnbroker licensed as aforesaid shall be capable of receiving from any person or persons, (except a minor or apprentice, knowing or having reason to believe him

No. 74, s. 2, Oct. 2, '67.
Powers of pawnbrokers.

to be such,) bodies corporate, or politic, any deposit of merchandise of every description, as collateral security for such amounts thereon to be advanced by them, as they may deem proper and judicious, and to hold and retain the same during such time as may be agreed on between the party or parties depositing the same and the said pawnbrokers, and to charge for such advances, interest at the established legal rate, and an additional charge as hereinafter specified, appropriate to the nature of the deposit, and the proper storage, removal and care of the same, and shall give to the party or parties so depositing, a certificate specifying the sum advanced, the date of deposit, the article or articles deposited, the amount of charge, the time for which such deposit shall be kept, as well as the name of the depositor, and his, her or their place of business, and if none, of abode.

Certificate.

Ibid, s. 3.

33. The article so deposited may, and if so agreed, shall be held by said pawnbroker six months, to be computed from the date of certificate as aforesaid, and if not then redeemed, or by contract the certificate thereof be renewed, it shall and may be lawful for the said pawnbroker then to proceed to have such deposit sold, on first giving ten days' notice in a newspaper published in said city, of the time, place and mode of sale for cash and at public sale, which shall be effected by an agent by said pawnbroker to be designated; whereat it shall and may be lawful for the pawnbroker, when by him deemed essential for self-protection, to be a competitor, and upon such sale being made, an account thereof, sworn to by the agent effecting the same as in all respects fair and *bona fide*, shall be rendered to and kept by said pawnbroker, and a copy thereof shall be delivered on reasonable demand to the depositor of the matter so sold, whereof the proceeds shall be applied: first, to the payment of all expenses usual and incident to such sale, inclusive of any tax that thereon may be chargeable legally; secondly, to the legal interest and charges hereby authorized

Deposits.

Sale.

Account.

on advance and deposit as aforesaid and as herein specified; thirdly, to reimbursing to the pawnbroker the principal advanced, any deficiency wherein shall be a valid claim against such depositor; and any surplus shall be payable and paid to said depositor, or the party thereto legally entitled, if demanded at any time within twelve months from the day of such sale.

34. It shall be lawful for the said pawnbroker, in view and by reason of the necessity of extensive storage, labor incident thereto, porterage, insurance and other expenses inseparable from the nature of the business hereby authorized, as affording a desirable and advantageous facility to the commercial and other classes of society, to charge therefor in addition to interest, at a reasonable rate, in no case to exceed two cents on the dollar each month, to be computed on the principal advanced as aforesaid, and shall cause to be kept in suitable books therefor, to be provided by said pawnbroker, an accurate account of each transaction authorized by this ordinance, and all the business and affairs of said pawnbroker shall be subject at all times to inspection of such agent or officer of Baltimore city, or of such committee as for that purpose may be designated by the Mayor and City Council of Baltimore. Ibid, s. 4. Charges. Books.

35. If any person or persons shall sustain any injury or damage from any act or default of a pawnbroker, contrary to the tenor of his obligation as aforesaid, such person or persons may institute an action in any court having jurisdiction, for his, her, or their use, or benefit, in the name of the Mayor and City Council of Baltimore, upon the obligation given as aforesaid, in which action he, she or they shall recover judgment for the amount of the damages sustained. No. 38, s. 8, R. O. Form of action on bond.

36. It shall be the duty of the Register of the City to advertise, quarter yearly, in one or more of the public papers, the names of the several persons within the city who have been duly licensed as pawnbrokers; and it shall be the duty No. 38, s. 10, R. O. Duty of Register and city officers.

of the officers of the city to inform against all persons offending against this ordinance.

No. 38, s. 11, R. O.
Not to sell spirituous liquors.
Mayor may revoke license.

37. No license as a pawnbroker shall be granted to any person who has an ordinary license, or license for the retailing of spirituous liquors; and any license to any pawnbroker, granted as aforesaid, may be revoked or annulled by the Mayor, if there should appear to him sufficient cause for so doing.

Ibid, s. 9.
Fines and penalties.

38. Any person offending against any or either of the aforegoing provisions shall forfeit a sum not exceeding fifty dollars for each and every offence; and any person who shall receive any pledge on which he shall advance money and take a receipt for a larger sum than he actually advances, shall forfeit a sum not less than two hundred nor more than three hundred dollars for each and every offence.

SELLING IN STREETS.

No. 33, s. 23, R. O.
Mayor authorized to grant licenses to sell certain articles on footways.

39. The Mayor is hereby authorized and empowered to grant licenses to as many poor persons as to him may appear proper, to permit them to keep tables or baskets on the footways across the gutters of the streets of the city, with the consent of the occupiers of the houses before which such tables or baskets may be placed, for the purpose of exposing for sale, fruits, cakes, nuts, and other articles that it has heretofore been customary for persons of that description to sell, and any person keeping such table without license shall forfeit and pay one dollar for every day the table may be so kept.

Ibid, s. 41.
Oranges, &c., not to be sold without license.

40. It shall not be lawful for any person or persons to sell or offer for sale in any of the streets, lanes, alleys or highways of the city, any oranges, lemons or limes, without having previously obtained from the Comptroller of the City a license, for which each person shall pay annually the sum of two

dollars, and every offender against the provisions of this section shall forfeit and pay a sum not exceeding two dollars for each and every offence. Penalty.

41. No license granted under the preceding section shall authorize the sale of oranges, lemons or limes by more than one individual; and all sales under such license shall be made by the person named therein, and not by any agent or other person, and no person so licensed shall sell or offer for sale any fruit without having his or her license about his or her person, and every offender against any of the provisions of this section shall forfeit and pay the sum of ten dollars. Ibid, s. 42. Extent of license. Penalty.

42. But the person or persons aforesaid shall not be liable for the fines and penalties imposed by the preceding two sections, unless a notice has been given to the person or persons so offending, and the necessary time has been allowed for a compliance with the requirements of said sections; provided, however, that the provisions of this section shall not be applicable to any one who may commit the same offence a second time, or fail to comply with the requirements after the said notice has been given, or where the offence was knowingly or wilfully committed.* No. 35, May 2, '62. Notice to be given. Proviso.

* See the act of 1878, c. 414, p. 577, *ante*, and Art. LII, Vagrants.

ARTICLE XXXIV.

McDONOGH EDUCATIONAL FUND AND INSTITUTE.

ORDINANCES.

BOARD OF TRUSTEES.

1. Trustees appointed.
2. Property.
3. Number of trustees: vacancies, how filled.
4. Powers of trustees: by-laws, rules and regulations: president, secretary and agent: salaries: bond.
5. Sale and purchase of real estate: school farm: interest on investment: proviso.
6. Support and maintenance of school farm: instruction and education of youth.
7. Annual report to Mayor and Council: account of receipts and expenditures.
8. Inspection of records, accounts, grounds and buildings of institute by Mayor: committees of Council.

M'DONOGH BEQUEST.

9. Ordinances, &c. relating to.

ORDINANCES.

MANAGEMENT OF THE McDONOGH EDUCATIONAL FUND AND INSTITUTE.

No. 68, July 10, '68.
Board of trustees.

1. By ordinance No. 68, July 10, 1868, Lawrence Sangston, Joshua Vansant, Albert Schumacher, Robert T. Baldwin, John Donnell Smith, James B. George, H. Clay Dallam, William A. Stewart and William Keyser, of the city of Baltimore, were constituted the Board ofTrustees of the McDonogh Educational Fund and Institute.

Ibid, s. 2.
Property.

2. All the money, stock, securities, investments, property and estate of every kind and description, with the increment thereon, which has heretofore come into the possession of the city of Baltimore, or which hereafter may come into its pos-

session, or which is now held by any agent, trustees or board of trustees, heretofore created by any ordinance, and which has been or may hereafter be received under the bequests and devises contained in the will of John McDonogh, by the city of Baltimore, shall pass to and be invested in said board of trustees.

3. The number of trustees shall not be less than seven, nor more than nine, and if at any time they shall be reduced to a less number than seven, by death, resignation, or removal out of Baltimore city, or otherwise, it shall be the duty of the remaining trustees to fill each vacancy within thirty days after its occurrence, and if they do not fill such vacancy within said period, it shall be the duty of the president of the board to notify the Mayor of the City of Baltimore of the fact of said vacancy, and thereupon it shall be the duty of the Mayor to appoint some person to fill such vacancy or vacancies as often as they may occur in manner aforesaid, and the person so appointed shall be and become one of the trustees to all intents and purposes.

Ibid, s. 3.
Number of trustees.
Vacancies, how filled.

4. A majority of trustees shall have power, from time to time, to enact and make by-laws and rules and regulations for the management and government of said Fund and Institute; they shall also have power to remove any one of their own number who in the opinion of the majority of said trustees may be negligent of his duty, or otherwise conduct himself improperly; to elect annually a president, secretary and agent, fix their salaries and prescribe their respective duties, and to remove them at pleasure; to appoint such other officers and servants as they may deem necessary and proper, according to such rules and by-laws as may be prescribed by them; and any officer or officers, or agent, who shall be appointed to receive and disburse the money of said Fund and Institute, shall, before he proceeds to act as such, enter into

Ibid, s. 4.
Powers of trustees.
By-laws, rules and regulations.
President, secretary and agent.
Salaries.

Bond. bond with such penalty and conditions as may be prescribed by said trustees.

Ibid, s. 5. 5. The said trustees may sell all the real estate situate in the city of Baltimore, heretofore purchased by the trustees of the McDonogh Educational Fund and Institute, and invest the proceeds in real estate in the vicinity of Baltimore, of such dimensions and at such distance from said city as to them may seem most judicious for the purpose of establishing a School Farm, as directed under the will of the said John McDonogh, which real estate shall be in fee simple and adapted to agricultural purposes; in addition to the proceeds arising from the sale of the real estate aforesaid, the said trustees are authorized to use all the interest which may accrue from the investment of the sum of five hundred thousand dollars, in the purchase of said real estate and erection of such buildings and improvements thereon as may be necessary for such school farm, until the purchase money of the land and the erection of said buildings shall have been fully paid; provided, nevertheless, that the principal sum of said fund shall at no time be less than five hundred thousand dollars, which the said trustees are required to have well secured at all times.

Sale and purchase of real estate.

School farm.

Interest on investment.

Proviso.

Ibid, s. 6. 6. So soon as the purchase of the real estate and the erection thereon of the buildings mentioned in the preceding section shall have been completed and paid for, the said trustees shall apply the interest issuing from said funds, as well as the interest which may be derived from all other property devised to the city of Baltimore by the said John McDonogh, to the support and maintenance of said school farm, and the expenses incident to the proper instruction and education of the youth directed by said will of said John McDonogh.

Support and maintenance of school farm.

Instruction and education of youth.

Ibid, s. 7. 7. It shall be the duty of the board of trustees to exhibit to the Mayor and City Council of Baltimore, annually, a

full report in writing of their proceedings during the year, and of the state of the Institute, showing the number and condition of the scholars and all matters necessary to the full understanding of the affairs and situation of the Institute, which shall be certified by oath or affirmation of the president, secretary and agent, and at least one of the trustees; it shall be accompanied by an account or statement, certified in like manner, showing the receipts and expenditures for the year, and the assets and pecuniary condition of the Institute, and said reports shall be addressed to the Mayor at least ten days before the annual meeting of the City Council in each and every year.

Annual report to Mayor and Council.

Account of receipts and expenditures.

8. The records, books, accounts, papers, grounds and buildings of the said Institute shall at all times be open to the inspection and examination of the Mayor; and the City Council shall always have power, by resolution or otherwi e, to appoint committees of their body to inquire into the affairs of said Institute.

Ibid, s. 8.

Inspection of records, accounts, grounds and buildings of institute by Mayor.

Committees of council.

McDONOGH BEQUEST.

9. The ordinances and resolutions enacted before ordinance No. 68, July 10, 1868, on this subject, are as follows: Resolution No. 10, approved January 9, 1851, recited: that whereas, John McDonogh, late of the city of New Orleans and the State of Louisiana, deceased, by his last will and testament, bequeathed unto the cities of Baltimore, in Maryland, and New Orleans, in Louisiana, legacies, to a large amount; and whereas, the said John McDonogh, by said last will and testament, declares and says: "and it is furthermore my wish and desire, and I hereby will, that in case there should be a lapse of both the legacies, to the cities of New Orleans, in the State of Louisiana, and Baltimore, in the State of Maryland, or either of them, wholly or in part,

Res. No. 10, Jan. 9, '51. Preamble.

by refusal to accept, or any other cause or means whatsoever, then both or either of said legacies, wholly or partially so lapsed, shall inure, as far as it relates to the city of New Orleans, to the State of Louisiana, and as far as it relates to the city of Baltimore, to the State of Maryland; that the Legislatures of those States, respectively, may carry my intentions as expressed and set forth in this my last will and testament into effect, as far and in the manner which will appear to them the most proper;"* therefore, it was resolved, that the city of Baltimore does hereby accept the interest and property in the estate of John McDonogh, late of the city of New Orleans, and State of Louisiana, deceased, devised and bequeathed to the city of Baltimore, by the last will and testament of the said John McDonogh. And the city of Baltimore pledges her faith, that she will abide by and comply with the wishes and directions of the said John McDonogh, as expressed in his said last will and testament.

Ibid, s. 2.

Trust accepted.

Ibid, s. 3.

Faith of city pledged.

No. 2, s. 1, Dec. 28, '54.

Three agents to be appointed.

Residence.

Duties.

Ordinance No. 2, approved December 28, 1854, enacted, that immediately after the passage of said ordinance, there shall be appointed, as city officers are appointed, three persons of integrity and ability, one of whom shall be a citizen and resident of New Orleans, who shall originally have been a citizen of Baltimore, and two citizens of Baltimore, who shall be styled "Agents of the city of Baltimore for the McDonogh Bequest," who, (after having given bond, as provided for in the succeeding section of this ordinance,) shall, with as little delay as possible, proceed to the city of New Orleans, and there represent the interests of the Mayor and City Council of Baltimore in all things that appertain to the general estate of the late John McDonogh, wherein the

* By act of 1852, c. 6, the General Assembly of Maryland, enacted that it is the declared intention of the State to assent to, and to accept the bequest and devise made to it by the said will.

cities of Baltimore and New Orleans are devisees. They shall act for and manage, conduct and administer, the affairs of said estate jointly, with the three commissioners or agents appointed for the same purpose by the city of New Orleans. The said agents shall continue in office at the pleasure of the Mayor and City Council of Baltimore, and until the appointment and qualification of their successors, and they must reside in the city of New Orleans; and at no time shall more than two of the agents be absent from said city at the same time, under a penalty of forfeiture of their office. Term of office. Two only may be absent.

That each of the said agents, before entering upon their duties or acting as agents, shall give bond in the sum of twenty-five thousand dollars to the Mayor and City Council of Baltimore, (which bond shall be approved by the Mayor and presidents of the two branches of the City Council,) for the faithful performance of their duties as agents under the will of the late John McDonogh; and that each of the parties signing said bond, as securities, shall make oath before a justice of the peace that he possesses and holds in his own right, real estate in the State in which he resides, clear of all incumbrance, assessed for a sum equal to double the amount for which he shall propose to bind himself under the aforesaid bond; provided, that the joint sums for which the several securities shall thus be bound shall not be less than twenty-five thousand dollars; and it is hereby further provided, that a certificate from the magistrate by whom the aforesaid oath has been administered, properly authenticated, shall be deposited with the Register of the City of Baltimore, before the approval of said bonds; the semi-annual account to be transmitted to the commissioners to be appointed by the city of Baltimore, as mentioned in the said will, to be signed and sworn to by all the said agents, before a commissioner of deeds for the State of Maryland, or before a notary or judge, or magistrate, who shall affix thereto his Ibid, s. 2. Bond. Conditions. Proviso.

Certificate.

signature, with the seal of his office, together with a certificate from the proper officer of the State of Louisiana, or city of New Orleans, authorized to give such certificates, sealed with the officer's proper seal, that said notary, judge, or magistrate, is the officer such as his signature and seal describe him to be.

Ibid, s. 3, No. 11, Apl. 4, '57. Compensation.

That the compensation of said agents shall respectively begin with the date upon which they take charge of the trust and shall be two thousand five hundred dollars per annum, for each of the agents selected from Baltimore, and the same for the agent selected from New Orleans; payable

How to be paid.

quarterly out of the funds devised by the commissioners appointed under the will of the late John McDonogh, the Mayor and City Council of Baltimore, from the proceeds of the McDonogh bequest, and may be deducted by the said agents from the monies coming into their hands on said account, to be noted as such in their semi-annual account.

Ibid, s. 4.

Failure to give bond.

That in case of the death, resignation or failure to bond in time, (say within thirty days after the appointment having been made,) of either or all of the agents, then the

Vacancy, how to be filled.

Mayor shall, immediately thereafter, nominate a successor or successors, as provided for in the first section of this ordinance, if the Council be in regular or special session, and if it be during the recess of the Council, then the Mayor shall immediately convene the Council, and said Mayor and City Council shall proceed to fill such vacancy or vacancies in the manner providing for the appoin'ment of said agents in the first section of this ordinance.

Ibid, s. 5.

Joint standing committee of Mayor and Council.

That there shall hereafter be annually appointed, by resolution of the Mayor and City Council of Baltimore, a joint committee of three members of each branch, which committee shall be named the "joint standing committee on the McDonogh bequest." This committee shall audit the

agents' accounts, and examine the proceedings of the commissioners and directors of the McDonogh bequest; and to this committee shall be referred all memorials and subjects appertaining to the McDonogh estates, connected with the city of Baltimore; and the committee will report from time to time, as may be useful, the state of the funds of the bequest, and the value and condition of the real estate, to the Mayor and City Council of Baltimore. Duties.

That the Mayor and City Council of Baltimore shall in no wise be responsible for the acts or omissions of the agents aforesaid, of whom they are the supervisors by virtue of the power vested in them by said will, nor for the salaries of said officers, nor for any expenses by them incurred in the prosecution of their trust. Ibid, s. 6. Mayor and City Council not responsible.

That the agents appointed as aforesaid shall not be changed or removed, except only by an ordinance of the Mayor and City Council of Baltimore; and should it be necessary, at any time in the recess of the Council, in the opinion of the Mayor, that any one or all of said agents should be changed, then, and in that case, it shall be the duty of the Mayor forthwith to summon the members of the City Council, to take into consideration the propriety of such change; the reason for which he shall report to the Council. Ibid, s. 7. Agents, how to be changed or removed.

And it is further enacted, that no appointment of agents under the will of the late John McDonogh shall be made without the concurrence of a convention of the City Council of Baltimore. * Appointment by concurrence of the two branches of the City Council.

Ordinance No. 26, approved May 28, 1858, entitled "An ordinance for the appointment of agents to represent the city of Baltimore in the receipt, administration, sale and No. 26, May, 28, '58. Agents appointed.

* Ord. approved Sept. 18, '54, entitled An ordinance for the appointment of agents to represent the city of Baltimore in the execution of the will of John McDonogh, late of the city of New Orleans, was repealed by above ordinance.

liquidation of Baltimore's interest in the estate of the late John McDonogh, of Louisiana, deceased; and for the appointment of a Board of Trustees of the McDonogh Educational Fund and Institute," enacted, that Brantz Mayer, William S. Peterkin and Thomas L. Emory be appointed agents of the city of Baltimore for the receipt, administration, sale and liquidation of the portion of the estate of the late John McDonogh, of Louisiana, deceased, to which Baltimore is entitled by virtue of said McDonogh's will, and by virtue of the decree for partition of said McDonough's estate between the cities of New Orleans and Baltimore, rendered by the Fifth District Court of New Orleans, and confirmed by the Supreme Court of Louisiana; but before entering upon the duties of their office, each of the said agents shall

To give bond.

give bond, with security in the sum of twenty-five thousand dollars, to the Mayor and City Council of Baltimore, for the faithful discharge of the duties hereinafter described and defined—said bonds to be approved by the Mayor, Comptroller and the Presidents of the two branches of the City Council, to be deposited with the Comptroller of the City of Baltimore.

Ibid, s. 2. Powers and duties of agents.

That the powers and duties of said agents shall be the following, to wit:—

To receive city's proportion of estate.

1. The said agents are hereby directed and empowered to receive from the agents and commissioners of the cities of New Orleans and Baltimore, now jointly administering the estate of the said McDonogh, deceased, by virtue of ordinances passed by said cities, all the portion or portions of said John McDonogh's estate, real and personal, movable and immovable, to which the said city of Baltimore is entitled under said McDonogh's will, and by virtue of the decree for partition heretofore referred to. They are authorized and empowered to give receipts and acquittances for the same to

the said board of agents and commissioners, and if necessary, to the city of New Orleans; and to make all settlements in liquidation of accounts with said city of New Orleans, for taxes, expropriated property and their several interests in said McDonogh's estate.

2. The said agents are hereby further directed and empowered, after the receipt by them of the city of Baltimore's share of said McDonogh's estate as aforesaid, together with all the books, papers, plats and evidences of title requisite for the separate administration of the property, to do and perform all necessary acts for the care and management of the same, as fully and entirely as if the property were under the immediate control, in this city, of the Mayor and City Council of Baltimore; they are directed to lease and repair property, collect rents, pay taxes, claims, judgments, costs of administration, and to settle with and make payment or satisfaction to the American Colonization Society, and the Society for the Relief of Destitute Orphan Boys, (beneficiaries under said McDonogh's will,) according to the principles settled by the Supreme Court of Louisiana in its confirmation of the decree for the partition of the McDonogh estate; and to perform such other administrative acts as shall be needful for the guardianship and economical management of the property until it is sold.

To have care and management of city's share of estate.

3. The said agents are hereby further directed and empowered to advertise for sale, and to sell at public sale if advisable, and if not deemed by them advisable, then to sell at private sale, at the earliest favorable period, and on such terms as to credit and purchase money as in their judgment shall be most advantageous for the interests of the city of Baltimore, all and every part of the real and personal estate, movable and immovable property, belonging to said city of Baltimore, under and by virtue of the will of the said John

To advertise and sell property.

McDonogh, and of the decree of partition aforesaid, recently confirmed by the Supreme Court of said State. Express and special powers are hereby given to and vested in said agents, appointed by this ordinance, to effect such sales of said real and personal, movable and immovable, property, and, in the name of and for the city of Baltimore, to give full and complete titles to the purchaser or purchasers, according to, and in compliance with, the terms of sale, so as, under the laws of Louisiana, to convey to said purchaser or purchasers the title of said city of Baltimore in each and every part of said property sold by the said agents. All obligations, bonds, mortgages, notes, guaranties or securities from said purchaser or purchasers, in said sales, shall be given to the agents and received by them in their capacity as agents for the city of Baltimore under this ordinance.

Express and special powers of agents.

Proceeds of sales to be paid to board of trustees

4. The said agents are hereby directed, and it shall be their duty, to remit to the Board of Trustees of the McDonogh Educational Fund and Institute, created by the fourth section of this ordinance, all proceeds of said sales, in cash, notes, bonds, mortgages or other securities, and all moneys collected by them, as soon as received, and to take receipts therefor from said board of trustees; and semi-annually, during their continuance in office, to send a sworn report of their action under this ordinance, and of their financial accounts, to the Mayor and City Council of Baltimore; and, as soon as practicable, to liquidate the whole of said city's interest in said McDonogh's estate.

Agents to report semi-annually.

Agents to provide for the slaves belonging to the estate.

5. The said agents are hereby directed and empowered, in connection with the city of New Orleans, or, with such agents as said city may authorize to act for it, to provide for the slaves belonging to said John McDonogh's estate, according to the designs of his will, either by transporting them, or a portion of them, as soon as practicable, to one of the

colonies of free negroes in Africa, or by their liberation, or the liberation of portions of them, from servitude. For this purpose, the agents are hereby authorized to apply such sums of money as will be sufficient, with similar co-operation by the city of New Orleans, to fulfil in spirit the humane purposes of the late John McDonogh, in regard to his slaves.

Ibid, s. 3. Compensation of agents.

That the agents of the city of Baltimore, in compensation for their services, travelling expenses, salary of a clerk, and all other extras in discharge of their trust and duties under this ordinance, are hereby authorized to receive a compensation of four per cent. on the amount received from the sales of the city of Baltimore's share in the estate of John McDonogh; the said four per cent. to be divided as follows: One and one-half of one per cent. to Brantz Mayer, one and one-half of one per cent. to William S. Peterkin, and one per cent. to Thomas L. Emory.

Ibid, s. 4. Board of trustees to be appointed.

That, whereas it is considered an object of primary obligation to keep the legacy of the late John McDonogh separate and distinct from the general funds of the city of Baltimore, so that, while it accomplishes the leading object of the testator, it may stand as a monument of his liberality and public spirit, a board of trustees, consisting of twenty persons, of good standing, who shall be citizens of Baltimore, shall be appointed by the Mayor and City Council of Baltimore, as other city officers are appointed—one to be taken from each ward of the city—who shall annually appoint a president from their own body, and who are hereby constituted a board for the receipt, safe keeping and investment of the funds and proceeds of sale which shall be received from the agents of the city of Baltimore, according to the fourth clause of the second section of this ordinance. The said board shall be styled "The Board of Trustees of the McDonogh Educational Fund and Institute," the income

of which fund shall be forever sacredly devoted to the purposes of education.

Ibid, s. 5.

Board of trustees, term of office.

That the members of this board shall be appointed to serve for six years; provided, however, that of the members of the board first appointed under the provisions of this ordinance, one-half, to be designated by the Mayor, shall be appointed for but three years, so that the term of one-half of the members of the board shall expire alternately every three years; but the members of the board of trustees may be removed at any time by the Mayor and City Council of Baltimore for mal-administration of their official duties; and on such removal, or on the death, resignation or removal from the city of Baltimore of said trustees, or of any of them, the Mayor shall proceed at once to the appointment of the successor or successors to such removed, deceased or resigned trustee or trustees.

Vacancies, how filled.

Ibid, s. 6.

Institute to be established.

That it shall be the duty of the trustees of the McDonogh Educational Fund and Institute to establish within the corporate limits of the city of Baltimore, or adjacent thereto, an institution for the maintenance and education of poor boys, to be styled the 'McDonogh Institute,' said institute to be under the control and direction of said board of trustees.

Ibid, s. 7, No. 36, May 16, '50.

Funds, how invested.

That the proceeds of all sales of property, or rents of property, until the same shall be disposed of, growing out of, or in any way appertaining to the estate of the late John McDonogh, shall be invested in the public securities of the city of Baltimore, for the purposes of this trust, and on no condition shall any part of the principal of the same be disposed of or alienated for any purpose whatever.

Ibid, s. 8.

Institute to be free from sectarian influence

That said institute shall be free from all sectarian influence.

Ibid, s. 9.

That whenever the funds arising from the proceeds of the sales of the property now held by the city of Baltimore in the McDonogh estate shall, in the judgment of the trustees of the McDonogh Educational Fund and Institute, be sufficient, they shall proceed to procure a site for the erection of buildings suitable to the objects and purposes of said trust, making such provision as shall accord with the character and probable magnitude of the bequest.

Trustees to procure a site for the erection of the buildings.

Ibid, s. 10.

That the intention of the Mayor and City Council being to preserve intact the principal of the legacy of the said John McDonogh to an extent of five hundred thousand dollars, should so much be realized, in order that the same may stand as a perpetual memorial of the noble legacy bequeathed to the city of Baltimore, said board of trustees shall not be limited as to time in the securing of a site and erection of suitable buildings, but shall appropriate only the accruing interest upon said fund, unless the same shall exceed five hundred thousand dollars, when the surplus, or such part thereof as may be necessary, may be appropriated towards said object.

Trustees not limited as to time in securing a site.

Ibid, s. 11.

That the architectural design of said buildings shall be plain and substantial, and constructed with the strictest eye to use and economy.

Style of buildings.

Ibid, s. 12.

That said institute, in its educational plan, shall comprise a preparatory and collegiate department, and no boy shall be received in said institute under the age of eight years.

Educational plan.

Ibid, s. 13.

That all appointments to said institute shall be made by the board of trustees, and that every ward of the city of Baltimore shall be entitled to an equal share in the benefits of said institute; provided, that should the quota of pupils to which any ward is entitled not be filled, by want of suitable applicants from said ward, for the space of three months, then the board of trustees may fill the said vacancy or vacancies by the appointment of applicants from the city at large.

Appointments to Institute to be made by trustees.

Proviso.

Ibid, s. 14

Boys to be maintained at cost of the Institute.

That all boys received into said institute shall, from and after the period of entrance, be supported and maintained at the exclusive cost of said institute.

Ibid, s. 15.

Trustees to establish regulations.

That said trustees shall have power to adopt and establish all needful plans and regulations connected with the establishment and working of said institute for the maintenance and education of poor boys, not inconsistent with the general provisions of this ordinance, and to do such other acts as may be necessary to bring the same into practical operation, at such time as may be found convenient and advantageous to the interests of the city.

Ibid, s. 16, No. 55, July 14, '60.

Trustees not to be concerned in contract for building, &c.

That no trustee appointed under this ordinance shall be in any manner connected with or concerned in any contract for the building or maintenance of said institute; nor shall any member of the board, either directly or indirectly, receive any compensation for his services.

No. 65, July 23, '60.

McDonogh Fund.

Ordinance No. 65, approved July 23, 1860, enacted, that the reports, documents, financial accounts and other effects of the agents of the city of Baltimore for the receipt, administration, sale and liquidation of Baltimore city's interest in the estate of the late John McDonogh, of Louisiana, deceased, be referred to the Mayor of the City of Baltimore, the two presidents of the City Council of Baltimore, and the president of the board of trustees of the McDonogh Educational Fund and Institute, created by virtue of an ordinance approved May 28, 1868, being ordinance No. 26; the said Mayor, presidents of the City Council, and president of the board of trustees of the McDonogh Educational Fund and Institute, being hereby fully empowered to examine the same, and if found reasonable, correct and proper, to allow the same, and to give full and final receipts for the Mayor and City Council of Baltimore to said agents in liquidation of their accounts, in conformity with the aforesaid ordinance No. 26, of the session of 1858.

Article XXXIV.—Ordinances.

Ordinance No. 1, approved Nov. 30, 1860, enacted, that the agents of the city of Baltimore for the receipt, administration, sale and liquidation of the estate of the late John McDonogh, are hereby authorized to enter into a contract with counsel, learned in the law, for the prosecution of the city of Baltimore's right and claims under the will of said McDonogh in 227,853 acres of land in the Florida parishes of Louisiana; and after the recognition of said right and claims, by actual confirmation, or satisfaction for said right and claims in such other form or manner as Congress may enact, the said agents are hereby authorized to sell the said confirmed lands, or to dispose of whatever may be received as satisfaction of said rights and claims, and to pay one-half of the proceeds, after such sale or disposition, to the counsel employed to prosecute said rights and claims to a final decision; provided always, that said counsel shall, in his agreement with said agents, bind himself to hold and save the city of Baltimore, as well as said agents and the interest of the city of Baltimore, in any of the property and estate of the late John McDonogh, free from all demands, costs, charges, expenses and outlay for the prosecution of said rights and claims incurred either in prosecuting the same before the Congress of the United States or any department or officer of the government, or in any court, or in any manner, place or form whatsoever, except the one-half of the ultimate proceeds aforesaid, as full contingent compensation, it being the distinct understanding that no compensation shall be paid except on ultimate success, and that in no event, whether successful or not, shall the city of Baltimore be liable for any expenses, costs, charges or outlay, nor shall any expenses, costs, charges or outlay be deducted from the proceeds of said lands, or what may be recovered in satisfaction of said claims, but the said counsel shall pay the same.

No. 1, Nov. 30, '60.

Contract with counsel.

Land in Florida parishes of Louisiana.

One-half of proceeds to counsel.

Proviso.

City not liable for costs.

Ordinance No. 94, approved October 22, 1864, entitled "An ordinance to appoint an agent for the McDonogh bequest,"

No. 94, Oct. 22, '64.

Agent of McDonogh Fund.

enacted that John W. Randolph is appointed agent of the city of Baltimore for the liquidation of the estate of John McDonogh, to which said city is entitled, and which remains as yet unliquidated and unadministered, and all vacancies to be filled by the Mayor and City Council as other city officers are appointed, but before entering upon his duties the said agent shall execute to the Mayor and City Council of Baltimore a

Bond fifty thousand dollars.

good and sufficient bond, with sureties to be approved by the Mayor, Register and Comptroller, in the penal sum of fifty thousand dollars, conditioned for the faithful discharge of the trust hereby reposed in him, and for the prompt payment and delivery over to the board of trustees of the McDonogh Educational Fund and Institute as soon as the funds may be received by him; and the said agent hereby appointed is directed

Receipt of funds, securities, &c.

and fully empowered to receive from the late agents of the city of Baltimore, Messrs. Brantz Mayer and William S. Peterkin, whatever funds, securities, books, accounts, papers and other effects may be in their hands belonging to the city of Baltimore.

Acquittance.

To give the said agents a sufficient receipt and acquittance. The said agent shall proceed to liquidate and settle, receive and collect, and pay over as aforesaid, all that remains unsettled and uncollected of the portion of said McDonogh's estate belonging to the city of Baltimore, and shall have power to sell

Sale.

Suits and proceedings.

personal and real estate, bring suits, or institute and prosecute all such proceedings as may be deemed expedient for the purpose of executing the trust hereby reposed in him.

Ibid, s. 2.

That the said agent shall provide suitable books of accounts,

Statement.

and make a written statement in January and July in each year to the Comptroller of the City and to the board of trustees of the McDonogh Educational Fund and Institute, and annually, in the month of January, to the Mayor and City Council of Baltimore, showing the condition of the McDonogh fund in

Compensation.

every particular. And the said agent shall receive as a compensation for his services the sum of fifteen hundred dollars

per annum, including all charges or expenses incurred by him in executing the duties of this agency; provided, that in case of actual expense incurred by a trip to New Orleans, the board of trustees of the McDonogh Educational Fund and Institute may, in their discretion, allow him a sum sufficient to defray the expense actually incurred, provided the same shall not at any time exceed the sum of four hundred dollars. Proviso.

That the powers vested in Brantz Mayer, Wm. S. Peterkin and Thomas L. Emory by the ordinance of 1858, No. 26, May 28, are hereby revoked and annulled, and that all unsettled business still remaining in their hands as agents in the premises shall pass to and be vested in said agent, under and by virtue of the powers hereby conferred upon him. Ibid, s. 3. Powers to former agents revoked.

By resolution No. 13, approved February 13, 1855, the agents of the McDonogh estate appointed on the part of the city of Baltimore in pursuance of the will of the late John McDonogh, were authorized, if in their judgment it should appear advisable, to apply to the fifth district court of New Orleans, as representatives of the city of Baltimore and its authorities, under the provisions of said will, and to do all things that might be necessary under the laws of Louisiana; to appear for and represent this city and its authorities in any action or actions, petition or petitions, that might then or thereafter be pending before said fifth district court, or any other tribunal of said State. Res. No. 13, Feb. 13, '55. Fifth District Court, New Orleans.

By resolution No. 59, approved May 11, 1858, the Mayor was authorized and directed to enter into such arrangements as had already been made by the city authorities of New Orleans for the prosecution of the claims of the estate of the late John McDonogh, founded upon Spanish, French and other grants, which had been declared invalid by the Supreme Court of the United States, and which required a special act of Congress for confirmation. Res. No. 59, May 11, '58. Claims of estate.

Res. No. 155, Oct. 15, '58. Heirs of Hammett.

By resolution No. 155, approved October 15, 1858, the agents of the city of Baltimore for the administration and sale of the late John McDonogh's estate belonging to the city of Baltimore, were authorized and directed to pay out of the city of Baltimore's share of the McDonogh's estate, to the City Register for the use of the heirs of Jane Hammett, or their lawful representatives, the sum of three thousand dollars, being one-half of the amount bequeathed to the said Jane Hammett by the will of the said John McDonogh, deceased, and which became lapsed to the city of Baltimore. And that the Register of the City, upon the receipt by him of the said sum of three thousand dollars from the agents aforesaid, should pay the said sum to the heirs and representatives only of the said Jane Hammett, in proportion to their respective representative interests as children or grand children of the late Jane Hammett, and no other person or persons.

Res. No. 11, Feb. 7, 68. Heirs of Daniel.

By resolution No. 11, approved February 7, 1868, it was resolved that the communication of the City Counselor upon the matter of the letter of Semmes and Mott, in relation to the claim of the heirs of Daniel, for one-half of the interest of the city of Baltimore in the tract of land in or near the city of New Orleans, be communicated to the agent of the McDonogh bequest, requesting him to inform Messrs. Semmes and Mott that the city of Baltimore contest the claim of said heirs, and requesting the counsel of the city of Baltimore in New Orleans to resist said claim.

Resolutions enacted since ordinance No. 68, July 10, 1868, are as follows:—Resolution No. 118, approved March 18, 1874, recited, that the cities of New Orleans and Baltimore had obtained in the Supreme Court of the United States a judgment for 104,146 acres of land, to be provided in certificates of location, as per section 6, of Act of June 22, 1860, and further decreeing that said cities receive patents from the United States for 9,187 acres, described in said judgment; and

that the General Land Office proposes to make the scrip not assignable, and to issue only one patent for the whole claim, and that in the name of the original patentee, and that the scrip thus issued would be of little or no value, and would frustrate the intention of the law; and that the Trustees of the McDonogh Institute of Baltimore, had organized the school farm near the city of Baltimore, agreeably to the purpose and intent of the late John McDonogh, and had received within the same 50 poor boys of the city of Baltimore, who are now being educated, clothed and maintained, absolutely free of cost through this liberal bequest; and that it was highly desirable that the blessings of this charity should be extended to the largest number of the poor boys of the city of Baltimore, and to this end it was eminently proper, just and right, that all properties belonging to the said McDonogh fund should be made available, and especially so where the right to the same has been determined by decision of the Supreme Court of the United States; it then enacted that the Senators and Representatives in Congress from Maryland be requested to urge the passage by Congress of an Act known as House Bill No. 829, directing the scrip to be issued in the name of the claimants in 80 acre lots, and to pass by delivery, and that a patent be issued to each locator, in his own name; and that the Mayor be requested to transmit to each of said Senators and Representatives a duly certified copy of the above preamble and resolution.

Resolution No. 377, June 26, 1875, recited, that at the October term, 1873, a decree was rendered by the United States Supreme Court, awarding to the cities of Baltimore and New Orleans jointly, United States certificates of location or scrip for 104,146 acres of public land; and that the United States General Land Office issued to said parties on April 14, 1875, 625 certificates of location for the amount called for by the aforesaid decree, in sub-divisions of 643, 2,160, 80 and

40 acres, and one of 66 acres; therefore, H. Clay Dallam, of the city of Baltimore, was appointed the agent of said city to assign, transfer and sell all of the interest of said city, in and to the above described certificates of location; and the said Dallam, was further authorized to execute and deliver in the name and on behalf of the city of Baltimore, any instrument that might be deemed necessary or proper, to give any purchaser of said certificates of location a full and complete title to the lands that might be located therewith, and to the patents that might be issued for said lands by the United States Government.

Will.—By the will of John McDonogh, the bulk of his estate was devised and bequeathed to the Mayor, aldermen and inhabitants of New Orleans, his adopted city, and the Mayor, aldermen and inhabitants of Baltimore, his native city, and their successors forever, in equal proportions of one-half to each of said cities, for purposes of public utility specified in said will, and especially for the establishment and support of free schools in said cities and their suburbs, wherein the poor and the poor alone, of both sexes, of all classes and colors, shall have admittance free of expense, for the purpose of being instructed in the knowledge of the Lord, and in reading, writing, arithmetic, history, geography, singing, &c. This is the principal object of the testator's bounty. He also provided especially for a School Farm near the city of Baltimore. See *McDonogh's Ex'rs.* v. *Murdock et. al.* 15 How. U. S. Supreme Court Reports, 368.

Litigation of the McDonogh estate.—John McDonogh died 27th October, 1850. His will, which was entirely in his own handwriting, was opened and proved in the 5th District Court of New Orleans, La., October 29th, 1850.

Of his numerous testamentary executors, Christian Roselius, A. D. Crossman, Wm. E. Leverich and F. B. D'Aquin, of New Orleans; Benjamin C. Howard, John Spear Smith, Brantz Mayer and William Gibson, of Baltimore; and R. R. Gurley, of Washington, qualified in December 1850, according to the laws of Louisiana. Messrs. Howard, Mayer, Gibson and Gurley, however, after qualifying, did not remain in Louisiana, and the point being raised by *some* of the other executors,—(though they had not notified these gentlemen of their intention,)—it was decided by the court that they were excluded and could not act. The administration of the will, accordingly, fell on Messrs. Roselius, Crossman, Leverich, D'Aquin and Smith, until they handed the estate over to the representatives of New Orleans and Baltimore, in 1855, after the preliminary litigation was finally concluded as to the validity of the will and the title of the property.

This litigation began almost instantly after the death of the testator, and it may be briefly summed up as follows:

1. The objection of a creditor.
2. A sequestration of the whole estate in the hands of the Sheriff of New Orleans, to await the decision of the suit of the States of Louisiana and Maryland against the succession of McDonogh,—by which it was alleged that the legacies to New Orleans and Baltimore were null and void, and that the States were entitled to the property, in conformity to law and the intentions of the testator. This suit was decided *against* the claim of the States.
3. A suit brought by Mary Murdock and others, heirs of John McDonogh, in Equity, in the Circuit Court of the U. S. for the Eastern District of Louisiana, against the Executors of John McDonogh and others, alleging the nullity of the will and claiming the estate of the deceased *as heirs*. This case was finally decided by the Supreme Court of the U. S. on appeal, at December term, 1853,—and the bequests to the cities of New Orleans and Baltimore, &c. sustained. See 15 How. U. S. Supreme Court Reports, 367.
4. A suit of the heirs of Spencer against the succession, for a claim against Mr. McDonogh, which resulted adversely to the estate in a judgment, &c., amounting to $17,961.31, which was paid in full.
5. A suit of Sarah Greenwood and others, for a claim against Mr. McDonogh; decided in favor of the estate by the Supreme Court of Louisiana, on an appeal.
6. A suit of F. J. Durant in favor of absent heirs, of which he had been appointed curator, and which, it is believed, was not prosecuted to any result.
7. A suit of Messrs. Howard and Mayer for a share of the commissions as executors, claimed by them, which resulted in their favor, and was paid by the city's representatives. See Res. Sept. 29, '54.
8. A suit of New Orleans, the American Colonization Society, and the Society for the Relief of Destitute Orphans, against Baltimore for the partition of the Estate of John McDonogh. Partition between the cities granted, ordered, made and confirmed.
9. A suit of the American Colonization Society and the Society for the Relief of Destitute Orphan Boys, against the estate, for their distributive share and ascertainment of its money value. The court awarded to each society $84,230.27; and by another award of arbitrators in 1859, each society also received $3,273.90 for annuities due to it until the time of actual payment of the judgment.
10. A suit of Francis Peña against New Orleans and Baltimore, for a claim of $100,000 on a will of Mr. McDonogh in his favor for that sum, written on a small slip of paper, and produced, for the first time,

several years after the probate of the original will devising his estate to the cities. This singular and last produced will was sustained by the Supreme Court of Louisiana; and the 100,000, with the interest allowed, paid in full in 1859.

11. A suit of New Orleans *vs.* Baltimore, for $50,000 as an equal share of the fees paid by New Orleans to counsel employed by that city on its own terms, to defend the interests of the cities under the will, soon after its probate, and immediately on the commencement of litigation. This was decided against Baltimore; the judgment being for $37,500.

12. A suit of Moses Fox against New Orleans and Baltimore, claiming $300,000, under another alleged will of Mr. McDonogh, in his favor. This suit was finally decided by the Supreme Court of Louisiana in favor of the City of Baltimore in 1872.

Administration of the McDonogh Estate, under the Will, by the Agents of Baltimore before partition—and subsequent sale and liquidation by them of Baltimore's share.—The accounts and returns of the agents appointed under the ordinances of 1854, (p. 596, &c., *ante*,) and of 1858, (p. 599, &c., *ante*,) which latter ordinance was drawn by Mr. Brantz Mayer, will be found among the Reports of the Mayor and City Council of the following dates:

9th May, 1855. 24th January, 1856. 2d February, 1857. 23d May, 1857. March 20, 1858. May 30, 1859. 24th April, 1860. May 7, 1860. 4th February 1861. 12th April, 1861, and 22d April, 1861.

These documents show the complete administration of the estate, so far as the interest and share of Baltimore were concerned, by Messrs. Brantz Mayer, William S. Peterkin and Thomas L. Emory, until the outbreak of the war. From 1850 to 1855—the testamentary executors managed the property. In the spring of 1855 they handed over to a joint administration, constituted by city ordinances of New Orleans and Baltimore, to agents of Baltimore and commissioners of New Orleans, viz: in property, (real estate $2,086,874.58; in cash $59,112.53; in chattel property $16,762, *exclusive of slaves, which are not valued as property*, and of whom there were 81 in all; inasmuch as all Mr. McDonogh's slaves were to be freed and sent to Africa in 15 years from his death. In *sperate* debts and bills receivable $66,951.83. Making the total valuation of the Estate belonging to New Orleans and Baltimore, and then transferred as follows:

In real estate	$2,086,874 58
In cash	59,112 53
In chattel property	16,762 00
In *sperate* debts and bills receivable	66,951 83
	$2,229,700 94

These valuations were made generally *according to the original inventory* of Mr. McDonogh's estate at his death, 1850-'51.

This *resumé*, it will be seen, gives a larger amount than that stated by the agents of Baltimore in their first report from New Orleans of May 9, 1855; for the properties in St. James' Parish, valued at $303,000, and in St. Charles' Parish, valued at $500, had not been appraised during the administration, *by the executors*, or returned in the inventory from the court of what was transferred by these *executors* to the agents and commissioners of the two cities. The allowance for *sperate* debts is also increased, and the charge in favor of the estate of $20,000 thrown off as the ten years' value of the services of 81 negroes until they were freed. In the estate's inventory, 1850–'51, at McDonogh's death, the slave property of the succession was valued at $42,960.

After the partition of the estate, and its sale in 1859, the representatives of the cities, in fullfillment of McDonogh's wishes, and without awaiting the expiration of the 15 years, sent all his slaves to Africa, abundantly provided with the necessaries and comforts of life in their new home, as well as with the implements of their trades and of agriculture. A vessel was chartered to take them out. A physician was sent to take care of them. They were put for six months after arrival under the care of the agents in Africa of the American Colonization Society, (which had received a legacy of nearly $90,000;) and finally found their resting place at Carysburg, in Liberia. Here, it is understood, they have been thoroughly established, and have done well and are doing well in 1878, twenty years afterwards.

On the *re-appraisement of the real estate belonging* to this succession at the period of the partition of it between Baltimore and New Orleans by the experts, Messrs. B. Mayer and T. G. Hunt, in May, 1857, it was found that the estimated value affixed to this *Real Estate* when the original inventory was made, immediately after Mr. McDonogh's death, 1850–'51, viz: of $2,086,874.58, was greater than the valuation then made by experienced men in 1857. The *gross* valuation in the three districts of New Orleans, the town of McDonoghville, and in twelve parishes of the State of Louisiana, was $1,408,880, of which Baltimore's half, *as apportioned*, was $704,440. But there was also some real estate not then capable of apportionment between the cities, but which had to be sold jointly and the proceeds divided. This joint and *undivided* property was valued at $56,800, which, added to the $1,408,880 of *divided* property, gave a total of $1,465,680 *of real estate.* This demonstrated either a decline of values in landed property in Louisiana, *or an overestimate* of $621,194.58, in 1850–'51. When Messrs. Mayer, Peterkin and Emory closed their liquidation of Baltimore's share two years afterwards, in May, 1860, the then *gross* sales on the four years' credit allowed, exhibited a total of $918,715.06. The appraised value of *our divided* share was $704,440, and of our *undivided share*, $28,400, making a sum of $732,840, which, if deducted from $918,715.06, left a balance of $185,875.06 towards paying all the liabilities of Baltimore on account of this estate.

After this partition and sale the war intervened, and the change in the character and value of property in Louisiana, especially affected *the unsold country, or plantation property* in the parishes of Iberville, St. James, &c. To January 4th, 1869, the finance committee of the trustees of the McDonogh Educational Fund and Institute, reported their investments and cash from the entire realized funds in their hands to be $522,740.96. And by their report in January, 1878, they state the productive investments of the McDonogh Fund to be $709,815.58, besides the Foxleigh farm and improvements, stock, furniture and implements, &c., certificates of location of public lands, (amounting to 26,040 acres, being the net amount received by the trustees under resolution No. 377, June 26, 1875, p. 611, *ante*, according to the contract with counsel under ordinance No. 1, Nov. 30, 1860, p. 607, *ante*.) and a good deal of real estate in Louisiana still unsold. This result has been reached through the Trustees' faithful devotion to the purposes of their trust, and especially to the efforts here and in Louisiana of Mr. H. Clay Dallam, who has been the secretary and agent of the board since 1868.

In 1872, the trustees, finding themselves for the first time, after the decision of the Fox suit in favor of the city, free from serious litigation and in possession of some $650,000, purchased the place in Baltimore county known as Foxleigh, for the location of the School Farm. This farm contains about 835 acres, well watered and wooded, lying on the Western Maryland Railroad, 12 miles from Baltimore, in a region remarkable for its healthfulness.

The principal and other officers were duly appointed, and the School was opened November 21st, 1873, by the admission of 21 pupils. This number was gradually increased, as the accommodations were made ready, to 50, by February 1st, 1874. Want of room has prevented any further increase of numbers since that date. Applications have steadily increased from the beginning, and there are at present a large number on the list. As soon as the proposed buildings and apparatus are all provided the School will be filled to its capacity of about 150 pupils. The boys are received into the School between the ages of 10 and 14 years, and are allowed to remain until they are 16; and if they obtain a "prize scholarship," they are entitled to an additional year. They are clothed, supported, and educated absolutely free of all expense. Poor boys, of good character, *bona fide* residents of the city of Baltimore, are alone eligible to the School.

Monument to McDonogh.—John McDonogh was born in Baltimore, Dec. 29, 1779. He died in the town of McDonoghville, a small settlement on property belonging to him immediately opposite the city of New Orleans, and directly on the river, on the 27th of October, 1850. [On his tomb in Greenmount Cemetery, Baltimore, the date of his death is erroneously recorded as the 26th October, 1850.] He was buried in a cemetery belonging to himself in the rear of McDonoghville, in a substantial marble burial

vault, and there his remains rested until 1860, in the spring of which year they were sent to Baltimore for final interment, as he had requested in his will, and temporarily deposited in the family vault of Mr. Brantz Mayer, June 5th, 1860, until a suitable tomb could be prepared in accordance with the resolutions of the cities of New Orleans and Baltimore.

A resolution of the Mayor and City Council of Baltimore, No. 89, approved June 5, 1858, recites that, "in the memoranda of instructions left with his will by the late John McDonogh, he desired that his remains might be deposited in a burial place of the city of Baltimore, together with the remains of his parents, and that a suitable vault be erected for their reception: and that the wishes of the deceased in this respect, have not yet been complied with, &c;"—and then it enacts, that "the agents of said city are authorized to unite with the authorities or agents of the city of New Orleans, in removing the remains of said John McDonogh to Baltimore, and in fulfilling, as far as practicable, the wishes so earnestly expressed by him in the memoranda aforesaid; and that should the city of New Orleans decline uniting in the costs of removal and erection of a tomb, but should not object to the accomplishment of Mr. McDonogh's desires by the city of Baltimore, then the agents of Baltimore are empowered to perform the duty, alone, in behalf of the city they represent; and are authorized to expend all necessary sums of money—not to exceed two thousand dollars—out of the city of Baltimore's share of the McDonogh estate, for said removal of remains, and for the erection of a suitable tomb and memorial of the deceased.

Under ordinance No. 56, July 14, 1860, and resolutions No. 140, Sept. 24, '62; No. 190, Oct. 9, '63, and No. 26, Feb. 7, '67, a lot in Greenmount Cemetery was donated for the erection of a tomb and monument. Mr. McDonogh's remains were deposited, on the 1st of July, 1864, in the substantial vault built on this lot for their reception, and the stones above them laid and cemented under the personal supervision of Mr. Mayer. It was not, however, until 1866, that the monument above this vault was completed, the statue erected, and the commemorative services performed.

On the sides of the monument are the following inscriptions: "Sacred to the memory of John McDonogh, born in this city on the 29th of Dec., 1779; died in the State of Louisiana, on the 26th of Oct., 1850. Written by himself:—Here lies the body of John McDonogh, of the city of New Orleans, in the State of Louisiana, one of the United States of America, the son of John and Elizabeth McDonogh, of Baltimore, in the State of Maryland, and also one of the United States of America, awaiting in firm and full faith the resurrection and coming of his glorious Lord, Redeemer and Master to judge the world."

"Rules for my guidance in life, in 1801: Remember always that labor is one of the conditions of our existence. Time is gold, throw not one minute away, but place each one to account. Do unto all men as you would be done by. Never put off till to-morrow what you can do to-day. Never bid

another do what you can do yourself. Never covet what is not your own. Never think any matter so trivial as not to deserve notice. Never give out that which does not first come in. Never spend but to produce. Let the greatest order regulate the transactions of your life. Study in your course of life to do the greatest possible amount of good. Deprive yourself of nothing necessary to your comfort, but live in an honorable simplicity and frugality. Labor then to the last moment of your existence. Pursue strictly the above rules, and the Divine blessing and riches of every kind will flow upon you to your heart's content. But first of all, remember that the chief and great study of our life should be to tend by all means in our power to the honor and glory of our Divine Creator. John McDonogh, New Orleans, March 2d, 1804. The conclusion to which I have arrived is, that without temperance there is no health; without virtue no order; without religion no happiness: and that the sum of our being is to live wisely, soberly and righteously."

"Erected by the constituted authorities of the cities of Baltimore and New Orleans, in memory of John McDonogh, and as a testimonial of their appreciation of his character and his munificent liberality for the promotion of a great public enterprise—the education of orphans. Here repose his remains."

ARTICLE XXXV.

MARKETS.

STATUTES.

1. Corporation to erect and regulate markets.
2. Penalty for buying to sell again in market: proviso.
3. How penalty enforced: fines and forfeitures.
4. Weight of butter: forfeited for light weight.
5. Clerks of markets may distrain meat for rent: to collect fines and forfeitures.
6. No charge for selling in market unless in stalls: proviso.
7. Penalty for collecting.
8. Corporation may sell or lease stalls.
9. Corporation may buy or lease land for purpose of extending markets.
10. Power to condemn lands, &c.: proceedings.
11. Infants, lunatics and femes coverts.
12. Notice against non-residents.
13. List of jurors.
14. Oath to jurors.
15. Duty of jury.
16. Inquisition to be returned to clerk of court: confirmation.
17. Another inquisition.
18. Description of property: interest: title in city: valuation.
19. Summoning jurors.
20. Pay to jurors and sheriff: costs.
21. Corporation to levy and collect costs, damages, &c.

ORDINANCES.

CLERKS.

1. Clerks to be appointed: duties.
2. Further duties.
3. Markets to be swept, &c.
4. Clerks to give bond: penalties and conditions: to render accounts.
5. Clerk to cause necessary repairs to be made: proviso.
6. To distrain for rent.
7. Police officers to attend markets and aid clerks.
8. Clerks to prevent idle or disorderly persons from frequenting market houses: penalty.
9. Duties of assistant clerks.
10. Penalty for resisting clerks.

Article XXXV.

STALLS AND STANDS.

11. Notice on unrented stalls.
12. Clerks to fix rent of stalls not enumerated.
13. Moveable stalls, &c. to be erected: penalty for injuring stalls, &c.
14. Clerks to collect ten cents for numbers of stalls.
15. Mode of renting stalls, &c.: record to be kept by Comptroller: licenses for stalls transferable: rates of licenses.
16. Clerks to make monthly reports to Comptroller: duty of Comptroller.
17. Renewals of licenses regulated.
18. Public sale of stalls.
19. Clerks forbidden to rent places to offenders against ordinance: persons having licenses not to rent stalls: duty of clerks.
20. Vacant benches may be occupied: proviso.
21. The erection of certain structures prohibited: duty of clerks: proviso.
22. Butchers' closets regulated.
23. Limits of benches regulated.
24. Regulations for occupiers of benches, &c.
25. Fruit and vegetable stands.

SALES, &C.

26. Meat not to be sold except on butchers' stalls: proviso.
27. Sale of unsound meat prohibited.
28. Mode of weighing.
29. Animals, &c. not to be driven on brick pavements: killing, &c. in markets prohibited.
30. Cows not to be brought in market during market hours.
31. Sale of merchandise, &c. prohibited.
32. What females may sell merchandise in markets: amount of stock in trade: proviso.
33. Hucksters to occupy only certain parts of markets.
34. Dealers in certain articles from carts, &c. to obtain licenses: proviso.
35. Sausages, &c. not to be sold in markets without license: penalty: duty of clerks of markets: proviso.
36. Dealers in meal and flour to obtain licenses: proviso.
37. Sale of fresh meat regulated.
38. Sale of wine, &c. prohibited.
39. Cows, &c. not to be sold in streets.
40. Tax on sale of cows, &c.: proviso.
41. Unlawful to slaughter calves under four weeks old.
42. Auctions prohibited in markets during market hours.
43. Goods not to be placed on footways.
44. Public scales and weights to be taken care of: rent of scales.

WAGONS, &C.

45. Wagons, &c., how to be placed in markets: proviso.
46. Vehicles, horses, &c. in markets regulated: penalty.
47. Streets not to be obstructed: proviso: bacon carts prohibited from passing through streets on Sabbath: penalty.
48. Location of horses, vehicles, &c. at certain hours: penalty.
49. Penalty for bringing carts, &c. into markets.
50. Avenues, &c. to be kept open.

LIMITS, &C.

51. Plats of markets to be made.
52. Water not to be drawn from Fell's Point reservoir for shipping purposes.
53. Penalty for defacing market houses, &c.
54. Rights of property owners.
55. Cooking in markets prohibited.

Article XXXV.

MARKET DAYS AND HOURS.

56. Market days.
57. Market hours.

SALARIES.

58. Salaries of officers of markets.

BEL-AIR MARKET.

59. Limits of Bel-Air market.
60. Bond of clerk.
61. Rent of stalls and benches.

BROADWAY MARKET.

62. Keeper of hall over Broadway market: his duty.
63. Bond of clerk.
64. Penalty.
65. Defacing, &c. hall: penalty.
66. Position of wagons and vehicles.

CANTON MARKET.

67. Rents and licenses of stalls.
68. Bond of clerk.

CENTRE MARKET.

69. Limits of Centre market.
70. Market on Fish Market Space.
71. Fresh fish: vegetables and fruits.
72. Licenses to conform.
73. Encumbrances: fresh fish.
74. Stalls in Centre market for sale of cheese, &c.
75. Bond of clerk.
76. Assistant clerk.
77. Clerk to have streets near Fish market washed: penalty.
78. Rent of stalls and benches.
79. Location for sale of cheese, salted, cured and dried fish under direction of clerks.
80. Meats and cooked provisions.
81. Time and place for the sale of horses, &c. designated: where horses not to be sold.
82. Driving across Centre Market Space at Lombard and Pratt streets.
83. What limits hucksters to keep.

INSTITUTE MARKET.

84. Wagons outside Institute market house.
85. Keeper of market house under Maryland Institute: his duties.
86. Penalty for violating provisions of ordinance.
87. Market doors: proviso.
88. Defacing, &c. Maryland Institute building: penalty.

CROSS STREET MARKET.

89. Limits of Cross street market.
90. Additional duties of clerk.
91. Bond of clerk.
92. Stalls.

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93. Limits of Fell's Point market.
94. Stalls to be occupied every day of week.
95. Regulations.
96. Bond of clerk.
97. Rent of stalls and benches.

HANOVER MARKET.

98. Limits of Hanover market.
99. Bond of clerk.
100. Rent of stalls and benches.
101. What limits hucksters to keep.

HOLLINS STREET MARKET.

102. Limits of Hollins street market.
103. Bond of clerk.
104. Stalls.

LAFAYETTE MARKET.

105. Bond of clerk.
106. Powers and duties of clerk.
107. Market ordinances and regulations.

LEXINGTON MARKET.

108. Limits of Lexington market: proviso: wagons, &c.: penalty.
109. Bond of clerk.
110. Assistant clerk.
111. Rent of stalls and benches.
112. What limits hucksters to keep: meats and cooked provisions.

Article XXXV.—Statutes.

PROVISIONS APPLICABLE TO BEL-AIR, CENTRE, FELL'S POINT, HANOVER AND LEXINGTON MARKETS.

113. Limits for butchers' stalls beyond which impediments not to be placed.
114. Limits for other stalls.
115. Dealers in cheese, salted, cured or dried fish to occupy certain parts of markets.

RICHMOND MARKET.

116. Limits of Richmond market.
117. Bond of clerk.
118. Rent of stalls.
119. Rent of unoccupied stalls.

SALE OF STALLS IN BEL-AIR, CANTON, CENTRE, CROSS STREET, FELL'S POINT, HANOVER, LAFAYETTE, LEXINGTON AND RICHMOND MARKETS.

120. Ratified and confirmed: proviso: promises and agreements.

STATUTES.

P. L. L., art. 4, sec 631. Corporation may erect and regulate markets.

1. The Mayor and City Council have power to erect and regulate markets. *

Ibid, sec. 632. Penalty for buying to sell again in market.

2. If any person shall buy, or cause to be bought, any kind of vegetables, dead meat, poultry, butter, cheese, tallow, eggs or fish in any of the markets of said city, or within ten miles thereof, with an intent to sell the same again in such markets or city, or within two miles thereof,

* As early as 1751, when there were but twenty-five houses, four of brick, in Baltimore-town, a subscription was taken up to erect a market house. But a lot was not selected till 1763, (see 1765, c. 34,) when the corner lot on the north of Baltimore street and west of Gay street was leased for a market at about fifty dollars per annum. In 1784 the market house, erected on above lot, was sold, and a space intended originally for a canal or dock, on Harrison street, was appropriated for the purpose of a market. About the same time, another market house was erected on the northwest corner of Hanover and Camden streets, and another on Fell's Point, (see 1784, c. 62, and 1785, c. 33, *Dugan* v. *Mayor*, &c., 5 G. & J. 357.) The Lexington market was erected by the Western precincts in 1803, (see 1803, c. 76,) and another was provided for the Eastern precincts in 1807, and erected in 1819, (see 1807, c. 160, and 1817, c. 148.)

The city of Baltimore has authority "to erect and regulate markets," and "to prevent and remove nuisances." Ordinances were passed in 1853, (No. 16, March 4, 1853, and resolution No. 246, September 10, 1853,) to re-build one of the old Belair market houses, and to erect a temporary one for the use of the public till the new one was completed. After the old building had been taken down and the temporary one put up, a hole was dug within the limits of the market by persons who had no business there, into which

he shall for the first offence forfeit the article, or the value thereof; for the second offence he shall forfeit the article and be fined four dollars, and for every other offence forfeit fifteen dollars, to be recovered in a summary way before a justice of the peace; provided that the purchasing of pork, beef and fish, by the barrel or other package, butter in firkins, or other packages not less than fifty pounds, bacon or Proviso.

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the plaintiff fell during market hours and was injured. The hole was about twenty feet from a flat outside the old market house, but within the limits taken for the new one, where hucksters were accustomed to sell, and, at the time were selling vegetables against the orders of the market master, who had warned them off--the limits of the new market were indicated by a furrow, along which granite stones were placed for the work, which with the timber placed at one end was intended as obstructions to keep people off. The plaintiff sued the city to recover damages for injuries sustained by falling into this hole. Held:

1st. That the action could not be maintained on the ground of negligence in the city or its agents, in removing the old house; the owner or person in charge of property undergoing repairs or being built, is not responsible for damages to one who voluntarily goes amid the ruins, having no business there.

2d. The charter places the city, in this respect, on the same footing as individuals and private corporations, and it assumes the duty and the consequence of negligence in its performance of keeping the established markets free from nuisances.

3d. But this liability cannot be enforced when the party injured has not observed ordinary care and diligence, nor when he met his accident at a place which, at the time, was not an authorized market place, or where buying and selling were carried on against public authority.

4th. When the old house was taken down it ceased to be a market place, and the fact that hucksters were selling on the flat as formerly, does not affect the question, because the plaintiff cannot protect himself against the consequences of his own act under cover of the unauthorized acts of others.

5th. If the ground when the hole was dug was the only way by which the plaintiff could reach the temporary market, or if the city authorities had set apart or indicated it as a way thereto, (of which, however, there was no proof,) the city would be liable for negligence, if any, in permitting the way to be obstructed by such nuisance; but the fact that others used the same route does not make the city responsible to the plaintiff. *Mayor &c.*, v. *Brannan*, 14 Md. 227.

cheese by the quantity, by any merchant or shop keeper, and selling the same again in his store or shop, shall not be deemed or taken as an offence against this section.

Ibid, sec. 633.

How penalty enforced.

3. Whenever any person shall be found exposing for sale any of the articles enumerated in the last preceding section, otherwise than in his store or shop, and there shall be good cause to suspect they have been purchased contrary to the provisions of the said last preceding section, it shall be lawful for any person to apply to a justice of the peace for a warrant to apprehend the person so suspected, and the justice shall have power to inquire into the offence, and if the person suspected be convicted thereof on the oath of one or more credible witnesses, or if he cannot make it appear to the satisfaction of the justice that he raised or made the articles by him offered for sale, or is disposing of them on account of the person who raised or made them, or that he bought the same ten miles or upwards from the city of Baltimore, he shall be deemed to be an offender against the provisions of the said last preceding section, and the fines and forfeitures shall be recovered in a summary way before the said justice.

Fines and forfeitures.

Ibid, sec. 634.

Weight of butter.

Forfeited for light weight.

4. All butter sold by the pound in the said market shall weigh sixteen ounces avoirdupois weight; and any person bringing butter to the said markets and offering the same for sale, of less weight than sixteen ounces avoirdupois, shall forfeit the same, and it shall be seized and taken by the clerk of the market and sold for the use of the city.

Ibid, sec. 635.

Clerks may distrain meat for rent of stalls.

To collect fines and forfeitures.

5. The clerks of the market shall have full power and authority to seize by distress any meat upon any stall in the market houses of said city, if the butcher owning such stall shall not pay the rent due thereon; and he shall also collect all fines and forfeitures imposed in the preceding three sections, and account for the same to the Mayor and City Council.

6 No charge, tax, or fees, shall be set, rated, or levied, upon any person, or the property of any person, who shall attend any of the markets of said city, with any articles or produce from the country to vend in said markets, of their own growth, produce or manufacture, or as the agent of the grower, producer or manufacturer of the same, unless such person or persons shall occupy some place or stand in some of said market houses; provided, such person or agent be not a resident of the said city. Ibid, sec. 636. No charge for selling in market unless in stalls. Proviso.

7. If any clerk of the market, or any other person or officer appointed by or under the authority of the Mayor and City Council, shall demand, receive or collect any tax or other charges from any person or persons attending the markets of said city as provided in the last preceding section, who shall be standing in the open streets, and who do not occupy any place or stand in the market, he shall be liable to a fine of twenty dollars for each offence, to be recovered before any justice of the peace as small debts, one-half to the informer and the other half to the State. Ibid, sec. 637. Penalty for collecting.

8. The Mayor and City Council may lease, sell or dispose of the stalls and stands in any market, in any manner and for any term they may think proper. Ibid, sec. 638. Corporation may sell or lease stalls.

9. The Mayor and City Council may contract for, purchase, lease and hold, to them and their successors, in fee simple, or for a term of years, renewable from time to time forever, any lands, tenaments and their appurtenances in the vicinity of any market, or for the purpose of extending the same. Ibid, sec. 639. Corporation may buy or lease land for purpose of extending markets.

10. They may agree with the owners of any land, or other property which they may deem it expedient to purchase and hold, for the purpose of extending any market, and if they cannot agree, or if there be any incapacity in Ibid, sec. 640. Power to condemn lands, &c.

Proceedings.

the owners to contract in relation thereto, or if such owners be unknown or out of the State, any justice of the peace for said city, on application to the Mayor and City Council, may issue his warrant to the Sheriff of said city, commanding him to summon from the said city a jury of twenty freeholders, inhabitants of said city, not related to the owners or persons interested in the real estate or other property, to meet on the premises on some certain day to be named in said warrant, of which said warrant and the day therein named for the meeting of the jury five days' notice shall be given previous to such day by the Mayor and City Council to every owner or person interested, and left at his place of abode.

Ibid, sec. 641.

Infants, lunatics and femes coverts.

11. If any infant or lunatic or feme covert be the owner in whole or in part of the property subject to be condemned, the notice shall be given to his or her guardian, trustee, committee or husband, as directed in the preceding section.

Ibid, sec. 642.

Notice against non-residents.

12. If such owner, guardian, trustee, committee or husband, reside out of the State, or is unknown, such notice shall be published not less than eight weeks successively in some one or more of the daily newspapers of said city.

Ibid, sec. 643.

List of jurors.

13. The owner of such property, or the guardian, trustee, committee or husband, of the owner may, from the list of jurors returned by the Sheriff, strike four, and the Mayor and City Council four, so that the number of jurors may be reduced to twelve, and if either party neglect or fail to strike off the names of jurors, the Sheriff or his deputy shall strike for the party so failing or refusing.

Ibid, sec. 644.

Oath to jurors.

14. The Sheriff or his deputy shall, before the said jury proceed to act, administer to each of them an oath justly and impartially to value the damages which the owners or parties holding an interest in the property to be condemned

will sustain, by the use and occupation thereof by the Mayor and City Council of Baltimore.

15. The jury so qualified shall inquire into, assess and ascertain the sum or sums of money to be paid by the Mayor and City Council for the land or other property to be condemned, having regard to all the circumstances of damage or benefit to result to such owner or party interested therein. Ibid, sec. 645. Duty of jury.

16. The jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the Sheriff to the clerk of the Superior Court * of said city, and be by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown, and when confirmed shall be recorded by the said clerk at the expense of the Mayor and City Council. Ibid, sec. 646. Inquisition to be returned to clerk of court. Confirmation.

17. If said inquisition be set aside by the court, the said court shall direct another inquisition to be taken in the manner hereinafter directed. Ibid, sec, 647. Another inquisition.

18. Every such inquisition shall describe the property taken or the bounds of the land condemned, and the quantity or duration of the interest in the same valued to the Mayor and City Council, and such valuation, when paid or tendered to the owner or owners of said property, or his or their legal representatives, shall entitle the Mayor and City Council to the full, legal and equitable title, interest and estate of the owners of said property, estate and interest in the same thus valued, as fully as it had been held by the owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received without interest by the said owners, or his or their legal representatives. Ibid, sec. 468. Description of property. Interest. Title in city. Valuation.

* See Const., Art. IV, sec. 28, p. 183, *ante*.

Ibid, sec. 649. Summoning jurors.

19. If the twenty jurors summoned as hereinbefore directed shall not appear at the time and place appointed, the Sheriff or his deputy shall forthwith summon other freeholders of the city, qualified as before directed, to make up the said jury to the number of twelve.

Ibid, sec. 650. Pay to jurors, Sheriff. Costs.

20. The jurors summoned and attending shall be allowed one dollar per day for their services; the Sheriff shall be allowed the same fees as for summoning jurors to the uperior Court, and two dollars a day for each day he or his deputy shall attend upon such inquisition, and such expenses shall be paid by the Mayor and City Council, except in cases of objection to the confirmation of the inquisition, when the costs in said court may be awarded in the discretion of the court.

Ibid, sec. 651. Corporation to levy and collect costs, damages, &c.

21. The Mayor and City Council may levy and collect all the costs, damages and expenses awarded as aforesaid.

ORDINANCES.

CLERKS.

No. 27, s. 7, R. O. Clerks to be appointed. Ibid, s. 10. Duty of clerks.

1. There shall be appointed for each of the markets one clerk. The clerks appointed to the several markets shall have full power and authority to take possession, care and charge of the markets to which they are respectively appointed, during their term of office; and they shall attend, unless prevented by sickness or other unavoidable accident or necessity, the markets to which they are respectively appointed, during the market hours hereinafter prescribed, and at such other hours as shall be necessary in order to enforce obedience to all and every the rules directed to be observed concerning such markets.

Ibid, s. 11. Further duties.

2. It shall be the duty of the clerks of the several markets to prevent all blown, stuffed, unsound or unwholesome provisions from being sold, or exposed for sale within

the same, and to weigh and examine all butter, lard and other articles of provisions sold at a given weight, to see that the same are of due weight for which the same are offered for sale, and the same, when false, to seize and dispose of to the highest bidder, for the use of the city, after having been made in roll form; to decide all differences and disputes which may arise in the said markets, to which they are severally appointed, between buyers and sellers, touching the weight and measure of the things there bought and sold, and to try all scales, weights and measures by which any provisions offered for sale in the said markets, are to be weighed or measured, as often as practicable; and all such scales, weights and measures, as are found incorrect, shall be seized by the clerk or his assissant and destroyed, and the owners thereof, or the person using them, shall forfeit and pay a fine of ten dollars, for each and every offence, one-half for the use of the clerk of the market and the other half to be paid into the city treasury, and to collect all rents of the stalls and shambles in the markets to which they may belong, for the use of the city.

No. 27, s. 13, R. O. Markets to be swept, &c.

3. The said clerks shall cause the markets to which they are respectively appointed, to be swept at least twice in every week, on the days next preceding market days, and have their respective markets cleaned before eight o'clock on Sunday mornings, and on such other days as the Mayor may direct, and to remove all dirt, filth and snow from the same as often as may be necessary; and it shall be the duty of the said clerks, when fish are sold, to scrape and wash the benches and scrub and wash off all filth from the pavements and gutters, so as to make the said fish market as clean as practicable, or cause the same to be done, before five o'clock in the afternoon of each and every day the fish are sold

therein, under a penalty of five dollars for every neglect or omission.*

Ibid, s. 15.

Clerks to give bond.

4. Before the clerks of the several markets shall take upon themselves the execution of the trust reposed in them by this ordinance, they shall each give bond, with sufficient security to be approved by the Mayor, to the Mayor and City Council of Baltimore, in such penalties as may be prescribed in this article, for the clerks of the several markets, with conditions thereto annexed, that they will well and faithfully discharge the several duties required by this or any other ordinance, and that they will render to the Mayor on the first Monday in every month, a just and true account of all moneys they may from time to time receive in virtue of their offices, and that they will pay the same to the Register, for the use of the city.

Penalties.

Conditions.

To render accounts.

Ibid, s. 52.

Clerk to cause necessary repairs to be made.

5. Whenever any repairs may be required at any of the market houses, it shall be the duty of the clerk of the market, with the approbation of the Mayor, to have such repairs made, and the expenses thereof shall be paid out of the proceeds of said market; provided, that the same shall not exceed fifty dollars for each market in any one year.

Proviso.

Ibid, s. 58.

Clerks to distrain for rent.

6. The clerks of the several markets shall have full power and authority to distrain and sell any meat, provisions or other articles upon any stall, stand, shamble, bench or place, if the person renting the same or in the occupation thereof shall not pay the rent due thereon.

Ibid, s. 59.

Police officers to attend markets and aid clerks.

7. It shall be the duty of the police officers to attend at the several markets of the city, in such order of rotation and subject to such rules and regulations as may be prescribed, and during the prescribed time of such attendance to aid

* See sec. 113, p. 419, *ante*, as to duty of Street Superintendents to have filth, &c., removed from market houses on Sunday morning.

and assist the clerks of the said markets respectively in preserving order therein and enforcing the provisions of this ordinance.

8. It shall be the special duty of the clerks of the markets, at all times, to prevent idle or disorderly persons from frequenting the market houses, and any person or persons who may be found sitting, sleeping or behaving in a disorderly manner, within either of the market houses, or upon the shambles, stalls or benches thereof, shall each forfeit and pay a fine of one dollar for each offence. Ibid, s. 49. Clerks to prevent idle or disorderly persons from frequenting market houses. Penalty.

9. It shall be the duty of the assistant clerk of the respective markets to aid and assist the principal clerk in the discharge of the duties imposed on him by law, and preserve order within the limits of the market of which he is an assistant; to collect all the per diem rents from persons occupying unlicensed stalls, stands, benches or places in the market of which he is an assistant clerk, and return a true and just account thereof, on oath, and pay over the same to the Register of the City on the first Monday in each and every month. Ibid, s. 16. Duties of assistant clerks.

10. If any person shall resist or obstruct any clerk or assistant clerk of a market in the execution of his duty, he or she shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 17. Penalty for resisting clerks.

STALLS AND STANDS.

11. It shall be the duty of the clerks of the several market houses in the city, to affix on each stall, stand, shamble and bench in each of said market houses not rented and licensed, a written or printed notice, offering the same for rent, and stating the amount of rent and license which will be charged for the same. Ibid, s. 18. Notice on unrented stalls.

Ibid, s. 20.

Clerks to fix rent of stalls not enumerated.

12. The clerks of the several markets, with the consent of the Mayor, shall have power to fix the rent of all stalls, stands and benches not enumerated in this article; provided, that said rents shall not at any time be fixed at a lower rate than is now paid for the same.

Ibid, s. 41.

Moveable stalls, &c. to be erected.

13. The Mayor is hereby empowered to cause, from time to time, as may be found most expedient and necessary, a number of movable stalls and permanent fixed benches to be made and erected at the expense of the corporation, and placed on such parts of the limits of the markets as may by him be found most convenient and suitable, and to cause the same to be numbered and rented out to the venders of market articles, by the clerks of said markets, on the terms heretofore established, or which may hereafter be established, for such stalls and benches in such respective markets; and

Penalty for injuring stalls, &c.

if any person shall wilfully or maliciously break or otherwise injure any permanent fixed bench, movable or other stall, any person so offending, and every person aiding or concerned in such offence, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

No. 21, Apl. 21, '64.

Clerks to collect ten cents for numbers of stalls.

14. The clerks or assistant clerks of the several markets shall collect from all dealers, except butchers and bacon dealers, ten cents for each and every number of the stall or stalls occupied by them, on each and every market day or part of a market day.

No. 27, s. 42, R. O.

Mode of renting stalls, &c.

15. Whenever the clerk of any market shall rent or hire out any stall, stand, shamble or bench, he shall give to the person or persons obtaining the same a certificate thereof, which shall specify the terms of the tenure, and the number and other description of the stall, stand, shamble or bench; and in case the Mayor shall approve of the terms of said certificate, he shall forthwith grant to the person holding the same, a license under the corporation for the stall, stand,

shamble or bench described in such certificate for one year and no longer; in which license shall be distinctly expressed the number or other description of the stall, stand, shamble or bench, the market wherein it is situated, and the terms of the tenure; and the Comptroller shall keep a record of the name of the person to whom such license shall be granted; and the terms and tenure thereof, in a book to be kept by him for that and similar purposes; and every such license shall, with the approbation of the Mayor, be transferable, and shall be evidence of title in the grantee or assignee to the stall, stand, shamble or bench therein mentioned; and the person applying for said license, shall pay therefor to the Comptroller five dollars for the use of the city.*

Record to be kept by Comptroller.

Licenses for stalls transferable.

Rates of licenses.

16. It shall be the duty of the clerks of the several markets of the city to report monthly to the Comptroller the names of the several persons to whom he may grant certificates; and if any of the persons to whom certificates shall be granted, shall not apply to the Comptroller, within ten days after the date of such certificate, such person or persons

Ibid, s. 44.

Clerks to make monthly reports to Comptroller.

* Under No. 26 of R. O. 1850, secs. 41, 42 and 44, which sections are identical (except that "Comptroller" is put for "Register" in secs. 15 and 16 of above,) with above sections 15, 16 and 19, it was held, in *Hatch v. Pendergast*, 15 Md. 252: 1st. That the payment of the license fee confers on the party the right to use the stand or stall whether a license be obtained or not, but mere payment of rent for a stand, without reference to the license fee, does not vest title to the stand. 2d. A paper in the form of a receipt, signed by the market clerk, stating that he had received five dollars for a specific stand, is to be construed as a certificate of payment of the required license fee for the use of the stand. Title to market stands cannot be acquired by possession; every seller must be considered as holding his stand by contract with the city, subject to the market regulations and not adversely to its authority. If difficulty arise between the holders of certificates of contiguous stands, the limits of which are not defined on the pavement, it is the duty of the market clerk to interpose and determine their respective rights, and if necessary, to call the police to his aid in preserving order and peace in the market.

shall be liable to a fine of five dollars; and it shall be the duty of the Comptroller on the first Tuesday in each month, to furnish the clerks of the several markets, a list of the persons to whom certificates have been granted, and who have not taken out licenses, and it shall be the duty of the said clerks to collect forthwith the amount of the license money due by the granting of said certificates, and to pay the same over to the Comptroller.

Duty of Comptroller.

Ibid, s. 44.

Renewals of licenses regulated

17. If any person or persons, to whom any stand, stall, or bench shall have been rented in any of the markets, shall continue to occupy the same, and shall neglect to renew his, her or their license and certificate, or refuse or neglect to pay the rent due on such stand, stall or bench, such person or persons shall be liable to a fine of two dollars; and it shall be the duty of the clerk of the market in which such delinquent stand, stall or bench shall be situated, to take possession of the same, within ten days from the expiration of such license, in the name of the Mayor and City Council, and proceed as provided in the succeeding section.

No. 55, Sept. 30, '54.

Public sale of stalls.

18. When any stall shall become vacant by the failure of the tenant to renew his, her or their certificate or license, or rent due on such stand or stall for ten days, the same shall be disposed of on the succeeding market day at eleven o'clock, A. M., at public sale; the clerk having posted at least twenty-four hours' notice before such sale within the limits of said market, by an advertisement setting forth the same; and the proceeds of such sale shall be paid over to the Register of the City.

No. 27, s. 45, R. O.

Clerks forbidden to rent places to offenders against ordinances.

19. The clerks of the respective markets are hereby prohibited from letting or hiring any part of the said markets, or any stall, stand or bench therein, to any person or persons whom they have good reason to suspect of offending against the provisions of this ordinance; and they shall not rent any

stall, stand, bench or place, in any market within the city, to any person or persons who shall not intend to occupy the same during the term of the said renting; and no more than one stall, stand, bench or place, shall be rented to any one person, unless said person shall satisfy the clerk of his or her intention to occupy the same as a place of business in the said market; and no person shall assign any license for any stall, stand, bench or place, without the consent of the clerk of the market in which it is situate; and the said clerk shall not assign any license when the person or persons to whom it is proposed to assign, shall be required to pay a greater rent than was paid by the person to whom the license was first granted; provided, that nothing herein contained shall be made to apply to any stall which is owned by any person or persons in the said market; and it shall be the duty of the said clerks, respectively, to remove and drive off any person using or occupying any stall, bench or stand in any of the said markets contrary to the true intent and meaning of this ordinance.

Persons having licenses not to rent stalls.

Duty of clerks.

20. Any person bringing provisions or articles of any description not prohibited, to the several markets for sale on market days, during market hours, shall be authorized to occupy any vacant permanent bench, movable stall, or any other stand or place, (except butcher's stalls,) on paying for the use of the city, to the clerk or his assistant, the sum of twelve and a-half cents for each day, or part of a day, he, she or they shall occupy the same.

Ibid, s. 46.

Vacant benches may be occupied.

21. It shall not be lawful for any person or persons to erect or cause to be erected any permanent wooden frame or structure upon the outside stalls of the market houses, or to use the same, under a penalty of five dollars for each offence; and the clerks of the several markets are hereby directed to give notice to the owners of such frames or structures as are now erected, to remove the same, and if said notice is not complied with within ten days thereafter, the said owner or occupant

Ibid, s. 48.

The erection of certain structures prohibited.

Duty of clerks.

shall pay the penalty of five dollars, and the further sum of five dollars for each day the same shall be permitted to remain after the expiration of said notice; provided, that this section shall not be construed to affect any regular market bench; and provided further, that nothing contained in this section shall apply to any frame structure now erected on the outside stalls of the several fish markets, and used by venders of cheese and confectionery.

Proviso.

Ibid, s. 52.

Butchers' closets regulated.

22. No butcher or butchers shall erect or cause to be erected, under his or their respective shambles, any box or closet, unless the same be raised four inches above the pavement, under a penalty of five dollars for each and every week such box or closet may remain under said shambles.

Ibid, s. 53.

Limits of benches regulated.

23. The division line between the butchers and the occupiers of benches behind the shambles, shall be drawn six inches from the inner edge of one pillar, to six inches from the inner edge of another; and no butcher shall hang any meat or other thing, or place any fixture on the outside of said line, nor shall any occupier of any of said benches hang any meat or thing, or place any fixture on the inside of said line, and every person offending herein, shall forfeit and pay a sum not exceeding five dollars for each and every offence.

Ibid, s. 55.

Regulations for occupiers of benches, &c.

24. All blocks, benches, tubs or other things used in the markets for the accommodation of butchers, whilst occupying the shambles, shall be placed and kept within the limits of the shambles by them severally occupied, and in such manner as not to extend into the market house further than four feet beyond the inner edge of their respective shambles; and every butcher, to prevent nuisances, shall collect, secure and carry away, or cause to be removed from the limits of the market, all heads, feet, pluck or other offal, that are or may be within the limits of his shamble or bench, under a penalty of five dollars for each offence; and all meat, roots, herbs and vege-

table provisions offered for sale under the extended sheds of said markets, and all tubs, baskets, and other things used in said market for the accommodation of the sellers, shall be placed by the several and respective owners thereof, so as not to extend beyond the edge of the benches on the one side, nor within the range of posts on the other side, to the interruption of the purchasers passing and repassing under the said extended sheds; and if any person having charge of any tub, bench, meat, roots, herbs, or vegetable provisions, or other things, as aforesaid, shall cause or suffer the same to be placed or remain otherwise than is hereinbefore mentioned and directed, every person so offending shall forfeit and pay for every offence two dollars; nor shall any person occupying any eave bench, under the like penalty for every offence, extend or enlarge the same by any permanent or temporary fixture beyond the kerb stone.

No. 401, Sept. 30, '67. Fruit and vegetable stands.

25. Permission is hereby given to dealers in fruit and vegetables occupying stands in the different markets of the city, to continue in use their stands during the day, (Sundays excepted,) during the fruit season.

SALES, LICENSES, &c.

No. 27, s. 22, R. O. Meat not to be sold except on butchers' stalls.

26. No person shall sell any meat in any part of or about any of the market houses in the city within the limits of any of the markets, other than the regularly licensed butchers' stalls inside of the markets, under a penalty of ten dollars for each and every offence; provided, that nothing herein contained shall prevent any farmer from selling in any market meats which are exclusively products of his own farm, nor to prevent bacon sellers from making such sales as shall be authorized by license. Proviso.

Ibid, s. 23. Sale of unsound meats prohibited.

27. No person shall sell or expose to sale, in any of the markets aforesaid, or elsewhere within the limits of the city, any blown, stuffed, unsound or unwholesome meat, or articles of provision, or measly pork, or stale or unsound flesh, under

the penalty of twenty dollars for each and every offence; the said penalty to be paid into the city treasury.

Ibid, s. 24.

Mode of weighing.

28. All flesh, flour and other provisions sold by weight shall be weighed by scales and weights, or patent balances, duly stamped, regulated by the officers appointed for that purpose—such scales and weights or patent balances to be provided by the seller; and if any person shall be guilty of selling by steelyards, or by unjust weights, false measures, or scales falsely balanced, he or she shall pay a fine of five dollars for each and every offence.

Ibid, s 25.

Animals, &c., not to be driven on brick pavements.

Killing, &c., in markets prohibited.

29. No person shall lead, ride, drive or bring into any of the market houses, or on the brick pavement of the same, any horse or other beast, wagon, cart, wheelbarrow, or any other carriage whatsoever, or kill or slaughter within the limits of any of the markets, any beast, or gut or cleanse any fish, or lay, throw or deposit any dirt, filth, dung, garbage or offal therein, under the penalty of two dollars for each and every offence.

Ibid, s. 26.

Cows not to be brought in market during market hours.

30. If any person shall lead, drive or place any cow within the limits of any of the markets during market hours, every person so offending shall forfeit and pay the sum of two dollars for every such offence.

Ibid, s. 27.

Sale of merchandise, &c., prohibited.

31. Any person who shall sell or offer for sale, within the limits of any of the markets aforesaid, any merchandise or clothing of any description whatever, or any other article except eatables, or shall during market hours, offer for sale any china, glass or earthenwares within the limits of any of said markets, or on the sidewalk, or bed of any street or alley within one square of the limits of said market, shall, for each and every offence, pay a fine of not less than five dollars, or more than ten dollars; provided, that this section shall not

Proviso.

affect any gardener or farmer bringing any articles of his or

her household manufacture to sell on his or her stand, stall or place.

32. Nothing in this article contained, forbidding the sale of any manufactured goods, wares and merchandise within the limits of the markets, shall be construed to extend or apply to any female *bona fide* engaged in the business of selling on her own account, whose stock in trade offered for sale within the limits aforesaid, shall at no time exceed the sum of forty dollars in value; provided such female shall have procured a license therefor from the City Comptroller, and shall have paid for the same the sum of five dollars as the annual rate thereof.* Ibid, s. 28. Females whose stock in trade does not exceed forty dollars may sell merchandise in markets. Proviso. License.

33. It shall not be lawful for any huckster or any person living in the city and dealing in the articles of butter, eggs or poultry, or either of them, to dispose of or offer for sale, either as principal or agent, any article except within those parts of the limits of the several markets which may be designated for that purpose by the Mayor. Ibid, s. 30. Hucksters to occupy only certain parts of markets.

34. It shall not be lawful for any person to sell or offer for sale from any cart, wagon or other vehicle, within the limits of any market within the city, any cheese, or salted or cured meat, without having obtained from the Comptroller, who is hereby authorized to grant the same, a license, for which dealers in salted or cured meat shall pay fifty dollars to sell in the several markets of the city; provided, that said license shall not confer the right to sell in any more than one market at the same time, nor out of more than one cart, under a penalty of ten dollars for each and every offence; and dealers in cheese or salted codfish or salmon, or any cut or broken pieces thereof, to pay ten dollars for a license to sell in the market therein named; and any person or persons selling or causing to be sold any cheese within the limits of any market Ibid, s. 31. Dealers in certain articles from carts, &c., to obtain licenses. Proviso.

* See sec. 8, being Act of 1878, c. 414, on p. 577, *ante*

whatever in the city, without having first obtained a license so to do, shall forfeit and pay the sum of three dollars for each and every such offence; and provided further, that nothing contained in this section shall be construed as extending to farmers selling the produce of their farms.

Proviso.

Ibid, s. 33.

Sausages, &c., not to be sold in markets without license.

35. It shall not be lawful for any person to sell or offer for sale, within the limits of any of the markets in the city, any puddings or sausages, without having first obtained from the Comptroller a license, to expire on the first day of May in every year; for which he shall receive the sum of five dollars for each and every market; and every person offending against the provisions of this section, shall forfeit and pay a penalty of five dollars for each market day he or she may attend; and it shall be the duty of the clerks of the markets at the several markets of the city, to see that the provisions of this section are complied with and enforced; provided, that the provisions of this section shall not apply to butchers selling under a license in the inside of the market house; and provided, also, that it shall not apply to farmers selling such articles, the produce of their farms.

Penalty

Duty of clerks of markets.

Proviso.

Ibid, s. 34.

Dealers in meal or flour to obtain licenses.

36. It shall not be lawful for any person to sell or offer for sale, from any cart, wagon or other vehicle, within the limits of any market within the city, any meal or flour of any kind, without first obtaining from the Comptroller a license, for which said dealers in meal or flour of any kind shall pay ten dollars to sell in the several markets of the city; provided, that said license shall not confer the right to sell in any more than one market at the same time, nor out of more than one cart, under a penalty of twenty dollars for each and every offence; provided further, that nothing herein contained shall be construed as extending to farmers selling the produce of their farms, or to the manufacturers of meal or flour.

Proviso.

Ibid, s. 50.

Sale of fresh meat regulated.

37. It shall not be lawful for any person to sell or offer for sale, within the limits of any of the markets of the city, except on the butchers' stalls, any fresh meat, in pieces less than

a quarter, under a penalty of ten dollars for each and every offence.

38. No person or persons shall, at any time, sell, or expose for sale, within the limits of either of the markets, any wine or spirituous liquors of any kind, under a penalty of five dollars for each and every offence. Ibid, s. 51. Sale of wine, &c., prohibited.

39. It shall not be lawful for any person to expose, or offer for sale, in any of the streets, lanes or alleys of the city, any cow or other neat cattle; and any person offending therein shall forfeit and pay a sum not exceeding two dollars nor less than fifty cents for each and every offence. No. 37, s. 65, R. O. Cows, &c., not to be sold in streets.

40. The owner or owners of any cow or cows, with or without calves, or any other neat cattle, shall pay to such persons as shall be appointed to receive the same the sum of thirteen cents on each and every head of cattle so exposed or offered for sale, or which may be taken to the lot enclosed for that purpose; provided, that no charge shall be made for a calf when accompanied with a cow. Ibid, s. 67. Tax on sale of cows, &c. Proviso.

41. It shall not be lawful for any person or persons to slaughter any calf, and expose said slaughtered calf for sale at any of the markets, or elsewhere, within the limits of the city, at a less age than four weeks, and of less weight than fifty pounds net weight, under a penalty of twenty dollars. No. 53, May 10, '66. Unlawful to slaughter calves under four weeks' old.

42. No person or persons shall place or expose for sale, by auction, any goods, wares or merchandise, or furniture of any kind, within the limits of the several markets of the city, on market days during market hours, under a penalty not exceeding twenty dollars for every such offence. No. 27, s, 60, R. O. Auctions prohibited in market during market hours.

43. It shall not be lawful for any person to offer at public sale, or place on the footway or brick pavement, goods of any description, at either side of any market in the city, without permission first had and obtained from the Mayor, under the Ibid, s. 61. Goods not to be placed on footways.

penalty of not less than five nor more than fifteen dollars for each and every offence.

Ibid, s. 57.

Public scales and weights to be taken care of.

44. The Mayor is hereby authorized to contract with and employ some suitable person, under such security and upon such terms as he may think proper, to take charge of the public scales and weights, who shall receive for the use of the corporation, for every draught weighed by him, from the person applying therefor, such sum as the Mayor shall fix, and pay over the same to the Register once in every week; but the Mayor is hereby authorized to rent from year to year, upon the best terms he can procure, the said scales, if he shall think proper so to do.*

Rent of scales.

WAGONS, &c.

Ibid, s 35,

Wagons, &c., how to be placed in markets.

Proviso.

45. All wagons, carts and other carriages attending the market on market days, shall be placed within the limits of the market during market hours, and shall be arranged in such manner as the clerk of the market shall direct; provided, that in case all such wagons, carts and other carriages cannot be so arranged in one row, the residue may be placed in such parts of the adjoining streets, and in such manner as the clerk of the market shall deem right and proper; and any person offending herein shall forfeit and pay one dollar for each and every offence.

Ibid, s. 36.

Vehicles, horses, &c., in markets regulated.

46. No more than two horses or other beasts of draught shall remain fixed to any wagon or sled, nor more than one horse or beast of draught to any cart or other carriage, and no wagon, cart or other carriage, loaded with wood, stone, brick, hay, dirt, lime or lumber, or merchandise of any kind, no empty wagon, cart, or other carriage, and no hackney carriage shall be drawn or placed in the limits of either of the markets during market hours on market days; and no horses

* See sec. 36, p. 528, *ante*.

or other beasts of draught, not fixed to a wagon or other carriage, and no unloaded horse shall be permitted to enter or remain within the said limits during the hours and days aforesaid, except those living within the said limits going to or from their premises; but this shall not apply to any farmer who, having disposed of his produce, may wish to leave the market; and any person herein offending shall forfeit and pay one dollar for each and every offence, and any person or persons obstructing the streets within the limits of the several markets, at any time not designated by law as the market hours of such market, shall forfeit and pay a fine of five dollars. Penalty.

47. It shall not be lawful for any person or persons to place on the streets of the market houses of this city, any wagon, cart, or other carriage, or any barrel or barrels, box or boxes, or other articles, upon any day (Saturday excepted,) after four o'clock in the afternoon, between the first day of October and the first day of April, and after six o'clock in the afternoon between the first day of April and the first day of October, of the day previous to the regular market days, the same to be removed before three o'clock in the afternoon of such market day, under a penalty of ten dollars for each and every offence; provided, that nothing in this section shall be so construed or applied to bacon sellers, as to prevent them from driving directly from one market to another, and occupying their respective stands in such market; and that nothing herein contained shall be so construed as to allow the bacon carts or others to occupy their stands, or to remain on any of the streets, lanes or alleys, or to pass through any of the streets, lanes or alleys of the city on the Sabbath day, under a penalty of five dollars for each offence. Ibid, s. 37. Streets near market not to be obstructed. Proviso. Bacon carts prohibited from passing through streets on Sabbath. Penalty.

48. No person shall place any horse or beast of burden within five feet of any wagon, cart, or other vehicle, or within two feet of any of the flag-stones within the limits of any of the markets, after five o'clock in the afternoon of the day pre- Ibid, s. 40. Location of horses, vehicles, &c., at certain hours.

Penalty.

ceding market days, or during market hours, under a penalty of two dollars for each offence.

Ibid, s. 56.

Penalty for bringing carts, &c., into the market.

49. If any butcher or person employed in vending meat or vegetable provisions shall bring, or cause to be brought, on market days, within the limits of said markets, any cart or other carriage within market hours, every person so offending shall forfeit and pay a fine not exceeding two dollars.

Ibid, s. 54.

Avenues, &c., to be kept open.

50. The avenues or footways for the passing of all persons from the shed parts of the market houses to the places assigned for the stations of the wagons shall be kept open, so that the same may be severally opposite to the several avenues of the brick buildings; the said avenues, and all other avenues or footways of said market houses, shall be kept free and clear of and from all obstructions whatsoever, under a penalty of one dollar for each and every offence.

LIMITS, &c.

Ibid, s. 63.

Plats of markets to be made.

51. A plat embracing the entire limits of each market shall be provided by the Mayor, distinguishing the numbers of the respective stalls, shambles, benches, stands and places, and a copy thereof shall be kept by the Register and another by the clerk of the market, and the expenses of providing the same shall be defrayed out of the incidental fund.

Ibid, s. 70.

Water not to be drawn from Fell's Point reservoir for shipping purposes.

52. It shall not be lawful for any person to fill or cause to be filled with water, drawn from the reservoir situate between the market houses on Fell's Point, any barrel, hogshead, or other water cask, whatsoever, for shipping purposes, under a penalty not exceeding twenty dollars for each and every offence.

Ibid, s. 71.

Penalty for defacing market houses, &c.

53. If any person shall deface any portion of any market house, or any appendage thereto, or shall cast or throw any stone, brick or any other missile, or place any trestle or other lumber on the roof of any market house, or any shed or other

appendage thereto, or climb on or walk upon the roof of the same, each and every person, for each and every such offence, shall forfeit and pay a sum not exceeding five dollars.

54. Nothing in this article shall be so construed as to affect the rights of property holders or tenants within three feet of the building line. Ibid, s. 72. Rights of property holders.

55. It shall not be lawful for any person or persons to cook any meat or other victuals within the limits of any of the market houses, under a penalty of five dollars for each offence. Ibid, s. 47. Cooking in markets prohibited.

MARKET DAYS AND HOURS.

56. The market days shall be Monday and Thursday at the Hanover and Richmond markets; Tuesday and Friday at the Fell's Point, Belair, Cross Street and Lexington markets; Monday, Wednesday and Saturday at the Centre market; Wednesday and Saturday at the Hollins market, and also Saturday evenings at each of said markets. Monday, Thursday and Saturday are hereby designated as the regular market days of the Lafayette market house.* No. 43, April 21, '73. Market days. No. 1, Nov. 14, '71. Market days at Lafayette market.

57. The market hours at the Centre, Lexington, Belair, Hollins street and Hanover markets shall begin at daylight and end at eleven o'clock in the forenoon, during the months of October, November, December, January, February and March, and begin at six o'clock A. M. and end at half-past ten o'clock in the forenoon during the remainder of the year; the market hours at Fell's Point market shall begin at daylight and end at twelve o'clock noon, during the months of October, November, December, January, February and March, No. 27, s. 9, R. O.; No. 44, June 2, '62; No. 47, July 2, '60. Market hours.

* The market days for the Centre, Hanover and Fell's Point markets were established in 1784. See Acts of 1784, c. 62, and 1785, c. 33.

and end at eleven o'clock in the forenoon during the remainder of the year; the market hours at the Richmond market shall begin at two o'clock and end at six o'clock in the afternoon; the market hours at Cross street market shall begin at daylight and end at eleven o'clock in the forenoon during the months of October, November, December, January, February and March, and end at ten o'clock in the forenoon during the remainder of the year; and for the Saturday evening market, the market hours at all the markets hereinbefore named shall begin at sunset, and end at eleven o'clock in the evening, except the Fell's Point and Belair markets, which shall begin at three o'clock and end at eleven o'clock; the Hollins street market, which shall begin at two o'clock and end at ten o'clock, and the Cross street market, which shall begin at three o'clock and end at ten o'clock. Market hours at the Lafayette market shall begin at daybreak during the months of October, November, December, January February and March, and end at eleven o'clock A. M., and during the remainder of the year shall begin at the same time and end at ten o'clock, and those for Saturday shall commence at three o'clock P. M., and end at eleven o'clock P. M.

No. 5, s. 2, Nov. 18, '71.
Market hours at Lafayette market.

SALARIES OF OFFICERS OF MARKETS.

No. 19, Mar. 24, '66; No. 12, Mar. 2, '66; No. 37, June 14, '65; No. 26, Apl. 1, '64.
Salaries.

58. The several officers mentioned in this section shall receive as compensation the annual salaries herein allowed them:

BELAIR MARKET.

No. 11, Mar 18, '73.

Clerk, seven hundred dollars; cleaner, three hundred dollars.

BROADWAY MARKET.

No. 30, s. 2, May 6, '65.
Expenses.

Keeper of hall, four hundred dollars; and the Register is hereby directed to pay to the keeper the sum of one hundred dollars per annum, or so much thereof as may be necessary, for brooms, soap and other articles to be used in cleaning said hall.

CENTRE MARKET.

Clerk, four hundred and fifty dollars; assistant clerk, three hundred and fifty dollars; cleaner, six hundred dollars; keeper to Institute market, five hundred dollars; and the Register is hereby directed to pay to the said keeper twenty-five dollars per annum for brooms, soap and other articles to be used in cleaning said market house. No. 81, June 27 '70; No. 34, Apl. 7, '64. Expenses.

CROSS STREET MARKET.

Clerk and keeper of Cross street market hall, eight hundred dollars; cleaner, fifty dollars. No. 11, Mar. 18, '73.

FELL'S POINT MARKET.

Clerk, four hundred and fifty dollars; cleaner, three hundred and sixty dollars; provided that it shall be the duty of said cleaner to clean both the old and new market-houses, and to take charge of and keep in a cleanly condition the lamps in and around said market, and light the same.

HANOVER MARKET.

Clerk, four hundred and fifty dollars; cleaner, three hundred dollars.

HOLLINS STREET MARKET.

Clerk, five hundred dollars; provided, that it shall be the duty of said clerk, in addition to the duties now performed by him, to take full charge of the hall over said market, to keep said hall in a cleanly condition, and to light up said hall when necessary; cleaner, one hundred and twenty dollars.

LAFAYETTE MARKET.

Clerk, three hundred dollars. No. 5, May 18, '71.

LEXINGTON MARKET.

Clerk, four hundred and fifty dollars; assistant clerk, three hundred and fifty dollars; cleaner, four hundred and eighty dollars.

RICHMOND MARKET.

No. 11, Mar. 18, '73. Clerk, four hundred and fifty dollars; cleaner, two hundred
Ibid, s. 2. and forty dollars.

BEL-AIR MARKET.

No. 27, s. 5, R. O. 59. The limits of the Belair market shall include the market house and the space on each side thereof, and Forrest street from the market space eastwardly to Douglass street, and from the market space westwardly to Hillen street, and the width of Hillen street northwardly to Monument street; the limits of the said market to be subject to the provisions regarding footways prescribed by section 69, ordinances of this article.*

Limits of Belair market.

* By the Act of 1843, c. 309, the Belair market space was extended in the following manner, that is to say: beginning for one side of the said extension on the northeast side of north Gay street, where the southwesternmost side of the then Belair market space, if continued, would intersect the northeast side of Gay street, and running thence northerly with the same range of the Belair market space, until it intersects the southwesternmost side of Forrest street; and beginning for the other side of the said extension on the northeast side of north Gay street, at the distance of Forrest street, northerly from where the northeast line of the said Belair market space, if extended, would intersect the said northeast side of Gay street, and running thence northeasterly parallel with the first described line, until it intersects the west side of Forrest street, and all the grounds contained within the said lines of Gay street, and forty feet, and Ensor street are added to and included in the Belair market space.

By 1844, c. 224, the Mayor and City Council were authorized to proceed to condemn and appropriate, for the purpose of extending the Belair market space, the property embraced within the following description, viz: beginning for the southwesternmost side of said contemplated extension, at a point on the northwest side of North Gay street, where the southwest side of the then Belair market space, if extended, would intersect the north-

60. The clerk of the Belair market shall give bond as prescribed by section 4, ordinances, of this article, in the penalty of one thousand dollars. No. 27, s. 15, R. O. Bond of clerk.

61. In the Belair market houses, the butchers' stalls shall be at a rent of twenty dollars; the permanent benches, three dollars; and the eave benches, two dollars; in the fish market houses, the two middle rows of benches shall be at a rent of four dollars, and the two outer rows at a rent of two dollars.* No. 27, s. 19, R. O. Rent of stalls and benches.

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west side of North Gay street, and running northwesterly with the same range of the said market space, until it intersects the southwest side of Forrest street, and thence with the southwest side of Forrest street to the southernmost intersection of Forrest and Hillen streets; and beginning for the northeasternmost side of said contemplated extension, at a point forty feet northeasterly, on the northwest side of north Gay street, from where the northeasternmost side of the present market space would intersect the said northwest side of north Gay street, if extended, and running thence northwesterly until it intersects the southeasterly side of Hillen street, at a point one hundred and sixty feet from the southeasternmost corner of Forrest and Hillen streets.

No. 32, May 19, 1865, authorized the building of an additional market house at the Belair market. It further provided, that the Comptroller should, on the completion of the market house, proceed to sell in perpetuity all the permanent stalls in the same at public sale to the highest bidder; provided that he might in his discretion, withdraw any stall or stalls should the bid be less than he deemed to be the value of the same, and that the rent of the said stalls should be regulated and fixed by him, at such prices as in his judgment were fair and equitable; and that the said market house shall in all respects be governed by the ordinances of the Mayor and City Council of Baltimore.

By Res. No. 332, June 26, 1868, the Comptroller was authorized and directed to contract with and purchase from the owners the lot of ground and improvements now erected thereon, (beginning for the same at the corner of Forrest and Low streets, binding on the south side of Low street forty-one feet, and running thence parallel with Forrest until it intersects Friendship street; thence along Friendship street to Forrest; thence along Forrest street to the place of beginning,) for the purpose of the further extension of the Belair market; and by No. 188, June 22, 1870, the City Commissioner was authorized and directed to have erected an additional market house on the lot described in aforegoing resolution on the plan submitted to the Council.

*For sale of stall in this market, see *Musgrave* v. *Staylor*, *adm.* 36 Md. 124.

BROADWAY MARKET.

No. 30, May 6, '65. Keeper of hall over Broadway market. His duty.

62. It shall be the duty of the Mayor, with the approbation of the City Council, to appoint a keeper for the hall erected over the Broadway market, whose duty it shall be to have charge of said hall, subject to such ordinances, rules and regulations as may be prescribed by the Mayor and City Council; and whose further duty it shall be to assist the clerk of the Broadway market in the performance of his duties in said market on market days.

No. 27, s. 15, R. O. Bond of clerk.

63. The clerk of Broadway market shall give bond as prescribed by section 4, ordinances, of this article, in the penalty of five hundred dollars.

No. 30, s. 3, May 6, '65. Penalty.

64. For all violations of the provisions of section 62, or interference with the keeper in the execution of his duty, the penalty shall be the same as is prescribed in this article for the regulation of markets.

Ibid, s. 4. Defacing, &c., hall. Penalty.

65. It shall be the duty of the clerk of the Broadway market, and the keeper of the hall, to prevent the defacing, mutilating or injuring the walls or any portion of the hall erected over the Broadway market in any manner whatever; and any person or persons wilfully defacing, mutilating or injuring the walls, or any portion of said hall, shall be subject to a fine of five dollars for each and every offence.*

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*The Broadway market house was erected under ordinances Nos. 30, April 7, '64, and 79, June 9, '64, on the vacant space of ground on Broadway, between Canton avenue and Aliceanna street. No. 30 authorized the Comptroller to rent the public hall in the upper story, and to sell in perpetuity all the permanent and movable stalls in the same, at public sale, to the highest bidder, for cash; provided he might, in his discretion, withdraw any stall or stalls, should the bid be less than he deemed the value of the same, and that the rent of the said stalls should be regulated and fixed by him, at such prices as in his judgment would best promote the interests of the city and the prosperity of the market.

No. 30 further provided that the said market house shall in all respects be

66. All wagons and other vehicles which may occupy stands on the bed of the street, on each side of the Broadway market, from Canton avenue to Lancaster street, shall be reversed in such a manner as to expose their products for sale on the side of the street nearest the sidewalk, and the clerk of the market shall see that this section is conformed to.

Res. No. 251, July 2, '72. Wagons and vehicles to reverse position.

CANTON MARKET.

67. The rent of the butcher stalls shall be fixed at ten dollars per annum, payable quarterly in advance; the cave stalls at one dollar and the bench stalls at two dollars per annum, payable in advance, as also the usual license; subject to all ordinances, resolutions, rules and regulations which now are or may hereafter be passed, regulating markets.*

No. 4, Dec. 6, '59. Rents and licenses of stalls.

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governed by the ordinances of the Mayor and City Council in relation to markets.

By resolution No. 309, Oct. 14, 1872, permission was granted Captain R. A. Cashmyer, commanding Co. A, 1st Cavalry, M. N. G., to have the use of the hall over Broadway market as a drill room, for company A, 1st Cavalry, M. N. G., on each first and third Friday night in every month from 7 o'clock until 11 o'clock; the expense of the gas light and cleaning of said hall to be borne by said command, for the nights on which the hall is so used; and the further condition being, that the rank and file of said company shall at no time be less than one hundred active members, the permission hereby granted to be revoked upon six months' notice to that effect from the Mayor.

*The Comptroller was authorized by this ordinance to sell in perpetuity all the stalls in the Canton market house, at either public or private sale, to the highest bidder.

The Canton market house was erected under ordinance No. 99, July 14, '59, which provides that on the execution of a deed to the Mayor and City Council of Baltimore by the Canton Company of Baltimore, of all that piece or parcel of ground in the city of Baltimore, lying in the centre of O'Donnell street, and seventy-five feet in width, and extending from Patuxent street a distance of about three hundred and forty feet eastwardly to Potomac street, to be used forever as a public market, the City Commissioner is authorized and directed to have constructed on the east end of the lot, a market house (similar to the market house on the ——— of the Lexington

No. 27, s. 15, R. O.
Bond of clerk.

68. The clerk of Canton market shall give bond as prescribed by section 4, ordinances, of this article, in the penalty of five hundred dollars.

CENTRE MARKET.

No. 27, s. 1, R. O.
Limits of Centre market.

69. The limits of the Centre market shall be as follows: beginning with the kerb stone on the south side of Baltimore street and running southerly the whole width of market space to Pratt street, and from the east line of the space east with the Fish market space and the width thereof to Jones' Falls; also, from the west line of the first named space west on Second street, within the kerb stones, to Frederick street, and north from Baltimore street, on Harrison street, and within the kerb stones, to the bend in said street; provided, however, that nothing herein contained shall be construed to interfere with the rights and privileges of the occupier or occupiers of any of the houses on the spaces above mentioned, or with the free

Proviso.

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market,) to be sixty feet wide and one hundred and fifty feet long; said market house to be built of the best materials, and in a good and workmanlike manner—the contract to be awarded to the lowest responsible bidder, after advertising in two of the daily papers for the space of two weeks, according to the ordinances of the city. It further provides that said Canton market shall in all respects be governed by the ordinances of the Mayor and City Council in relation to markets. The Canton Company engages that it will not, at any time, rent or lease any part of its property to be used as a market house.

By ordinance No. 106, June 19, 1871, the Comptroller was authorized and directed to lease to the Canton Company the property known as the Canton market, situated on O'Donnell street, with all the rights, privileges, and powers of said Mayor and City Council to rent and collect the rents from the stalls and stands in and around said market, and to do all things necessary for holding market thereat, and to exercise absolute control thereof under such regulations as are established for the government of other markets in the city of Baltimore not inapplicable to said Canton market, as prescribed by ordinance, for the term of five years, subject, however, to such sales or leases of stalls as may have been made by said Mayor and City Council, or the agent thereof; provided, that said Canton Company of Baltimore shall thoroughly repair said market, and maintain it in good order during the said term of five years.

passage of the footways; and provided, also, that nothing in this ordinance contained shall be construed to authorize the placing of stalls, stands or benches on any footway. Proviso. Footways.

70. The dividing line in the market, on Fish market space, shall be run at right angles from the kerb stone to the kerb stone striking the centre of the open space between stalls numbered 17 and 18, and those numbered 19 and 20. No. 13, Apl. 11, '61. Market on fish market space.

71. The whole of the market house on Fish market space is declared a market exclusively for the sale of all varieties of fresh fish, whether scaled or not, and all that part of street space on north and south side of said market, to be for the sale of fresh fish; two stalls west of the dividing line, under cover, and all that part of street space west of dividing line last named, to be set apart for vegetables and fruits of various kinds. Ibid, s. 2. No. 41, Apl. 17, '73. Fresh fish. Vegetables and fruits.

72. All licenses issued by the Comptroller for stalls shall conform, by expression, to the privileges granted in the preceding section. Ibid, s. 3. License to conform.

73. The stalls in the market house, on Fish market space, east of the dividing line, shall be kept cleared of all boxes or cumbrous articles, and the clerk is directed to rent no stall or stalls, to any person or persons, unless they intend to occupy them for the sale of fresh fish. Ibid, s. 4. Boxes removed. Fish only.

74. The several stalls erected on the former site of the office of the clerk of Centre market are hereby set apart for the sale of cheese and salt fish, and the clerk of said market is hereby directed to remove or transfer to the aforesaid new stalls, those persons engaged in vending cheese and salt fish on the several stalls immediately in the rear of the same; and he is directed to set apart the several rear stalls vacated by such removal to the exclusive purpose of vending cheese and salt fish.* No. 17, Apl. 5, '60. Stalls in Centre market for sale of cheese and salted fish.

* Res. No. 161, May 13, '59, and No. 113, Sept. 24, '59, authorized the erection of a new market house at the Centre market, between Second and

No. 27, s. 15, R. O.
Bond of clerk.

75. The clerk of the Centre market shall give bond as prescribed by section 4, ordinances of this article, in the penalty of fifteen hundred dollars.

No. 27, s. 7, R. O.
Assistant clerk.

76. There shall be appointed one assistant clerk for Centre market.

Ibid, s. 14.
Clerk to have streets washed.
Penalty.

77. The clerk of the Centre market shall have the street on each side of the Centre fish market washed on the afternoons of Wednesday and Saturday, during the herring and shad seasons of each and every year, under a penalty of ten dollars for each and every neglect.

No. 26, Apl. 10. '73; No. 27, s. 14, R. O.
Rent for stalls and benches.

78. The following annual rent shall be imposed and required to be paid in quarterly payments in advance for stalls in the Centre market, that is to say: in the upper Centre market the butchers' stalls shall be at a rent of twenty dollars, the permanent benches on the east and west sides four dollars, and the eave benches two dollars; in the middle and lower market houses the butchers' stalls shall be at a rent of sixteen dollars, the permanent benches on the east and west sides to be four dollars, and the eave benches two dollars, in the fish market house, the two middle rows of stalls shall be at a rent of seven dollars; and the two outer rows at a rent of three dollars.

No. 10. Mar. 15, '73.
Location for sale of cheese, &c., under direction of clerk.

79. The location to be allotted to dealers for the sale of cheese, salted, cured and dried fish in the Centre market, is placed under the supervision and direction of the clerk of

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Lombard streets. Ord. No. 113 authorized the City Commissioner to have the clerk's office removed from the fish market to second story of the new building, and to lay out as many new stalls as could be placed on the space occupied by the clerk's office of the Centre market, and to place as many new stalls in the centre of the market as the increase of length would allow.

This ordinance further directed the Comptroller to dispose of such new stalls as might be made under this ordinance, in accordance with the ordinances of the city.

Centre market, with the privilege of locating them on any of the eave or permanent stalls in said market, as he may deem best for the interest of the city.

No. 27, s. 46, R. O. Meats and cooked provisions.

80. The permission granted by section 20, ordinances of this article, shall not be construed to allow any meats or other cooked provisions of any kind whatever to be sold or exposed for sale, on any permanent or eave bench in Centre market, unless such permanent or eave bench be located as prescribed by ordinance.

No. 27, s. 64, R. O.; No. 8, Apl. 3, '67. Time and place for the sale of horses, &c., designated. Where horses, &c., not to be sold.

81. Swan street, running from the east side of Centre market to the Falls, is hereby appropriated for the purpose of the public sale of horses, mares and geldings, and vehicles to which they may be attached, on Wednesday and Saturday of each week, from eleven o'clock in the morning until three o'clock in the afternoon; and it shall not be lawful for any person or persons to use said street for the purpose of a horse market on any day in the week except the days herein named, under a penalty of ten dollars for each and every offence; and if any person or persons expose for public sale in any other of the streets, lanes or alleys of the city, any horse, mare or gelding, he, she or they so offending, shall forfeit and pay a sum not exceeding five dollars for each and every offence.

No. 27, s. 36, R. O. Driving across Centre market space at Lombard or Pratt streets.

82. Nothing contained in section 46, ordinances of this article, shall be so construed as to prevent any person or persons riding or driving any horse or horses, fixed or not fixed to a wagon or other carriage, across the Centre market space, at the intersection of Lombard street and market space, or Pratt street and market space, which intersection shall be kept open for the said purpose.

No. 27, s. 30, R. O. What limits hucksters to keep.

83. The limits within which hucksters or persons living in the city and dealing in the articles of butter, eggs or poultry, or either or any of them may dispose of or offer the same for sale, to be designated by the Mayor shall be follows: south of

a line commencing at Jones' Falls, and running westwardly, bounding on the south side of Fish market space, until it intersects the west side of Centre market space.

INSTITUTE MARKET.

Res. No. 36, Apl. 2, '58. Wagons outside Institute market house.

84. The clerk of the Centre market is hereby authorized and directed to place the country wagons, and the vehicles of other dealers who sell outside the Institute market house, in such manner as to equalize them as near as can possibly be done upon the east and west sides of said market house, and he shall prohibit all wagons from occupying any of the adjacent streets while there is room left for their accommodation upon the sides of the market houses.

Res. No. 337, June 17, '74; No. 28, s. 1. R. O. Keeper to market house under Maryland Institute. His duties.

85. It shall be the duty of the Mayor, with the approbation of the City Council, to appoint a keeper to the market house under the Maryland Institute; who is hereby authorized and directed to keep open day and night, all the doors of the market house under his charge, until otherwise ordered; and any keeper offending against the provisions of this section, shall be fined for each offence a sum not less than one dollar, nor more than five dollars, to be collected as other fines are collected; and it shall also be the duty of said keeper to clean and keep clean the said market house, and the pavements on the outside of said market, with the windows.

Ibid, s. 2. Penalty for violating provisions of ordinance.

86. For all violations of the provisions of section 84, or interference with the keeper in the execution of his duty, the penalty shall be the same as is prescribed in this article for the regulation of markets.

No. 28, s. 4, R. O. Market doors. Proviso.

87. It shall be lawful for the managers of the Maryland Institute to open the market house door leading to the entrance of the hall on Second street, whenever they may require it, after night; provided, said managers shall be held responsible

to the Mayor and City Council of Baltimore, for any injury that may be sustained thereby.

88. It shall be the duty of the clerk of the Centre market and his assistant, and the keeper of the market house under the Maryland Institute, and also of the police officers, to prevent the defacing, mutilating or injuring the walls of said Maryland Institute building in any manner whatever; and every person wilfully defacing, mutilating or injuring the walls of said Maryland Institute building, shall be subject to a fine of five dollars for each and every offence. Ibid, s. 5. Defacing, &c., Maryland Institute building. Penalty.

CROSS STREET MARKET.

89. The limits of Cross street market shall include the whole of the lot belonging to the city on which it stands and so much of the adjacent streets as may be in front of the said lot subject to the provisions regulating footways prescribed in section 69.* No. 27, s. 6, R. O. Limits.

* Ordinance No. 39, April 14, 1873, recited that, by the erection of the Cross street market hall, several butchers and others having been deprived of their stalls formerly owned and used by them previously to the erection of said hall, and the Mayor and City Council, having made ample provisions for the accommodation of the large and increasing population of that portion of the city by erecting a new market house for the accommodation of butchers and others, it was proper to make said market conform to the others in the city, thereby making provisions for a suitable fish market:

The City Comptroller was then authorized and directed to provide an equal number of butchers' and other stalls in the new market house on Cross street, for the accommodation of butchers and others owning and occupying stalls under the Cross street hall, or any that might have previously owned or held stalls therein prior to the erection of said hall, to hold such stall or stalls in the new market house as might be assigned them by the City Comptroller, free of any extra charge. And by section 2 of said ordinance it was provided that the owner or owners of stalls held by him or them under the Cross street hall, should, as soon as the Comptroller had complied with the first section of this ordinance, surrender and deliver to the said Comptroller, for the use of the Mayor and City Council, such stall or stalls owned or occupied by him or them under said hall in lieu of such stall or stalls as the Comptroller might designate for them respectively

No. 18, Feb. 28, '71. Additional duties of clerk.

90. It shall be the duty of the clerk of Cross street market, in addition to the duties hereinbefore prescribed for clerks of markets generally, to take full charge of the hall over the market, to keep the hall in a cleanly condition, and to light it up when necessary.

No. 27, s. 15, R. O. Bond.

91. The clerk of the Cross street market shall give bond as prescribed by section 4, ordinance of this article, in the penalty of five hundred dollars.

No. 27, s. 19, R. O. Stalls.

92. In the Cross street market, the butchers' stalls shall be at a rent of five dollars.

FELL'S POINT MARKET.

No. 27, s. 4, R. O. Limits of Fell's Point market.

93. The limits of the Fell's Point market shall be as follows: beginning for the same at the intersection of Thames street and Broadway, and running northwardly on a line with the houses on the east and west side of the market to Canton avenue, subject to the provisions regarding footways, in section 69.

No. 97, Oct. 16, '60. Stalls to be occupied every day of the week.

94. The clerk of Fell's Point market is directed and empowered to allow the owners, proprietors or occupiers of the several stalls or stands occupying the space between the two market houses, and formed by the intersection of Lancaster street with Broadway at the Fell's Point market, to occupy, use and sell from the same, on every day of the week, except Sunday.

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in the new market. And the City Comptroller was authorized to sell such stall or stalls under said hall to the best advantage, under the law regulating the sale of stalls in the different markets; the new market to be designated and known as the Cross street fish market.

The new market house was erected under Ordinance No. 54, July 22, 1869; Resolutions Nos. 107, March 28, 1872, May 27, 1872, and 356, October 26, 1872.

No 33, April 7, '64, authorized the erection of a new market house, and an office for the accommodation of the clerk, on Cross street market space, fronting on Light street, and directed the Comptroller to dispose of the stalls in the new market, in accordance with existing ordinances.

95. The better to promote the convenience of the community, the clerk of said market is further authorized and empowered to establish such regulations for the proper arrangement of the stalls or stands occupying said market, as may in his judgment seem best. No. 97, Oct. 16, '60. Regulations.

96. The clerk of the Fell's Point market shall give bond as prescribed by section 4, ordinances of this article, in the penalty of one thousand dollars. No 27, s. 15, R. O. Bond of clerk.

97. In the Fell's Point market houses, the butchers' stalls shall be at a rent of twenty dollars; the permanent single benches, three dollars; and the single eave benches, two dollars; the double benches shall be at a rent of six dollars for permanent benches, and four dollars for eave benches; in the fish market house, the stalls shall be at a rent of four dollars. No. 27, s. 19, R. O. Rent of stalls and benches.

HANOVER MARKET.

98. The Hanover market shall include the market house, with the grounds in the centre thereof, the alleys to the northward and westward thereof, and also the whole width of Hanover street, from Conway street to Lombard street, and also the whole width of Camden street, from Charles street to Howard street, and also the whole width of Sharp street, from Conway street to Pratt street, and the whole width of Dover street, from Hanover street to Sharp street, subject to the provisions regarding footways, prescribed in section 69.* No. 27, s. 3, R. O. Limits of Hanover market.

99. The clerk of the Hanover market shall give bond as prescribed by section 4, ordinances, of this article, in the penalty of one thousand dollars. No. 27, s. 15, R. O. Bond of clerk.

*As to the re-building and improvement of the Hanover market by means of a lottery in 1838, see 1838, c. 323, and 1839, c. 52, and *Lucas et al.* v. *Lottery Commissioners*, 11 G. & J. 515.

No. 27, s. 19, R. O.
Rent of stalls and benches.

100. In the Hanover market house, the butchers' stalls shall be at a rent of eighteen dollars; the permanent benches, three dollars; and the eave benches two dollars; in the fish market, the stalls shall be at a rent of four dollars.

No. 27, s. 30, R. O.
What limits hucksters to keep.

101. The limits within which hucksters or persons living in the city and dealing in the articles of butter, eggs or poultry, or either or any of them, may dispose of or offer the same for sale, to be designated by the Mayor, shall be at the Hanover market, out of Hanover street and that part of the market house fronting thereon.

HOLLINS STREET MARKET.

No. 27, s. 6, R. O.
Limits of Hollins street market.

102. The limits of the Hollins street market, shall include the whole of the lot belonging to the city on which it stands, and so much of the adjacent streets as may be in front of the said lot, subject to the provisions regarding footways, prescribed in section 69.*

No. 27, s. 15, R. O.
Bond of clerk.

103. The clerk of the Hollins street market, shall give bond as prescribed by section 4, ordinances of this article, in the penalty of five hundred dollars.

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* For the beginning of Hollins street market, see Res. No. 63, Apl. 16, 1835. Res. No. 2, 1839; No. 60, Aug. 27, '63; No. 5, Feb. 5, '64, and No. 36, Apl. 11, '64, provided for the erection of an additional market house at the Hollins street market. The first and last named ordinances anthorized the Comptroller to rent the public hall in the upper story, and to sell, in perpetuity, all the permanent and movable stalls in the market house at public sale, to the highest bidder; provided, he might, in his discretion, withdraw any stall or stalls should the bid be less than what he deemed the value of the same; the rent of the said stalls to be regulated and fixed by him, at such prices as in his judgment best promote the interests of the city and the prosperity of the market. This ordinance further provided that the said market house shall, in all respects, be governed by the ordinances of the Mayor and City Council in relation to markets.

No. 80, June 9, '64, provided for the erection of an extra story and end gallery to above.

By resolution No. 203, June 29, 1877, the Hollins street market building was extended from its west gable end to the east gable end of Hollins market hall building.

104. In the Hollins street market, the butchers' stalls shall be at a rent of eight dollars. No. 27, s. 19, R. O. Stalls.

LAFAYETTE MARKET.

105. The clerk of Lafayette market, before entering upon his duties, shall execute a bond to the corporation, with such security as the Mayor may approve, in the penal sum of one thousand dollars, and with the conditions therein, as prescribed by section 4, ordinances of this article. No. 5, May 18, '71. Bond of clerk.

106. The clerk of said market, shall have full power and authority to take possession, care and charge of the market, and shall attend, during his term of office, unless prevented by sickness or other unavoidable accident or necessity, the market to which he is appointed during the market hours prescribed in section 57, ordinances of this article, and at such other hours as may be necessary, in order to enforce obedience to all and every rule directed to be observed concerning markets. Ibid, s. 3. Powers and duties.

107. All the ordinances and regulations passed with reference to the several markets of the city are hereby enacted to apply to the Lafayette market, the same as if this ordinance was passed at the same time with the general ordinances, and the clerk of the aforesaid market is hereby directed to consult the said general ordinances, with reference to his duties.* Ibid, s. 4. Market ordinances and regulations.

* Lafayette market house was erected under resolutions No. 101, April 9, 1870; 179, June 22, 1870, and 49, March 16, 1871. Resolution No. 280, May 15, 1873, provided for erection of building for keeper of the market house. The lot on which the market house is erected was purchased under resolution No. 79, March 15, 1870. This lot of ground is bounded on the east, north and west by Pennsylvania avenue, Patterson avenue and Fremont street.

LEXINGTON MARKET.

No. 27, s. 2. R. O.

Limits of Lexington market.

108. The limits of the Lexington market shall be as follows: beginning with the kerb stone on the east side of Eutaw street, and running westwardly the whole width of Lexington m rket space, to the west side of Pearl street, and on Lexington street from the east side of Eutaw street, and the west side of Pearl street east to Howard street, and west to Pine street, and all streets crossing or intersecting said space south to Fayette street and north to Saratoga street, subject to the provisions regarding footways, prescribed by section 69, hereinbefore; provided, however, that nothing herein contained shall give the right to any person or persons to place any wagon, cart, or other carriage upon Paca, Eutaw, Green or Pearl streets on market days, except the same shall be placed on a line in the centre of said streets; and if any person or persons shall violate the provisions of this section, by placing any wagon, cart, or other carriage, (so as to prevent the access of any other wagon, cart, or other carriage,) to the kerb stone opposite any building, without the consent of the owner or occupier of such building, such person or persons so offending, shall forfeit and pay a fine of five dollars *

Proviso.

Wagons, &c.

Penalty.

No. 27, s. 19, R. O.

Bond of clerk.

109. The clerk of the Lexington market shall give bond as prescribed by section 4, ordinances, of this article, in the penalty of fifteen hundred dollars.

* Under resolution No. 198, June 27, 1870, the City Commissioner was authorized and directed to have erected a new market house, on the site of the old one, standing on Lexington street (known as Lexington market,) between Eutaw and Paca streets; the plan of said building to be the same as the one adopted for the Lafayette market, drawings of which had been submitted to the City Council by said commissioner; the work was continued by resolutions No. 78, March 31, 1871; 81, April 7, 1871; May 11, 1871. Ventilators were supplied under resolution No. 249, May 1, 1875.

110. There shall be appointed one assistant clerk for Lexington market. No. 27, s. 7, R. O. Assistant clerk.

111. In Lexington market house, the butchers' stalls shall be at a rent of twenty dollars; the permanent benches, four dollars; and the eave benches, two dollars; in the fish market, the two middle rows of stalls shall be at a rent of four dollars; and the two outer rows at two dollars. No. 27, s. 19, R. O. Rent of stalls and benches.

112. The limits within which hucksters or persons living in the city and dealing in the articles of butter, eggs or poultry, or either or any of them, may dispose of or offer the same for sale, to be designated by the Mayor, shall be at the Lexington market, west of the west side of Paca street; and the permission granted by section 20, ordinances of this article, shall not be construed to allow any meats or other cooked provisions of any kind whatever, to be sold or exposed for sale on any permanent or eave bench in the Lexington market, unless such permanent or eave bench be located as prescribed by ordinance. No. 27, s. 30, R. O. What limits hucksters to keep. No. 27, s. 46, R. O. Meats and cooked provisions.

PROVISIONS APPLICABLE TO BEL-AIR, CENTRE, FELL'S POINT, HANOVER AND LEXINGTON MARKETS.

113. Two rows of bricks, on edge, along the entire line of the inside of Centre, Lexington, Hanover, Fell's Point and Belair market houses, at the distance of six feet from the inner side of the stands occupied by the butchers, shall be designated as a line beyond which no person shall be allowed to place any impediment, under a penalty of ten dollars for each offence. No. 27, s. 38, R. O. Limits for butchers' stalls beyond which impediments not to be placed.

114. Two rows of bricks, on edge, along the entire line of the sheds attached to the Centre, Lexington, Fell's Point, Belair and Hanover market houses, at the distance of two feet from the benches, so as to form an avenue in the centre, between the inner and outer benches, for the accommodation of persons visiting the several markets, shall be designated Ibid, s. 39. Limits for other stalls.

as a line beyond which no person shall place any impediment, under a penalty of two dollars for each offence.

No. 27, s. 32, R. O.

Dealers in cheese, &c., to occupy certain parts of markets.

115. No dealer in cheese, or in salted, cured or dried fish, shall occupy any stand or stands in the Lexington, Hanover or Fell's Point markets, other than such as shall be designated for such use by the clerks of said several markets, with the approbation of the Mayor, which stand or stands so designated by the said clerks, shall be confined to the following limits; that is to say—in the Lexington market, to the north side of the market house, and west of Paca street; in the Hanover market, within the interior space on either side of the fish market; and in the Fell's Point market, to the eave stalls or permanent benches in the lower part of the southern market house.

RICHMOND MARKET.

No. 27, s. 6, R. O.

Limits.

116. The limits of the Richmond market shall include the whole of the lot belonging to the city on which it stands, and so much of the adjacent streets as may be in front of the said lot, subject to the provisions regarding footways prescribed by section 69, hereinbefore.*

* The Richmond market was established under the acts of 1833, c. 35, and 1852, c. 30. By the act of 1853, c. 260, the Mayor and City Council were authorized to condemn and acquire property in the vicinity of the Richmond market, for the purposes of the extension of the said market.

By Res. 158, May 4, '68, the law officers of the city were instructed to take the steps necessary for the condemnation of all that ground described as follows: the northern line of said property or ground, being the south side of the Richmond market space, from Howard to Garden streets, and running southerly with a rectangular depth one hundred and ninety-five feet—the said ground to be used for the purpose of extending the Richmond market. And by Ord. No. 78, Oct. 20, '68, the City Solicitor was authorized to institute and carry on to completion all necessary proceedings for the condemnation, for the purpose above expressed, of a lot of ground bounded as follows: on the north by the southernmost side of Richmond market space; on the east by Howard street; on the west by Garden street, and on the south by a straight line drawn from a point on the east side of Garden street, distant one hundred and eighty-eight feet and nine inches southerly

117. The clerk of the Richmond market shall give bond as prescribed by section 4, ordinances of this article, in the penalty of five hundred dollars.

No. 27, s. 15, R. O

Bond of clerk.

118. In the Richmond market the butchers' stalls shall be at a rent of ten dollars.

No. 27, s. 19, R. O.

Stalls.

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from the southermost side of Richmond market space to a point on the west side of Howard street, distant one hundred and ninety-eight feet and three inches southerly from the southernmost side of Richmond market space.

Under resolution No. 201, June 27, 1870, the City Commissioner was authorized and directed to have erected a market house on the lot purchased by the city for the extension of Richmond market, on the plan marked number three, as submitted, with the exception that instead of double markets running parallel on Garden street and Howard street, respectively, that a single market house be erected on said plan, on either Garden or Howard street, as the City Commissioner might elect, with open space on the other side; the section of roof and elevation to be the same as indicated by plan D submitted.

Under No. 235, October 25, 1870, the City Commissioner was authorized and directed to change the plans for the erection of the new Richmond street market house, so as to include the construction of a hall upon the lot purchased for an additional market house, to be used as an Armory for the Fifth Regiment, Maryland National Guard.

Under No. 305, October 14, 1872, the City Comptroller was authorized to lease the hall and rooms over the Richmond market house to the proper officers of the Fifth Regiment, M. N. G., for a period of five years, (all improvements, permanent fixtures and heating apparatus to be the property of the city of Baltimore,) free of rent, but under an agreement stipulating that said regiment shall always consist of three hundred active members, and that the regiment shall at its own expense supply the necessary heating apparatus, gas fixtures, gas, and keep said hall and rooms in thorough repair; the said gas fixtures and heating apparatus to be introduced into said building under the supervision of the Inspector of Buildings; and in the event of the said regiment disbanding, then the said gas fixtures and heating apparatus to remain in said building, without cost to the city. The lease was extended another five years after expiration of above, by Resolution No. 233, Oct. 23, 1877.

Under resolution No. 448, November 6, 1873, the Inspector of Public Buildings tore down and erected a new market house on the site of the old Richmond market house, bounded by Richmond, Garden, Howard and Biddle streets, the plan of construction conforming with the designs accompanying the resolution.

No. 27, s. 21, R. O.

Rent of unoccupied stalls.

119. Whenever the purchaser of any butcher's stall in the Richmond market shall not occupy the same, the clerk of the market shall have the right of renting such stall to any person who may apply for its use.

SALES OF STALLS IN BEL-AIR, CANTON, CENTRE, CROSS STREET, FELL'S POINT, HANOVER, LAFAYETTE, LEXINGTON AND RICHMOND MARKETS.

No. 45, June 5, '77.

Sales of market stalls ratified and confirmed.

120. The sales of market stalls, heretofore made by the Comptroller of the City of Baltimore, Register of the City, or any other officer or agent of the city, in the following markets, or in any extensions or improvements of said markets, to wit: Centre market, Lexington market, Fell's Point market, Bel Air market, Hollins market, Hanover market, Richmond market, Lafayette market, Cross Street market and Canton market, are hereby fully ratified and confirmed, with the intent to vest in the purchasers of the said stalls, or their legal representatives or assigns, as good and sufficient title, upon the payment of the purchase money for said stalls, and upon compliance with the ordinances of the city regulating markets and prescribing the terms and tenure upon which market stalls are held, as if the said sales had in the first instance been made in pursuance of an authority vested in the said Comptroller, Register or other officer or agent of the city by an ordinance of the Mayor and City Council of Baltimore duly passed for the purpose; provided, that nothing herein shall be construed as ratifying or confirming any statement or promise or agreement of said officers or agents, or either of them, made in connection with said sales, for which an express authority cannot be shewn in the charter or the ordinances and resolutions of the Mayor and City Council of Baltimore.

Proviso.

Promises and agreements.

ARTICLE XXXVI.

MORTGAGES.

STATUTES.

1. Consent to decree: when conveyances recorded, decree may be passed: trustee to be appointed: bond.
2. Trustee may sell on forfeiture: mortgagee to file statement of claim under oath.
3. Affidavit, before whom made.
4. Sale, when confirmed, to have same effect as sales under decrees on bills.
5. Trustee to report sale.
6. Allegations and proofs may be made and taken.
7. Court may set aside sale: when set aside mortgaged premises not to pay costs: costs, by whom payable.
8. Clerk to record deed: to docket case: file and record mortgage.
9. Entry on docket to operate as assignment: to have precedence in the order made: not to be made but on order written and acknowledged.
10. Entry of satisfaction to operate as discharge and conveyance: not to be made but on order written and acknowledged: orders to be recorded with decrees.
11. Court may appoint new trustee.
12. Mortgagee with power to sell, may proceed under general law: notice.
13. Proceedings where default of mortgagors has taken place before mortgages have been submitted to court: statement under oath.
14. What sections applicable.

STATUTES.

1. In all cases of conveyances of lands or hereditaments, or of chattels real situate in the said city, wherein the mortgagor shall declare his assent to the passing of a decree for the sale of the mortgaged premises, it shall be lawful for the mortgagees or their assigns, at any time after filing the same to be recorded, to submit to the Circuit Court of Baltimore City the

P. L. L., art. 4, sec. 782.

Consent to decree.

When conveyances recorded decree may be passed.

said conveyances or copies under seal of said court thereof, and the said court may thereupon forthwith decree that the mortgaged premises shall be sold at any one of the periods limited in said conveyances for the forfeiture of said mortgages, or limited for a default of the mortgagors, and on such terms of sale as to the said court shall seem proper; and shall appoint by said decree, a trustee or trustees for making such sale, and shall require bond and security for the performance of the trust, as is usual in cases of sales of mortgaged premises.

Bond.

Ibid, sec. 783.

Trustee may sell on forfeiture.

2. The trustee or trustees so appointed, after giving bond with security, may, after the arrival of the period limited by the decree for a sale, sell, agreeably to the terms of said decree, the mortgaged property or any part thereof; the mortgagees, their executors or administrators or assigns, if the mortgage claim shall have been assigned before such sale, and after the arrival of the period aforesaid, verifying by their oath, as provided in the succeeding section, a statement of the amount of such mortgage claims remaining due, and filing such statement in said court.

Mortgagee to file statement of claim under oath.

1861, c. 76.

Affidavit before whom made.

3. The affidavit required by the preceding section may be made before the judge of the said court, or before any justice of the peace for the county or city where the mortgagees, their executors, administrators or assigns may be at the time of the making of said affidavit, if within this State; the official character of the justice being certified by the clerk of the Circuit or Superior Court of such county or city, under his official seal, and if without this State before any person authorized by the laws of Maryland, to take the acknowledgment of deeds acknowledged without this State.

P. L. L., art. 4, sec. 784.

Sale, when confirmed, to have same effect as sales under decrees on bills.

4. Such sales and the conveyances thereupon shall have the same effect, if finally ratified by said court, as if the same had been made under decrees between the proper parties in relation to the mortgages, and in the usual course of said court.

5. The trustee or trustees shall report the sales to the court for its consideration and ratification, or rejection, and such orders shall pass therein touching such ratification, as are usual on sales of mortgaged property in said court. Ibid, sec. 785. Trustee to report sale.

6. Any allegations may be made, and proof under the orders of the said court exhibited, and a trial of the allegations had as the court shall prescribe, to show that the sales ought not to have been made. Ibid, sec. 786. Allegations and proofs may be made and taken.

7. The said court, upon being satisfied of the truth of said allegations, shall reject and set aside the sale, and in such case no part of the costs or expenses or trustee's commission, if any such commission be claimable, in relation to the said sales, shall be chargeable upon said property, or the mortgagors, their heirs, executors, administrators, or assigns; but shall be wholly chargeable against the persons at whose instance or for whose benefit the said sales shall have been proposed to be made. Ibid, sec. 787. Court may set aside sale. When set aside mortgaged premises not to pay costs. Costs, by whom payable.

8. The clerk of said court shall file and record the said decrees, and docket the cases of the application therefor, and in the said decree, and to be recorded therewith, shall file a copy of the mortgage upon which the same was rendered; and shall be entitled to the usual fees for such services. Ibid, sec. 788. Clerk to record decree, to docket case, to file and record mortgage.

9. Any entry on the docket of said court, by the person entitled to assign the said mortgage claim of the use and benefit of said decrees, shall have the same effect as assignments and conveyances of the said mortgage interests, to have effect and precedence from the time of their respective entries; and the said entries shall not be made without an order, or direction in writing, to be acknowledged before the judge of said court, or a justice of the peace, by the persons purporting to sign the same, and filed and recorded by said clerk. Ibid, sec. 789. Entry on docket to operate as assignment. To have precedence in the order made. Not to be made but on order written and acknowledged.

10. The duly authorized entries upon the docket of said court of the satisfaction of said decrees, and the discharge of Ibid, sec. 790.

Entry of satisfaction to operate as discharge and conveyance.

said mortgage claims, made by the persons entitled to receive said claims, shall have the same effect to discharge the mortgaged property of said mortgagor, and all liens thereunder, as any conveyances by the parties interested in such claims, and the holders of the legal estate and interest therein, if competent to convey, could have at law or in equity; but such entries shall not be made without an order or direction in writing, acknowledged by the person or persons purporting to have signed the same, before the judge of said court, or a justice of the peace, and filed by the clerk of said court; and the returns shall refer to such orders or directions, and the names of the person or persons aforesaid, and said order and directions shall be recorded in said court with said decrees.

Not to be made but on order written and acknowledged.

Orders to be recorded with decrees.

Ibid, sec. 791.

Court may appoint new trustee.

11. The said court may at discretion from time to time appoint any other trustee or trustees in place of those appointed by the decree; and the proceeds of such sales shall be accounted for and to, and distributed by, said court, in the manner usual in cases of sales under decrees of said court.

Ibid, sec. 792.

Mortgagee with power to sell may proceed under general law.

Notice.

12. Any mortgagee of property in the city of Baltimore, his assignee, or executor, where a power to sell is contained in the mortgage, may proceed under the general law relating to mortgages, but notices of sale under such power shall be published in two daily newspapers in said city, for the period required by law.

1864, c. 124, s. 1.

Proceedings where default of mortgagors has taken place before mortgages have been submitted to court.

13. Where a default of the mortgagors has taken place before the said conveyances have been submitted to the Circuit Court of Baltimore City, it shall nevertheless be the duty of said court, upon the submission of the said conveyances to such court, after the said default, to forthwith decree that the mortgaged premises shall be sold, on such terms of sale as to the said court shall seem proper; and to appoint by said decree a trustee or trustees, to make such sale requiring bond and security for the performance of the trust, as is usual in

the case of the sale of mortgaged premises; and the said trustee or trustees may sell the same agreeably to the terms of the said decree; but before each sale the mortgagee or mortgagees, or some of the mortagees, or the executor or administrator of a deceased mortgagee, or the assignee or assignees of the mortgage, or one of such assignees, or the executor or administrator of a deceased assignee, shall file in the court in which the said proceedings are pending, a statement of the amount of the said mortgage claim remaining due, verifying the same by the oath or affirmation of the party filing the same; and the said affidavit or affirmation may be made before any of the persons mentioned in section three of this article, and the same shall be authenticated as provided for in section three hereof.

Statement under oath.

14. The provisions of sections four to eleven, inclusive, of this article, shall apply to all the proceedings under the preceding section.

Ibid, s. 2.

What sections applicable to these proceedings.

DECISIONS ON MORTGAGE LAW OF BALTIMORE CITY.—This article is composed of the Acts of Assembly of 1833, c. 181; 1836, c. 249; 1839, c. 9; 1852, c. 148, s. 9; 1852, c. 198; 1861, c. 76, and 1864, c. 124. The decisions are as follows:

The agreement for a decree in a mortgage executed under the mortgage law relating to Baltimore city is to be regarded only as a consent to dispense with the intermediate proceedings of *subpœna* and answer, in order to facilitate a decree, and not that the decree shall be binding at all hazards. *Williams* v. *Williams*, 7 Gill, 302.

The court is only restricted in fixing a time for the sale to "one of the periods limited" in the mortgage for the forfeiture thereof, and it may prescribe such terms of sale as shall seem proper; it may direct the property to be sold for cash. *Ing* v. *Cromwell*, 4 Md. 31.

The mortgage itself fixes the time for the payment of the money, and the mortgagor cannot complain that further notice was not given to him. *Ing* v. *Cromwell*, 4 Md. 31.

A mortgage was executed to the mortgagee in trust for the benefit of the payees of certain promissory notes secured by it; he, upon default to make sale and apply the proceeds to the payment of the debt and interest. Held, that the mortgagee was the proper party to make the statement and affidavit, and that the payees in the notes, the *cestuis que trust* in the mortgage, need not be made parties to the proceedings under the law. The affidavit and statement of the amount due on the mortgage need not be made before

the decree, but only before the sale. *Hays* v. *Dorsey*, 5 Md. 99; *Brooks, trustee* v. *Hays*, 24 Md. 507.

The proceedings, so far as the obtention of the decree is concerned, are *ex parte*. Want of notice to the mortgagor or to a party claiming under him, of the application for a decree upon a mortgage, is no objection to such decree. The rights of third persons are to be inquired into on the ratification of the sale, and not before. *Eichelberger* v. *Harrison*, 3 Md. Ch. Dec. 39; *Kaufman* v. *Walker*, 9 Md. 229; *Cronise* v. *Clark, et al.*, 4 Md. Ch. Dec. 403.

An objection to a sale, that the affidavit as to the amount due upon the mortgage, was not filed by the mortgagee, or his assignee, before the sale was made, may be taken by the purchaser before the final ratification, and is fatal, even though the affidavit may be filed before the final action of the court upon the sale, and the mortgagor may consent to its ratification, but such an objection is too late after the final ratification has been duly made. The statement of mortgagee's claim on oath is not conclusive, and the amount actually due is open to examination on proof, either before the sale or after the order of ratification *nisi*. *Gatchell* v. *Presstman, et al.*, 5 Md. 161.

A sworn statement of the amount due filed by the mortgagee, with his petition after the forfeiture and before the time of sale, is sufficient. The trustee may give bond at any time before sale, even on the day on which he advertises the sale to take place. *Brooks, trustee* v. *Hays*, 24 Md. 507.

If the sworn statement of the mortgage claim, required by secs. 3 and 13 of this article, (Acts of 1861, c. 76, and 1864, c. 124,) is erroneous in not showing the true balance due upon the mortgage, it is open to correction when the account may be stated by the auditor, but furnishes no reason for setting aside the sale. *Md. Perm. Land and Build. Society of Balto.* v. *Smith & Carroll*, 41 Md. 516.

The objection that the terms of the mortgage are usurious can only arise upon the statement of the final account by the auditor, and cannot be urged as an objection to the sale. *Ibid.*

A mortgage, to come within the provisions of the mortgage law, must contain such assent of the mortgagor to the passing of a decree in conformity to the provisions of the law, as to authorize the court, before default, forthwith to decree a sale of the mortgaged premises. A clause that, "in case of default being made in the premises," it shall be lawful for the mortgagee, his executors, &c., "to procure by a decree of any court of competent jurisdiction, a sale" of the mortgaged property, does not bring the mortgage within the special jurisdiction of the mortgage law. *Kenly* v. *Wierman's Ex'r*, 18 Md. 302.

Proceedings under this article are contemplated to be *ex parte*, until after the decree and the sale under the decree, and the propriety of the decree, and the validity of the sale made thereunder are to be inquired into and contested after the passage of the order of ratification *nisi*, and before the final order of confirmation is passed. The objection to a decree obtained

under and in accordance with the above article and section of the Code, that it was entered after default, is not supported either by the words of the Code or by any decided case. The meaning of these provisions is, that where the decree is entered before default, no sale shall be made till something is due upon the mortgage. The proceeding is authorized to be taken at any time after the recording of the mortgage, without regard to the time limited therein for a default of the mortgagor. He is protected against a sale until he makes default. *Black* v. *Carroll*, 24 Md. 251; *Franz* v. *Teutonia Build. Asso.*, Ibid, 269; *Brooks, trustee* v. *Hays*, Ibid, 518; *Seebold* v. *Lockner and Wife*, 29 Md. ——.

The advertisement of a trustee appointed to sell mortgaged property, described the house and lot in the city of Baltimore, offered for sale under the decree, as situate on "the south side of Lombard street, at the distance of 391 feet or thereabouts from the southwest corner or intersection of Lombard and Canal streets, fronting on Lombard street about 24 feet, and extending back about 100 feet to the midway between Lombard and Granby streets, and is improved by a good and substantial three story brick dwelling house, with a brick back building." Held, that this was an insufficient description of the property, and, in connection with the fact that it sold for much less than its value, will avoid the sale. The advertisement is designed not only to let the public know what property is thus brought into market, but also to afford the owner an opportunity to redeem it from sale, or to prevent its being sacrificed. Judicial sales will not be set aside for causes that the parties in interest might, with reasonable diligence, have obviated; every intendment will be made to support them. But where the court can see that injustice will be inflicted by the ratification of a sale, upon a party no in default by reason of the carelessness or omission of the trustee, the sale should not be ratified. In such sales the court acts for all parties, through its officer, the trustee, and all parties look to the court for protection against the consequences of his acts or omissions. *Kaufman* v. *Walker*, 9 Md. 229.

Where a trustee under a decree for foreclosure inadvertently describes one of the lots advertised to be sold as subject to a ground rent of $65, instead of $65.50, the true amount, held, that this furnished no adequate ground for interfering with the sale. A mistake in the year in one of the advertisements of sale not calculated to mislead—the advertisement of the same in another newspaper being without exception—is an irregularity which the court may overlook in the ratification of the sale. *Brooks, trustee* v. *Hays*, 24 Md. 507.

Held that where a decree for the sale of mortgaged property had been passed, and after the trustee had advertised the property for sale, the mortgagor applied for the benefit of the insolvent laws, and his trustee in insolvency was appointed and gave bond, the latter, and not the trustee under the decree, was entitled to make the sale. The fact that the trustee in insolvency filed his petition in the mortgage case, denying the right of the trustee under the decree to sell, and asking that the sale might be stopped, on the ground

that he alone had the right to sell, is not a submission to the jurisdiction of the court passing the degree, to such an extent as to stop him from successfully resisting the sale. *Zeigler* v. *King*, 9 Md. 330. See *White* v. *Malcolm*, 15 Md. 529.

On an appeal from a decree under this mortgage law, the Court of Appeals will examine the terms and conditions of the mortgage, and determine whether the decree is in conformity therewith. In proceedings under the mortgage law the court below has no power to pass any decree not in conformity with the conditions of the mortgage, and embraced in the terms of assent to the decree contained in the mortgage itself. The court below is not authorized to determine judicially by its decree the amount due on the mortgage, and a decree for a sale, "unless a certain sum is paid," when, on the face of the mortgage, no such sum could be due at the time of the decree, and there was no covenant or engagement in the mortgage to pay any such sum, is erroneous. *Robinson* v. *The Am. Homestead Asso.*, 10 Md. 397.

The objection to a decree passed after default that it does not appear by averment of proof that the plaintiff was incorporated as a building association pursuant to law, cannot be taken advantage of by a defendant who has recognized its existence and right to sue according to the general incorporation law, by executing to it a mortgage. *Franz* v. *Teutonia Build. Asso.* 24 Md. 259.

A mortgage was executed and a decree obtained thereon on the equity side of Baltimore County Court. Afterwards a bill was filed in chancery by the creditors of the mortgagor to set the mortgage aside as fraudulent as against them. Held, that the decree in equity was sufficent to protect the mortgagee against inquiry in this case into the question of fraud in obtaining the mortgage. *McDonnell et al.* v. *Goldsmith*, 6 Md. 319. 2 Md. Ch. Dec. 370.

The summary proceedings prescribed by the mortgage law of Baltimore city, are not applicable to mortgages of money securities and bank stock. *Cronise* v. *Clark et al.*, 4 Md. Ch. Dec. 403.

Upon the final ratification of a sale of mortgaged property, made under a decree, to the passing of which, in pursuance of the law relating to mortgages in the city of Baltimore, the mortgagor had given his assent, the same legal intendment and construction are to be applied thereto, as if the same had been made by virtue of an ordinary decree, and it can no more be called in question, in any collateral proceeding, than a sale under any other decree of the court. *Morrill and Wife* v. *Gelston's Lessee*, 34 Md. 413.

Under a mortgage executed in pursuance of the sections of this Article, a decree had been obtained for the sale, and the property advertised for sale, when the mortgagor filed his petition alleging that he was not in default, and praying that the sale might be suspended and the case referred to the auditor to state an account between the parties, &c. After hearing the case on the bill and answer, which denied the statements of the petition, the

court passed an order temporarily suspending the sale, and referring the papers to the auditor, &c. It being contended that said court could not pass such an order, inasmuch as the proceedings under the above mentioned sections were *ex parte*, until the sale be made and reported, and that objections to the sale could not be entertained until then, in view of the provisions of sections 6 and 7 of this article and the previous decisions of the Court of Appeals. Held that while section 6 prescribes that allegations may be made against sales which take place *after* such sales are reported, and section 7 provides for the action to be taken thereupon by the court, yet in none of the sections of this article, is there any prohibitions against the mortgagor's taking proceeding to stop the sale, or against the court's granting an order suspending the sale, or even granting an injunction; and that the Court had authority to pass said order suspending the sale and referring the papers to the auditor to state an account. *Equitable Mutual Land Imp. Ass'n.* v. *Becker*, 45 Md. 632.

There were three mortgages, one to A. B. and C. each, on certain leasehold property; a decree for the sale of the said property was obtained by B., under secs. 782--792 inclusive, of Article 4 Public Local Laws, of secs. 1--12 of this Article. A. was appointed trustee to make the sale, and at the sale announced that the property would be sold clear of encumbrances. The sale was made and finally ratified by the court. The auditor stated an account, applying the proceeds of sale to the payment of A's mortgage, and the residue to B's, leaving a balance unpaid. On objections by C., Held, that A., as mortgagee, was no party to the proceedings. As trustee he had no authority to sell, except under the decree in B's case, and could only sell subject to his own prior mortgage. He had, therefore, no right to participate in the proceeds of the sale. They should have been applied to the payment of B's mortgage, and the balance to the payment of C's. *Hardy* v. *Smith, et al.*, 41 Md. 1.

ARTICLE XXXVII.

PARKS.

STATUTES.

1. Resolution and ordinance of Mayor and City Council relating to parks confirmed.
2. Powers of park commission: rules and regulations: fines, how recoverable.
3. Speed of vehicles and equestrians on approaches from North avenue.
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9. Park commission to form a zoological collection.
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ORDINANCES.

PATTERSON PARK AND STOCK.

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3. Register to issue bonds of city: proceeds to be used for purchase of property: proviso: when to go into effect.
4. Bonds redeemable in twenty years
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RIVERSIDE PARK.

7. Mayor authorized to lease ground for enlargement of Battery Square: rent to be paid semi-annually.
8. Name.
9. Parcel of land lying within lines of Riverside Park taken for public square.
10. Riverside Park in charge of park commission: powers.
11. Appropriations.

Article XXXVII.—Statutes.

STATUTES.

1. The resolution of the Mayor and City Council of Baltimore, appointing a commission in relation to the proposed public parks, approved June the fourth, eighteen hundred and sixty, and an ordinance of the said Mayor and Council, to provide for a public park or parks, approved July the twenty-first, eighteen hundred and sixty,* are hereby confirmed,

1862, c. 29.

Resolution and ordinance of Mayor and Council relating to parks confirmed.

*The act of 1862, c. 29, repealed 1861, c. 41, on same subject. The resolution and ordinance referred to above, are as follows: (For the provisions of the ordinances and acts of assembly relating to the Tax on the Passenger Receipts of the Railway Companies, see Railroads, Art. XL.)

The resolution is Res. No. 227, June 4, '60: it recited that, as one-fifth of the revenue from the Passenger Railway Company was to be devoted to the purchase of a park or parks for the city of Baltimore; and that, a considerable portion of the funds was already in the hands of the Register, and more accruing every day; and that it was fitting that some action looking to a proper selection of the park or parks, and the purchase of the same should be taken by that Council, therefore, it was resolved that the Mayor be authorized and empowered to appoint four discreet persons, who, with the Mayor, should constitute a commission to select and purchase, in the name of the Mayor and City Council, a site or sites, the number of acres, &c., for the proposed park or parks, said commission to serve without pay or emolument.

The ordinance is Ord. No. 60, July 21, '60: it enacted that,

1. Whenever the commissioners appointed under a resolution of the Mayor and City Council of Baltimore, entitled resolution appointing a commission in relation to the proposed public parks, should certify to the Register, under their respective hands, that they had purchased the site or sites for a park or parks, describing the same in their said certificate, and stating the price agreed to be paid therefor and the terms of sale, it should be the duty of the said Register to issue and deliver to the said commission, certificates of stock of the Mayor and City Council of Baltimore, in the usual form, redeemable at the end of thirty years from the date thereof, and designated on the face of the certificate as "Public Park Stock," for the amount of said purchase money, and in accordance with the terms of sale; which certificates of stock should be delivered to the vender or venders of such site or sites, by the said commissioners upon the conveyance to the Mayor and City Council of Baltimore of the property so purchased, and after the Counselor of the City should have certified to the sufficiency of the title or titles thereof; and should the said commission not be able to complete the purchase of said site

and all acts done or which may be hereafter done by the said Mayor and City Council, or other officer of said city, or by the Park Commission acting under the provisions of said resolution and ordinance, shall have the same effect as if the

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or sites at one time, so as to be obliged to make several certificates to the Register, the same proceedings as those just mentioned should be had in each and every case.

2. That the revenue derived and to be derived by the Mayor and City Council of Baltimore from the City Passenger Railways, was thereby pledged and set apart for the payment of the interest on the certificates of stock to be issued under this ordinance.

3. That one-fifth of the revenue aforesaid, remaining after the payment of the interest aforesaid, should be invested by the Register in the stock of the city of Baltimore, as a sinking fund for the redemption of the stock created by this ordinance.

4. That the four-fifths of said remaining revenue should be paid by the Register, on the order of the said commission, as the said revenue should be received, for the improvement and maintenance of the park or parks aforesaid.

5. That said commission should make annually to the Mayor and City Council of Baltimore, in season to be referred to in the annual message of the Mayor to the Council, a full and detailed report of their proceedings in the execution of the trust reposed in them, showing the character and quantity of work done and the moneys paid therefor, the persons in their employment, their duties and compensation, together with the plan proposed for their operations during the coming year.

6. That the present commission were authorized to take charge of the said park or parks, and the improvement and maintenance, including the preservation thereof; and to that end they were clothed with all power necessary for that purpose, and might appoint and compensate such officer or officers, engineer or engineers, gardener or gardeners, and employ such laborers as they might deem proper and necessary, and with power also to appoint and compensate guardians of the said property for the preservation of order within the limits thereof.

7. That the Mayor of the City, for the time being, should always be a member of the commission *ex-officio*.

8. That the said commission should have power and authority to dispose of, by sale or otherwise, any portion of said site or sites originally purchased, which might not be necessary for the purposes of said park or parks, as well as any crop, wood, trees, or other property, that might be severable from the freehold, should it become necessary, in the improvement and maintenance of said park or parks, so to do, in their judgment, and to make use of the avails thereof for the use of said park or parks. And the Mayor was

said Mayor and City Council, prior to the passage of the said resolution and ordinance, had been expressly empowered by an act of the General Assembly of Maryland, to enact a resolution and ordinance in the precise terms of the said resolution and ordinance, and to provide for carrying the same into effect; but nothing herein is to affect any right whatsoever of the Green Spring Avenue Company.*

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authorized to execute any conveyances, certified by the City Counselor, that might be required therefor; provided, however, that the joint expenses of said improvement and maintenance should not exceed in any year the net revenue that might be received under the provisions of this 8th section, together with the said four-fifths of remaining revenue, as set apart for this purpose in the 4th section of this ordinance.

9. That the said commission should have full power to make all agreements with proprietors in regard to division lines and enclosures, the adjusting thereof, and the exchanging of property for that purpose; and in like manner, the said commission should have full power to agree for the closing of public roads, should any be found to run through said site or sites, or to make such arrangement thereof as should enable them to have entire control of the said park or parks, the exclusion of improper parties, and the general police thereof.

10. That in addition to the commission, Thomas Swann, then a member thereof as Mayor of the city *ex-officio*, was appointed a commissioner in his individual capacity.

11. That nothing herein contained should be taken to authorize the payment of either salary or emolument of any kind to the said commissioners, or any of them.

12. That should any vacancy occur in said commission from death, resignation, or failure to serve, the same should be filled by the said commission itself, and be by them reported to the Council, for and subject to its approval, at the first session thereafter.

See other ordinances, &c. as to park police, under Police, Art. XXXVIII; as to park stock, under Stocks, Art. XLVI; as to avenues around park, see Streets, Art. XLVII; as to railways into park, under Railroads, Art. XL; as to lakes and reservoirs, under Water, LIII.

* 1864, c. 141, entitled an Act to amend the Act to incorporate the Green Spring Avenue Company, passed at January session, 1858, c. 216, and the act amendatory thereof, passed at January session, 1860, c. 164, and to carry out the provisions of an agreement made between the said company and the Mayor and City Council of Baltimore, recites that, an agreement has been made between the said Company and the Mayor and City Council

1862, c. 29.

Powers of park commissioners.

Rules and regulations.

Fines, how recoverable.

2. The Park Commission, for the time being, appointed under the provisions of said resolution and ordinance, or any resolution or ordinance supplementary thereto, shall have power, from time to time, to make such rules and regulations for the government and the preservation of order within the said parks as they may deem expedient, declaring what fines, not exceeding in any one case one hundred dollars, shall be imposed for breaches of said rules and regulations, to be recoverable in the name of the Mayor and City Council of Baltimore, as small debts are recoverable before a justice of the peace of the said city, and appropriated to the purposes of said park.

1876, c. 40.

Speed of vehicles and equestrians on approaches from North avenue.

3. The Park Commission is authorized and empowered to regulate the speed of vehicles and equestrians on the approaches to Druid Hill Park from North Avenue, as they are empowered to do within the limits of said park, and to impose the same penalties for the violation of any regulation they may establish in this connection.

1862, c. 29.

Conservators of the peace.

4. The several members of the said Park Commission shall have the power of conservators of the peace within the limits of the said parks.

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of Baltimore, whereby a road has been provided through Druid Hill Park, from the southern entrance thereof to an entrance already agreed upon on Woodberry lane, which road is to be at all times hereafter kept open and in repair by the Park Commissioners, for use at all hours of the day and night, for such travel as is permitted by the general regulations of the park within its limits; it then enacts, that the Green Spring Avenue Company are hereby released from the obligation of constructing their said avenue south of the northern boundary of said park; and that the said Druid Hill Park is hereby declared to be forever exempt from the passage through it, or the construction within it of any public highway, turnpike or railroad. And that this act shall be of non-effect until accepted by the Green Spring Avenue Company.

This act was duly accepted by the company.

5. The board of police of the said city are authorized, on the requisition of the Park Commission, to detail, from time to time, such of the regular police force of said city, as the said board may deem necessary for the preservation of order within the said parks, according to the regulations aforesaid, and under the direction of said board; which detailed force shall have the same power in the premises, that the police of city have as conservators of the peace. 1862, c. 29. Park commission may make requisition for police. Powers of police.

6. If the said Park Commissioners should find that they cannot agree with the owner of any land, or of any interest in land, which may be found necessary to be added to Druid Hill Park or to Patterson Park, or if the owner thereof, or any of the owners thereof, at the time of the application be *feme covert*, under age; *non compos mentis*, or residing out of Baltimore county, or in the case of Patterson Park, out of Baltimore city, application may be made by the said commissioners to any justice of the peace of Baltimore county, or in the case of Patterson Park, to any justice of the peace of Baltimore city, who shall thereupon issue his warrant under hand and seal, directed to the Sheriff of the county, or in the case of Patterson Park, to the Sheriff of Baltimore city, directing him to summon a jury of twenty inhabitants of said county, or in the case of Patterson Park, of said city, not relating to the parties, nor in any wise interested, to meet on the land, to be valued on a day named in said warrant, not less than ten nor more then twenty days after issuing the same; and if at said time and place any of said jurors summoned do not attend, the said Sheriff shall immediately summon as many jurors as may be necessary, with the jurors in attendance, to furnish a panel of twenty jurors in attendance, and from them each party or his agent, or if either be not present in person or by agent, the Sheriff for him, may strike off four jurors, and the remaining twelve may act as a jury of inquest; and before they act as such 1870, c. 68. Condemnation of land by park commissioners.

the Sheriff shall administer to each of them an oath or affirmation, as the case may be, that he will justly and impartially value the land required by said Mayor and City Council for the park aforesaid; and the said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the said Sheriff to the clerk of the Circuit Court for Baltimore county, or in the case of Patterson Park, to the Circuit Court of Baltimore City, to be filed in his court for confirmation by said court at its next term, if no sufficient cause to the contrary be shown, and when returned shall be recorded by said clerk at the expense of said Mayor and City Council; but if set aside, the court may direct another inquisition to be taken in the manner above prescribed, and such inquisition shall describe the land taken and the quantity or duration of the interest in the same, valued for Mayor and City Council, and such valuation when paid, or tendered to the owner of said land, or his or her legal representatives, shall entitle the said Mayor and City Council to the estate or interest so valued, as fully as if it had been conveyed by the owner thereof; and the valuation, if not received when tendered, may at any time thereafter be received from the said Mayor and City Council by the said owner.

May enlarge streets, &c., leading to parks.

7. The said Park Commissioners are authorized to enlarge the streets and avenues around and leading to said parks, and in the event of failing to agree with the owner of any property required for that purpose, or of any interest therein for the purchase thereof, or if the owner be a *feme covert*, under age, *non compos mentis*, or be residing out of the county at the time, or in the case of Patterson Park, out of Baltimore city, the said commissioners are authorized to condemn the same in the manner specified in the foregoing section, the oath to each juror being that he will justly and impartially value the damages which the owner will sustain

by the enlarging of the particular street or avenue, as the case may be.

STOCK.

1868, c. 36. 8. The Mayor and City Council of Baltimore are hereby authorized to issue, from time to time, as they may deem proper, the bonds of said Mayor and City Council, payable at such time and for such sums as they may deem proper, not exceeding the sum of fifty thousand dollars in any one year, and in the whole not exceeding the sum of one hundred thousand dollars, for the improvement of the public parks of the said city, the authority now given being that required by the seventh section of article eleven of the Constitution of this State, to enable the said Mayor and City Council to make appropriation at their discretion within the above limits for the purpose aforesaid.*

Issue of bonds authorized.

Improvement of parks.

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*The Park Commission, in their report to Mayor, &c., Jan. 1, 1869, give the following estimate of number of acres and cost of Druid Hill Park:

	A.	R.	P.			
The purchase from Mr. Rogers of the Druid Hill Estate, was	453,	0,	28,	@ $1,000	per	acre.
Additional purchase of Mr. Rogers	8,	1,	17,	"	"	"
" " " "	11,	3,	36,	"	"	"
One-fourth of the Mount Vernon Cemetery,	16,	0,	00,	"	"	"
Bought of Kraft's heirs,	4,	2,	15,	for $6,000.		
" John Clark and others,	11,	2,	23,	@ $1,000	per	acre.
" Hugh Gelston,	7,	3,	00,	" 700	"	
" Miles White,	5,	1,	5,	" 800	"	
Making in all	518,	3,	4,			

In addition to the above, the land adjacent to Druid Lake is also included in he p ark, making the area of this park nearly 700 acres.

By Ord. No. 117, June 29, 1875, the Mayor and City Council of Baltimore were authorized and directed to condemn or purchase the four-sevenths of the lot of ground purchased from the late Hugh Gelston, lying within the limits of Druid Hill Park, the title to which had been declared invalid.

The 37 acres originally comprising Patterson Park, were conveyed by deed of gift to the city by William Patterson about 1827.

ZOOLOGY.

1876, c. 344. s. 2. Park Commission to form a zoological collection.

9. In addition to the powers heretofore conferred upon the Public Park Commission of the City of Baltimore, it is hereby authorized to form a zoological collection within the limits of Druid Hill Park, by the purchase and collection of living, wild, and other animals, for the purpose of public exhibition for the instruction and recreation of the people, with power to make contracts in regard thereto, and shall be capable at law of holding and at pleasure disposing of gifts, devises and other property for the use of said collection.

Ibid, s. 3. Subscriptions. Stock. Seal.

10. The said commission is hereby authorized to receive subscriptions of money for the purpose of said collection not to exceed in amount one hundred thousand dollars, and to issue certificates of stock therefor, in sums of not less than one hundred dollars, each bearing interest at the rate of six per cent., payable half yearly out of the income derived from said collection, which certificates shall be signed by a member of said commission appointed by them for the purpose, and the secretary thereof, and have attached thereto a seal, which the said commission are hereby authorized to adopt for the purpose.

Ibid, s. 4. Tickets.

11. In addition to the six per cent. interest aforesaid, each holder of a certificate shall be entitled to receive for every one hundred dollars subscribed by him or her, as many free entrance tickets to the zoological collection as the said commission may deem proper.

Ibid, s. 5. Charges.

12. The said commission shall be authorized to charge and receive from each visitor to said collection, for the use thereof, such reasonable fee as the said commission may fix.

Ibid, s. 6. Accounts.

13. The said commission is hereby required to cause to be kept separate accounts, showing the receipts and expenditures of said collection, which shall accompany the annual

report that said commission are required to make to the Mayor and City Council of Baltimore. Report to Mayor and City Council.

14. The said commission shall have full power to employ and compensate all persons, whom, in their judgment, it may be proper to employ in obtaining and supporting and managing the collection aforesaid. Ibid, s. 7. Employees.

ORDINANCES.

PATTERSON PARK AND STOCK.

1. The Park Commission is authorized to appoint a superintendant of Patterson Park, with knowledge and skill to carry on the work of improving said park, under the direction and control of the commission, the compensation of the said superintendent to be regulated by the commission, and to be paid out of the fund applicable to said park. Superintendent. Compensation.

2. The Park Commissioners are hereby authorized and directed to purchase or condemn the following described land for the extension of Patterson Park, that is to say: commencing at the southwest corner of the said park at Gough street, and running thence southerly, binding on the east side of Patterson Park avenue to Eastern avenue, thence easterly, binding on the north side of said Eastern avenue to Potomac street, thence on the west side of Potomac street northerly to Baltimore street, and thence westerly and binding on the south side of Baltimore street to the northeast corner of the said park at Luzerne street. No. 116, June 23, '71. Park Commissioners to purchase or condemn land for extension of park. Description.

3. The Register of the City is hereby authorized and directed to issue the bonds of the city to an amount not exceeding two hundred thousand dollars, from time to time, as the same may be required for the purchase or condemnation and improvement of said lands, the proceeds from the sale of which bonds shall be used for the purchase of the property to be Ibid, s. 2. Register to issue bonds of city.

Proceeds to be used for purchase of property.

embraced in the extension hereby contemplated, and for the improvement of the same, and for no other purpose whatever;

Proviso.

When to go into effect.

and provided further, that this ordinance shall not go into effect until the issue of the said bonds shall be authorized by an act of the General Assembly of Maryland, nor until this ordinance shall be approved by the votes of a majority of the legal voters of the city of Baltimore, cast at the time and places hereinafter designated.*

Ibid, s. 3.

Bonds redeemable in twenty years.

4. The said bonds shall be issued in sums of not less than one hundred dollars each, redeemable in twenty years, and bearing interest of six per cent. per annum, payable quarterly, and transferable as other city bonds.

Ibid, s. 8.

Investment.

Sinking fund.

5. One-tenth of the par value of said bonds shall be invested by the Commissioners of Finance in the bonds of the city of Baltimore, or in bonds for which the city is liable, by endorsement, as a sinking fund for the redemption of the bonds issued under the provisions of this ordinance.

Ibid, s. 9.

Surplus of revenue of City Passenger Railway to be applied to interest on bonds.

6. After deducting from the revenue derived from the city passenger railways, the interest on the present issue of the park stock under the ordinance to provide for a public park or parks, and the interest on the stock herein authorized to be issued, and the sinking fund therein and herein provided for, and the further sum of ten thousand dollars annually, for the maintenance of the parks, the surplus of said revenue shall be applied, as far as necessary, to reimburse the city the interest upon the bonds heretofore and hereby authorized to be issued;

Proviso.

provided, that not less than one-fifth of the said ten thousand dollars and of the excess of annual receipts from the passenger railway over the amount necessary to provide for the interest on the bonds, heretofore and hereby authorized to be

* This ordinance was duly approved; it contained the provisions usual in such cases, authorizing its submission to the voters and publication, &c.

issued, shall be expended in the improvement and preservation of Patterson Park.*

RIVERSIDE PARK.

No. 65, June 11, '73.

Mayor authorized to lease ground for enlargement of Battery square.

7. The Mayor is hereby authorized and requested, in the name of the corporation of Baltimore, to lease fourteen acres, more or less, of ground for the enlargement of Battery Square, upon the south side of said square, from the estate of the late Alexander Gould, at a capitalized rate not to exceed five thousand dollars per acre, for ninety-nine years, renewable forever, the rent to be paid semi-annually, at six per cent., and to be redeemable at the pleasure of the Mayor and City Council, at any time within twenty-five years from the approval of this ordinance.†

Rent to be paid semi-annually.

Ibid s. 2. Name.

8. The name of the property shall be Riverside Park.

No. 103, s. 1, June 1, '75.

9. The Commissioners for Opening Streets are authorized and directed to condemn and take for a public square, all that

* By the act of 1872, c. 7, the Mayor and City Council of Baltimore were authorized and empowered to issue the bonds of the said city to the amount of two hundred thousand dollars, for the purpose of providing for the extension of Patterson Park, in said city, and the above ordinance of the Mayor and City Council, June 23, 1872, was ratified and confirmed. See Art. XL, Railroads, Reduction of Tax and Stocks, Art. XLVI, Park Stock. By resolution No. 330, May 15, 1875, the Park Commission of Druid Hill and Patterson Parks, are requested to have no laborers employed in said parks but those who are resident citizens of Baltimore city.

† By resolution No. 418, October 22, 1873, the Mayor, for and in behalf of the corporate authorities of Baltimore city, was authorized and directed to execute a lease of the land belonging to the estate of the late Alexander Gould, Sr., deceased, embraced in the ordinance for the enlargement of Battery Square, upon condition that the trustees of the said Gould estate give a good and sufficient bond, to be approved by the City Solicitor, to indemnify the city for any greater sum of money that a jury of inquisition may assess over and above the amount already agreed upon with the trustees of the Gould estate, for the acre of ground, more or less, owned by John S. Gittings. See resolution No. 329, May 15, 1875, as to improving park; ordinance No. 16, April 13, 1878, provides for introducing gas into park. See article XLV, Squares.

A parcel of land lying within the lines of Riverside Park taken for public square.

parcel or portion of land in the city of Baltimore, on the west side of Covington street, between Battery Square and Wells street or Ohio avenue, and lying within the lines of Riverside Park, and described as follows, to wit: Beginning for the same in the centre of Covington street, where it is intersected by the division line between John S. Gittings' and Alexander Gould's estate, being north of Barney street, and running thence binding on said division line south forty-eight and one-half degrees, west three hundred and seven feet eight inches; thence still on the division line between the land of John S. Gittings, and the ground formerly belonging to Alexander Gould's estate, south forty-two degrees, east three hundred and twenty-nine feet ten inches to the centre line of Covington street, and thence northerly binding on the centre line of Covington street about four hundred and fifty-five feet to the beginning, containing one and one-sixth acres of land more or less.

No. 7, Feb. 2, '76. Riverside Park in charge of Park Commission.

10. The Park Commission, created by ordinance No. 60, of the ordinances of the city, approved July 21st, 1860, (p. 677 *ante*,) are hereby authorized and directed to take charge of Riverside Park and the improvement and preservation thereof,

Powers.

and to that end shall have all the power which is vested in them by the ordinance aforesaid in regard to Druid Hill and Patterson Parks.

Ibid, s. 2. Appropriations.

11. All moneys appropriated for the maintenance and improvement of Riverside Park shall be expended under the direction of said Park Commission.

ARTICLE XXXVIII.

POLICE.

STATUTES.

1. Power to pass ordinances to preserve order, secure property, &c.: not to interfere with powers of board of police.

BOARD OF POLICE COMMISSIONERS.

2. Election of police commissioners: removal, &c.: salary: bond: oath.
3. President and treasurer of board: vacancy: removal of commissioner for misconduct, &c.
4. Clerk of board: his duties: bond: salary.
5. Duties and powers of board: proviso.
6. Board to enroll, &c. police force: what police to consist of: pay: term: commission: proviso: dismissal: proviso: qualifications: pay: absence from duty: dismissal.
7. Clerk to marshal: salary: bond.
8. Board to estimate sum necessary for discharge of duties: police tax: provisos: certificates of indebtedness.
9. Sheriff's duty.
10. Vacancies among officers: proviso.
11. No gratuity to be received: penalty.
12. Proceedings: receipts and disbursements: inspection by General Assembly: report to General Assembly: inspection by Mayor and City Council: duty of Comptroller.
13. Treasurer to give bond: account to be rendered.
14. Board may close bar rooms, &c.: penalty.
15. Powers of board as to property, police districts, &c.
16. Disposition of property seized, &c.
17. Duty of marshal: report.
18. Release of persons committed, &c.
19. Park police.
20. Responsibilities, &c., of Mayor, &c.
21. Examination of persons arrested.

CARRYING CONCEALED WEAPONS.

22. Carrying concealed weapons: penalty: proviso: persons arrested in daytime: penalty on officer.

MILITIA.

23. When called out by Board of Police or Sheriff, subject to their orders.

REGISTRATION.

24. Order.

Article XXXVIII.—Statutes.

RACES.
25. Maryland Jockey Club.
THIEVES AND PICKPOCKETS.
26. Duty of police: punishment of common thieves or pickpockets in Baltimore city: indictment and evidence.
27. Thieves, &c., on railroads: duty of police.

ORDINANCES.

1. Mayor authorized to offer reward for persons charged with murder, arson, injuring fire engine or hose carriage.
2. Retail liquor shops.
FORTUNE-TELLING.
3. Fortune-telling prohibited: penalty.

STATUTES.

P. L. L., art. 4, sec. 32. Power to pass ordinances to preserve order, secure property &c.

1. The Mayor and City Council may pass ordinances for preserving order, securing property and persons from violence, danger or destruction, protecting the public and city property, rights and privileges from waste or encroachment, and for promoting the great interests and insuring the good government of the city; but no ordinance heretofore passed, or that shall hereafter be passed by the Mayor and City Council of Baltimore, shall hereafter conflict or interfere with the powers or the exercise of the powers of the Board of Police of the City of Baltimore hereinafter created, nor shall the said city, or any officer or agent of the corporation of said city, or of the Mayor thereof, in any manner impede, obstruct, hinder or interfere with the said Board of Police, or any officer, agent or servant thereof or thereunder.

Not to interfere with powers of Board of Police.

BOARD OF POLICE COMMISSIONERS.

1874, c. 2, Feb. 3, 1874. Election of Police Commissioners.

2. There shall be elected by the joint meeting of the two houses of the General Assembly of Maryland, by ballot, three sober and discreet persons, who shall have been residents in the city of Baltimore for three consecutive years next preceding the day of their election, who shall be known

as the Board of Police Commissioners for the City of Baltimore; said commissioners shall be subject to removal as provided in this article; one of said commissioners shall be elected and appointed for two years, one four years, and one for six years, who shall hold office until their respective successors are elected, or appointed and qualified; each of said commissioners shall receive a salary of twenty-five hundred dollars per annum, payable quarterly; as the terms of office shall expire as designated above, they shall be filled or appointed for six years each; before entering upon the duties of their office of commissioner, each member thereof shall enter into bond to the State of Maryland, with one or more sureties, in the penalty of ten thousand dollars, conditioned for the faithful discharge of his duties as such commissioner; said bond to be approved by the judge of the Superior Court of the City of Baltimore, to be kept and recorded by the clerk of the said court, in the office thereof, together with the certificate of appointment as aforesaid, and shall also take and subscribe before the said judge of the Superior Court, or the clerk thereof, the oath or affirmation prescribed by the seventh section* of the first article of the Constitution; and the further oath or affirmation, that in every appointment or removal to be made by them to or from the police force, created and to be organized by them under this act, they will in no case, and under no pretext, appoint or remove any policeman or officer of police, or detective, or any other person under them, for or on account of the politi-

Removals, &c.

Salary.

Bond.

Oath.

* Sec. 7, referred to above, is as follows: Every person hereafter elected or appointed to office in this State who shall refuse or neglect to take the oath or affirmation of office provided for in the sixth section of this article, shall be considered as having refused to accept the said office, and a new election or appointment shall be made, as in case of refusal to accept or resignation of an office; and any person violating said oath shall, on conviction thereof in a court of law, in addition to the penalties now or hereafter to be imposed by law, be thereafter incapable of holding any office of profit or trust in this State. See Oath on p. 22, *ante*.

cal opinions of such policeman, officer, detective or other person, or for any other cause or reason than the fitness or unfitness of such person, in the best judgment of said commissioners, for the place to which he shall be appointed, or from which he shall be moved, and the said oath or affirmation shall be recorded and preserved among the records of said court.

1867, c. 367.

President and treasurer of board.

Vacancy.

Removal of commissioners for misconduct, &c.

3. The Board of Police Commissioners, on entering upon their duties as such, shall select one of their number who shall be the president, and one of their number who shall be the treasurer thereof, and in case a vacancy shall happen in said board during the recess of the General Assembly, it shall be filled by the Governor of the State, which appointment shall continue until the next session of the General Assembly, which shall proceed to fill said vacancy, and the General Assembly shall also in like manner elect by joint ballot commissioners to succeed those whose term of service shall expire, such election to be had at the regular session of the General Assembly immediately preceding such expiration, and neither of said commissioners shall be eligible to an elective or appointed office during the term for which he has been elected, except under the militia laws of the State, and for any official misconduct on the part of said commissioners, the General Assembly, if in session, shall have power of removal, and during the recess of the same the Governor shall remove any of said Commissioners on conviction for any felony before any court of law, and shall appoint a successor or successors to such delinquent or delinquents, commissioner or commissioners so removed, to serve until the next meeting of the General Assembly.*

* Like other corporations, the Board of Police must act through some authorized agent having the authority of a majority of the board. *Mayor, &c.* v. *Poultney & Trimble*, 25 Md. 19.

4. The Board of Police Commissioners, immediately after organizing as aforesaid, shall select some suitable person to act as clerk to the board, whose duty it shall be to keep minutes of the proceedings of the board, take charge, by direction of the board, of all property seized or found by the police or detectives, and to perform all clerical and property duties required of him by the said board; said clerk shall enter into bond to the State of Maryland in the same manner as hereinbefore prescribed for the commissioners in the sum of five thousand dollars, conditioned for the faithful discharge of his duty as clerk and the safe keeping of all property placed in his hands as aforesaid, and shall receive a salary of fifteen hundred dollars per annum, payable quarterly, and be subject to removal at the pleasure of the board. 1867, c. 367. Clerk of board. His duties. Bond. Salary.

5. The duty of the Board of Police Commissioners hereby created shall be as follows: they shall at all times of the day and night, within the boundaries of the city of Baltimore, as well on the water as on the land, preserve the public peace, prevent crime and arrest offenders, protect the rights of persons and property, guard the public health, preserve order at primary meetings and elections, and at all public meetings and conventions, and on all public occasions and places prevent and remove nuisances, in all the streets and highways, waters, water-courses, and all other places, provide a proper police force at every fire for the protection of firemen and property, protect strangers, emigrants and travelers at all steamboat, ferry boat and ship landings and railway stations, see that all laws relating to elections, and to the observance of Sunday, and regarding pawnbrokers, gambling, intemperance, lotteries and lottery-policies, vagrants, disorderly persons and the public health are enforced; and also to enforce all laws, ordinances of the Mayor and City Council of Baltimore not inconsistent with the provisions 1867, c. 367. Duties and powers of board.

of this act, or of any law of the State, which may be properly enforceable by a police force; in case the said Board of Police Commissioners shall have reason to believe that any person or persons within the limits of the city of Baltimore intend leaving the city for the purpose of committing any breach of the peace, or of violating any law of the State beyond the limits of the city, upon the Chesapeake bay, or on any river, creek, inlet, water-course, or other place on land or water within the State of Maryland, it shall be the duty of the said Board of Police Commissioners to cause such person or persons to be followed, and to take the most efficient means for the suppression and prevention of such outrage, when any such shall be attempted, and to cause the arrest of all such offenders; provided, however, that if any crime be actually committed by such person or persons, the offenders shall be delivered to the proper jurisdiction for trial and punishment; any person charged with the commission of crime in the city of Baltimore, and against whom criminal process shall have issued, may be arrested upon the same in any part of the State by the police force created under this act, under such rules and regulations as the Board of Police Commissioners may adopt; and the said board shall have power to administer oaths or affirmations in the premises to any person or persons appearing or called before them, and shall also have the power of administering oaths or affirmations and summoning witnesses before them whenever it may be necessary for the more effectual discharge of their duties.

Proviso.

1874, c. 146.

Board to enroll, &c., police force.

6. The said Board of Police Commissioners are authorized and required immediately on entering upon the duties of their office, to appoint, enroll and employ a permanent police force for the city of Baltimore, which they shall arm and equip as they may judge necessary under such rules and regulations as they may from time to time prescribe, and the said board shall have power to remove any police officer, officer of police, or

detective, for the violation of any rule or regulation which they may make and promulgate to said police force, officers of police and detectives; said force shall consist of one marshal and one deputy marshal of police for the city, one captain, two lieutenants, two turnkeys, and such number of sergeants as said board of police, in their judgment, may deem necessary, for each police district in the city, and five hundred men, which force may be increased at any time, if in the opinion of the board the public peace shall require, to any number, and for such period of time as they may think proper by the employment of special policemen, who shall receive the sum of two dollars and fifty cents per day for their services; the period of appointment in the regular police force shall be four years, unless sooner discharged for official misconduct, and whenever any officer of police, policeman or detective shall be appointed, he shall receive a commission, which shall date from the time of his appointment, and shall hold good for four years, unless sooner annulled by his dismissal from the force; provided, however, that if any officer of police, policeman or detective shall be incapacitated from performing duty by reason of sickness or disability incurred in the line of his duty for six consecutive months, he may at the expiration of that time be dismissed from the force; provided further, however, that the said board shall have the power to dismiss said officer of police, policeman or detective before that time, if in their judgment they may deem it proper; the qualifications for the position of officer of police, policeman or detective shall be good moral character, sobriety, citizenship of the State of Maryland, ability to read and write, physical strength and courage. No person who has been convicted of any felony shall be eligible to the position of officer of police, policeman, detective or special policeman. The pay of a policeman shall be eighteen dollars per week, payable semi-monthly, and in case the board shall appoint detective policemen, they are hereby authorized and empowered to do so if they think fit, to the number of ten;

What police force to consist of.

Pay.

Term.

Commission.

Proviso.

Dismissal.

Proviso.

Qualifications.

Pay.

said detectives shall receive each the sum of twenty dollars per week, payable semi-monthly, and they shall not be allowed to follow any other business or profession, but shall devote their whole time to the discharge of their duty as detectives. The officers of police shall be paid semi-monthly, and their pay shall be as follows: The marshal shall receive twenty five hundred dollars per annum; the deputy marshal receive two thousand dollars per annum; each captain twenty-two dollars per week; each lieutenant twenty dollars per week; each sergeant nineteen dollars per week; each turnkey fifteen dollars per week. The salary herein provided for the officers of police, policemen and detectives shall continue as long as they hold a commission, or until a change shall be made by Act of the General Assembly; and it shall be part of the duty of the captains, lieutenants and sergeants, whenever a

Absence from duty.

policeman, officer of police or detective is absent from duty, to report such absence to the board, and the cause of the same, and if said reports show that said absence is on account of sickness, such report shall be *prima facie* evidence of such sickness; and if any officer of police, policeman or detective shall absent himself from duty under plea of sickness, when he is not sick, such a plea or absence shall be official misconduct, for which said officer shall be discharged by the said Board of Police Commissioners, if they shall deem it proper so to do.*

Dismissal.

1874, c. 458.

Clerk to Marshal of Police.

Salary.

7. The Board of Police Commissioners for the City of Baltimore are hereby authorized, empowered and directed to select some suitable person to act as clerk to the marshal of police for said city, at a salary of twenty-five dollars per week, payable semi-monthly; and the said clerk, before entering upon the

* The Act of 1874, c. 75, also repealed and re-enacted sec. 810 of Act of 1870, c. 287, (sec. 6 above.) This Act was approved March 12, 1874, and the Act of 1874, c. 146, was approved March 30, 1874. The Act of 1874, c. 75, was thus impliedly repealed by Act of 1874, c. 146.

duties of his office, shall enter into bond to the State of Maryland in the penalty of two thousand dollars, conditioned for the faithful discharge of his duties as such clerk, the said bond to be approved by the said Board of Police Commissioners. Bond.

8. It shall be the duty of the Board of Police Commissioners aforesaid immediately to estimate, and annually thereafter, what sum of money will be necessary for each current fiscal year to enable them to discharge the duty hereby imposed on them, and they shall forthwith certify the same to the Mayor and City Council of Baltimore, who are hereby required, without delay, specifically to assess and levy such amount as shall be sufficient to raise the same clear of all expenses and discounts, upon all the assessable property in the city of Baltimore, and to cause the same to be collected as all other city taxes; and it is hereby made the duty of the Collector of the City of Baltimore, and he is hereby requested to collect said tax, to be denominated the police tax, and the said Board of Police Commissioners, upon and after qualifying as such, are hereby authorized to make requisitions from time to time, upon the Comptroller of the City of Baltimore, or other proper disbursing officer or officers of the corporation, for such sums of money as they may from time to time deem necessary for the purpose of carrying out the objects and intentions of this act; provided, the same shall not exceed in any one year the amount so as aforesaid, certified, or which may thereafter be certified for that year, to the Mayor and City Council aforesaid, and in case the said disbursing officer or officers shall not forthwith pay over the amount of each requisition as made, it shall be the duty of the said board, and they are hereby authorized and required, to issue certificates of indebtedness, in the name of the Mayor and City Council of Baltimore, in such sum as they may deem advisable for the amount of such requisitions respectively, bearing interest at six per cent. per annum, payable at not more than twelve months after date, and signed by

1867, c. 367.

Board to estimate sum necessary for discharge of duties.

Police tax.

Provisos

Certificates of indebtedness.

a majority of said board, and to raise the money on said certificates by pledging or disposing of the same; which certificates shall be receivable at par in payment of city taxes, and be as binding on said corporation, and as recoverable against it as if the Mayor and City Council of Baltimore had themselves issued the same, and the Mayor and City Council of Baltimore shall have no power or authority to levy or collect any tax, or appropriate any money for the payment of any police force other than to be organized and employed under this act; and no officer or other employee of the said Mayor and City Council shall disburse any money therefor, and the power of said Mayor and City Council to levy and collect taxes, and appropriate and disburse money for the payment of the police force, to be organized and employed under this act, shall be exercised as herein directed, and not otherwise; and in case the amount so as aforesaid to be estimated by the said board shall from any cause prove insufficient for the necessary expenses for the current year, the said board are hereby authorized and empowered to issue certificates, and raise money therefrom, as hereinbefore provided, to meet the said exigency; pro-

Provisos. vided, however, that no additional issue shall exceed the sum of fifty thousand dollars in any one year, and that the amount thereof shall be added to the estimate assessment and levy for the year next ensuing, and that said certificates shall not be made payable at an earlier day than twelve months from the date of their issue, but may be receivable in payment of city taxes at any time they may be so presented.*

'1867, c. 367. Sheriff's duty. 9. It shall be the duty of the Sheriff of Baltimore City, whenever called on for that purpose by said board, to act under their control for the preservation of the public peace

* The Board of Police have no power to have charged to the Mayor and City Council any claim not embraced in their estimate for each current fiscal year contemplated by above section. *Mayor, &c.* v. *Poultney & Trimble*, 25 Md. 18.

and quiet, and if ordered by them so to do, he shall summon the *posse comitatus* for that purpose, and hold and employ such *posse*, subject to their discretion in case the said board shall deem it necessary, they shall call out such military force lawfully organized or existing in said city, as they may see fit, to aid them in preventing threatened disorder or opposition to the laws, or in suppressing insurrection, riot or disorder on election days, and at all other times, and it shall be the duty of said military force so called out to obey such orders as may be given them by said board; whenever the exigency or circumstances may in their judgment warrant it, the said board shall have the power to assume the control and command of all conservators of the peace in the city of Baltimore, whether sheriffs, constables, police or others, and they shall act under the orders of the said board, and not otherwise; and in case of the refusal of the said sheriff, or any policeman, constable, or other peace officer, or persons, to obey any lawful command of said board under the provisions of this section, they shall respectively be guilty of a misdemeanor, and punishable as in such cases made and provided; and any officer of any military force in the city of Baltimore, organized under any law now existing or which may hereafter be enacted by the General Assembly of this State, who upon being called on by the said board as aforesaid, shall refuse or wilfully fail to call out the force under his command, or to obey the orders of the said board, or to enforce by all lawful means the performance of the duties to said force assigned, and any inferior officer or private who shall refuse or wilfully fail to obey the orders of his superior officer in such behalf, shall be guilty of a misdemeanor, and punishable as in such cases made and provided.

1867, c. 367. Vacancies among officers.

10. Whenever a vacancy shall take place in any grade of officers (except the marshal and deputy marshal) it shall be filled from the next lowest grade, if competent men can be found therein; the Board of Police Commissioners are hereby

authorized to make all such rules and regulations, not inconsistent with this act, as they may judge necessary for the appointment and employment, uniforming, discipline, trial and government of the police and detectives, and for the relief and compensation of the members of the police injured in person and property in the discharge of their duty, and the families of men or officers killed while in its performance; provided, that the allowance in any one instance shall not exceed twelve months' pay; the said board shall have power to require of any policeman, officer of police or detective, bond with sureties, when they may consider it demanded by the public interest; all lawful rules and regulations of the board shall be obeyed by the policemen, officers of police and detectives, on pain of dismissal or such lighter punishment as may be prescribed by the said board, and the said board shall have power to suspend from duty, fine or forfeit the pay of any rule or regulation by them made and adopted.

Proviso

1867, c. 367.

No gratuity to be received.

11. No officer of police, policeman or detective shall be allowed to receive any money as a gratuity or extra compensation for any services he may render without the consent of the said board; and all such moneys as any officer of police, policeman and detective may be so permitted to receive shall be paid over to the said board, and together with the proceeds of all fines, forfeitures, penalties and unclaimed property which may come into the possession of the said board, or be recovered by them under the provisions of this act or any other law, shall form a fund which the board may apply towards the allowances of officers of police, policemen and detectives and their families as hereinbefore authorized, and for extra pay to such members of the force as by gallantry and good conduct on extraordinary occasions they may be judged to merit; and any officer of police, policeman or detective who shall directly or indirectly in violation of this section, receive any moneys as a gratuity or extra compensation, and shall

fail to deliver the same to the board for the purposes hereinbefore provided, and shall apply the same to his own use, shall be forthwith dismissed, and forever after ineligible to any position in the force. Penalty.

1874, c. 146.

12. The Board of Police Commissioners shall cause to be kept by their clerk aforesaid, a full report of their proceedings, and also cause all their receipts and disbursements of money to be faithfully entered in books, to be provided for that purpose, and said books, journals and all other documents in the possession of said board, shall always be open to inspection by the General Assembly of Maryland, or any committee appointed by it for that purpose; and it shall be the duty of the said board to report to the General Assembly at each regular session, or as may hereafter be directed by said General Assembly, the number and expense of the police force employed by them under this act, and all such other matters as may be of public interest in connection with the duties assigned to them, and said books, journals and other documents, and the vouchers for all payments by said Board of Police Commissioners shall at all times be open to the inspection of the Mayor and Register of the City of Baltimore, and either of them, and it shall be the duty of the Comptroller of the City of Baltimore to examine all bills and accounts presented by said Board of Police Commissioners and the vouchers therefor.

Proceedings. Receipts. Disbursements. Inspections by General Assembly. Report to General Assembly. Inspection by Mayor and Council. Duty of Comptroller.

1867, c. 367.

13. The Treasurer of the Board of Police Commissioners hereinbefore selected before entering upon the duties of his office as such treasurer, shall in addition to the bond given as commissioner, enter into bond to the State of Maryland, as hereinbefore directed, with one or more sureties in the penalty of ten thousand dollars, conditioned for the faithful discharge of the duties imposed upon him as treasurer, and the faithful application and payment over, pursuant to the order and direction of the said board, of all moneys which may come into his hands as such treasurer, and shall every six months,

Treasurer to give bond.

on the first day of January and July, in each and every year, during his continuance in office, render to his associates in said board, a true and faithful account of the receipts and disbursements of all moneys received and disbursed by him, by order of the said board, with the vouchers thereof during said period, which account shall be verified by the affidavit of the said treasurer; and the said board shall thereupon examine said account, and if they find the same to be correct, they shall certify said account, and forward the same to the Governor of the State, to be filed in the office of the Secretary of State; the said board shall retain a copy thereof, with their certificate attached, to be filed among the papers of their office.

Account to be rendered.

1867, c. 367.

14. The said Board of Police Commissioners are authorized and empowered, whenever in their judgment the public peace and tranquility may require, to order the closing temporarily of any and all bar rooms, bars, drinking houses and liquor shops, and all other places where liquor is usually sold in the city of Baltimore, and forbid the selling and furnishing of liquor thereat; and any proprietor or keeper, or any other person for such proprietor or keeper, of any such drinking house, place or places, as well as all other places where liquor is usually sold, who shall refuse or fail to obey such order of said Board of Police Commissioners passed in pursuance thereof, or who shall sell or furnish liquor from any such place or places, during such period as said board shall so forbid, shall be guilty of a misdemeanor, and it shall be the duty of each and every officer of police, policeman and detective, who may be cognizant of any violation of this section, to report the same to the grand jury of the city of Baltimore, if in session, and if not in session, then to the next grand jury that may be summoned for said city, and every officer of police, policeman and detective who shall wilfully fail to make such report, shall be forthwith dismissed from his position, and shall be forever after ineligible to any position in the police.

Board may close bar rooms, &c.

Penalty.

15. The said Board of Police Commissioners are hereby authorized and empowered to take possession of all property heretofore by law assigned to the former Board of Police, and to have and use a common seal; they may divide the city into such number of police districts, as they may think necessary for the public good; and if found practicable, in addition to the station houses and property attached thereto, which they are hereby authorized and empowered to take possession of, and use, they may provide additional station houses, with all necessary appurtenances, as may be found needful and necessary, and such accommodations as may be requisite for the police force; said board shall also have the use of the fire alarm and police telegraph in the city of Baltimore, and of all station houses, watch boxes, arms, accoutrements and other accommodations and property provided by the city of Baltimore for the use and service of the police heretofore created by an act of the corporation of said city, as fully and to the same extent, as if the same had been provided for the use of the board created by this act.

1867, c. 367. Powers of board as to property, police districts, &c. Fire alarm and police telegraph.

16. It shall be the duty of every officer of police, and every policeman and detective to report to the board, and deliver to them all property seized or found by said officers of police, policeman or detective, immediately after the same shall have come into their possession, which property, with the date of delivery and description of the same, and the name of the officer, policeman or detective depositing the same, shall be entered in a book by the clerk, to be provided for that purpose; said clerk shall have the custody of all such property, and shall be held responsible for the safe delivery of the same to the claimants, when ordered to do so in writing by the said board, which order shall be his voucher; and any officer, policeman or detective, who shall fail or refuse, for a period of twenty-four hours, to deposit all such property as aforesaid, shall be subject to removal by the said board, and every offi-

1867, c. 367. Disposition of property seized &c.

cer, policeman or detective, who shall wilfully refuse to return all such property as aforesaid, or shall return the same to any claimant, shall be forthwith dismissed from office.

1867, c. 367.

Duty of marshal.

Report.

17. It shall be the duty of the Marshal of Police of the city to make to the Board of Police Commissioners, to be by them certified to the clerk of the Criminal Court of Baltimore, on the morning of each day, (except Sunday,) a report showing the number of persons confined in the several station houses of said city, for any offence indictable under the common law, or the Code of Public General Laws of Maryland, with the cause of their commitment, and how many, if any were released, and by whom; and if any trial was had, and before whom; and the names of the witnesses, if any, examined or present at the trial, and the place of their residence, and if any fine and costs were imposed; if so, how much and to whom paid.

1867, c. 367.

Release of persons committed, &c.

18. No marshal of police, or any of the captains of any of the districts or station houses, or any one acting for or under them, or any of them, shall release any persons committed or confined in any of the station houses* for any felony or misdemeanor, but all such persons shall be released only on the order of the committing magistrate, the judge of the Criminal Court, or one of the members of the board, or other lawful process.

1867, c. 367.

Park police.

19. The said Board of Police Commissioners are required, on the requisition of the Druid Hill Park Commissioners, to detail from time to time such number of the regular police force of said city as the said board may deem necessary for the preservation of order within the said park, which detailed force shall have the same power in the premises that the police force of the city have, as conservators of the peace within the city limts.

* As to justices of the peace at the Station Houses, see secs. 84, &c., p. 222, &c., *ante*.

20. Nothing in this act contained shall be so construed as to destroy or diminish the liability or responsibility of the Mayor and City Council of Baltimore for any failure to discharge the duties and obligations of said Mayor and City Council, or any of them, or give the said Mayor and Council any control over said board, or any officer of police, policeman or detective appointed thereby. 1867, c. 367. Responsibility, &c., of Mayor, &c.

21. All persons arrested in the day time under the provisions of this act shall be taken by the officer or officers making the arrest, immediately before the nearest magistrate for examination, previous to their incarceration in either of the watch houses or jail of the city of Baltimore. 1867, c. 367. Examination of persons arrested in day time.

CARRYING CONCEALED WEAPONS.

22. Whenever any person shall be arrested, charged with any crime or misdemeanor, and carried to any of the justices of the peace of the city of Baltimore, upon whose person shall be found any pistol, dirk knife, bowie knife, sling shot, billy, brass, iron or any other metal knuckles, razor, or any other deadly weapon whatsoever, such person shall be subject to a fine of not less than three nor more than ten dollars, in the discretion of the justice of the peace to which such person may be carried, which said fine shall be collected as other fines are now collected; provided, however, that the provisions of this section shall not affect those persons who as conservators of the peace, are required to carry a pistol or other weapon as part of their equipments; and provided further, that it shall be the duty of all officers to take all persons arrested in the day time under this act immediately before the justice of the peace nearest the place of arrest for examination, except for drunk and disorderly conduct, or theft, and any officer failing so to do shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than ten dollars. 1874, c. 178. Carrying concealed weapons. Penalty. Proviso. Persons arrested in day time. Penalty on officers.

MILITIA.

1870, c. 182, s. 25. Militia, when called out by Board of Police or Sheriff, subject to their orders.

23. Whenever the Board of Police Commissioners for the City of Baltimore, or the Sheriff of any county shall call out any portion of the militia to aid in preventing threatened disorder or opposition to the laws, or in suppressing riot or disorder on election days, or at any other times, as provided in section eight hundred and thirteen, of article four, Code of Public Local Laws, as amended by Act of Assembly of eighteen hundred and sixty-seven, chapter three hundred and sixty-seven, [sec. 9, p. 699, *ante*] said military force shall be deemed to be on detached service, while under the orders of the said board or sheriff, and the commanding officer thereof shall not be subject to the orders of any superior officer whatsoever, except the commander-in-chief.

REGISTRATION.

1874, c. 490, s. 19; 1876, c. 249, s. 17. Order.

24. The Board of Police Commissioners for Baltimore City, upon the written request of the registers of voters, shall detail police officers sufficient to preserve order at the place where the officers of registration in Baltimore city are discharging the duties of their office.*

RACES.

1872, c. 55, s. 5. Order.

25. For the purpose of preserving order and protecting property, the Police Commissioners of the City of Baltimore are hereby authorized, upon the request of the president of the

* As to furnishing lists of voters, see 1876, c. 249, sec. 6. By the act of 1874, c. 310, the Board of Police Commissioners were authorized and empowered to purchase or lease ground in the city of Baltimore, suitable in their judgment, for the erection of station houses thereon, and to have erected thereon suitable station houses, and the title to said ground and improvements to vest in the Mayor and City Council of Baltimore, the purchase money for said ground and the cost of erecting the station houses to be paid by Board of Police Commissioners out of their special fund.

Maryland Jockey Club, to detail such force as they may deem sufficient for the preservation of order during any exhibition of the said club, which detailed force shall have the power that the police of the city have as conservators of the peace.*

THIEVES AND PICKPOCKETS.

1864, c. 38, s. 1.

Punishment of common thieves or pickpockets in Baltimore city.

26. It shall be the duty of all police officers in Baltimore city to arrest and take before some one of the station house justices in Baltimore city, all persons whom they shall find in any passenger railway car, or in or about any railway depot in Baltimore city, or in any place of public amusement, or in any street of the city, whom they shall know or have good reason to believe are common thieves or pickpockets, and said justices shall commit or bail such persons for trial before the Criminal Court; and if any person in Baltimore city shall be charged on oath before any justice of the peace in Baltimore city, or before the judge of the Criminal Court, with being a common thief or pickpocket, such justice or judge shall issue a warrant for the arrest of such person, and him commit or bail for trial, and any person convicted in the Criminal Court of Baltimore, of being a common thief or common pickpocket, shall be imprisoned in jail not more than two years nor less than six months, and be fined not more than one hundred dollars; but if any person is arrested or indicted a second time, or more, for such offence, he shall be convicted only on proof that he has continued to be a common thief or pickpocket for at least one month since his last conviction or acquittal, and it shall be necessary to charge in the indictment only that the person is a common thief or common pickpocket, and any evidence either of facts or reputation proving that such person is habitually and by practice a thief or pickpocket shall be sufficient for his conviction, if satisfactorily establishing the

Indictment and evidence.

* The Maryland Jockey Club, for the improvement of the breed of horses, was incorporated by Act of 1872, c. 55.

fact to the court or jury by whom he is tried, and there shall be no discretion in any police officer or justice of the peace to discharge or release any person who is by such proof before them, or knowledge on their part, shown to be a thief or pickpocket as aforesaid; but such person shall be bailed or committed for trial, and no conviction or charge of, or for being a common thief or pickpocket, shall prevent any such person from being tried and convicted for any particular act of larceny he may have committed.

Ibid, s. 2.

Thieves, &c., on railroads.

27. If any person shall be arrested at any place on the line of the Baltimore and Ohio railroad, or on the line of the Northern Central railroad, or on the line of the Philadelphia, Wilmington and Baltimore railroad, or in any of the cars or depots, or at any of the stations on said roads, or on any ferry boat employed to carry passengers over any part of said road, and within the limits of this State, charged with being a common thief or pickpocket, such persons may be taken before any justice of the peace of the county in which said place or depot or station may be situated; or if such person be arrested in any car,

Ferry boats.

or on any ferry boat, before any justice of the peace of the nearest convenient county or of the city of Baltimore, and such justice shall on proof, as provided in the preceding section, commit or bail such person for trial before the Circuit Court of the county, or the Criminal Court of Baltimore, as the case may be; and all police officers of Baltimore city, and all conductors of trains and police employed by any of said railway companies, and all constables and bailiffs of any county or city on the lines of

Duty of police.

said road, shall arrest all such persons at any of the places aforesaid, on the same knowledge and proof of their being common thieves or pickpockets, as provided in the preceding section, and the said justice shall commit or bail such person on the same knowledge or proof; and any person convicted in any county on the line of said roads, with being a common

Penalty.

pickpocket, shall be punished by a fine or imprisonment in the

jail of the county for the same time and in the same amount as provided in the preceding section, and all the provisions of the preceding section shall apply to all cases under this section, except so far as altered by this section.

ORDINANCES.

No. 58, Oct. 15, '58. Mayor authorized to offer reward for persons charged with murder, arson, injuring fire engine or hose carriage.

1. The Mayor is hereby authorized and directed to issue his proclamation, offering a reward of such an amount as he may deem proper, for the discovery, arrest and conviction, in any of the courts, of any person who may be suspected or charged with the crime of murder, manslaughter, assault with intent to kill, or arson, committed within the city, with setting fire to any building, lumber yard or ship yard in the city, or with having destroyed, injured or defaced any engine, hose, hose carriage or other apparatus or property belonging to the fire department of the city, whenever he shall have knowledge of the commission of any of said crimes or receive information thereof from any respectable person or persons.

No. 33, s. 55, R. O. Retail liquor shops.

2. The Board of Police Commissioners are hereby requested to ascertain the situation, number, character, and condition of the shops for retailing spiritous liquors in each ward of the city, and of the owners or keepers of the same, and report quarterly to the Mayor, in order that he, in concert with the judge of the Criminal Court of Baltimore, may adopt such measures as may be deemed requisite in order to reduce the number and regulate the order of such shops.

FORTUNE TELLING.

No. 83, May 1, '75. Fortune telling prohibited. Penalty.

3. Any person who shall engage in the practice of fortune telling, or any similar device, in the city of Baltimore, shall upon conviction, for the first offence, be fined not less than twenty-five dollars, and for every subsequent offence not less than fifty nor more than one hundred dollars, said fines to be collected as other fines are now collected.

Article XXXVIII.—Ordinances.

POWERS OF BOARD.—1861, c. 46, relating to closing bar-rooms, unrepealed by the act of 1867, c. 267, is incorporated in said act, with modification, as section 14 of this Article. 1861, c. 6, relating to the constabulary and justiciary power of the board over negroes and mulattoes is also unrepealed by 1867, c. 367, but was repealed by implication, by 1865, c. 166, relating to negroes.

1867, c. 117, provided for the liquidation and settlement of arrearages of pay due to the officers and men of the police force appointed and organized under act of 1860, c. 7. See Res. No. 10, Nov. 25, '67.

In City Court, April, 1876, *Mariott's administrators* v. *Mayor, &c.* The plaintiff's intestate was in 1861 a member of the police force during Mayor Brown's administration. During that year the police force was disbanded by the military order of General Dix. Several months afterwards the force was disbanded by the State. In 1867 an act was passed by the Legislature, under which nearly all the members of the force were paid, but Mariott died without availing himself of the act. Letters of administration were taken out, but not until after the expiration of the time as provided by the act, in which claim was to be made. Suit was then brought against the city, the amount of claim being $387. The City in 1868–'69 and '70 had paid out to the members of the old police force $185,101.61 as pay between the 27th of June, 1861, and 18th of February, 1862, under this act of 1867, chapter 117, which in its preamble recited that the officers and men of the police force, which had been disbanded by military authority, had the same right to be paid during the interval mentioned as the members of the Police Board, and as authority cited the case of the *Mayor &c.*, v. *Howard et. al.*, 20 Md. 335. It was claimed by the counsel for Mariott's administrators that they were entitled to recover under this decision, irrespective of the act of 1867. Brown, C. J., held, that the decision in 20 Md., did not cover the plaintiff's case; that nothing more was decided by it than that the Treasurer of the old Police Board had a right, under the law of the State creating the Board, to draw his check on the Farmers' and Planters' Bank for a portion of an unexpended balance on deposit to the credit of the Board, and that that right continued until the Board was abolished by Act of Assembly. The Court of Appeals did not decide that the members of the old Police Board had a right of action against the city for the balance of salary due them from the date of their forcible displacement by the military, from the 27th of June, 1861, down to the time of their lawful abolishment by the act of Assembly, 18th February, 1862, and that as the police were appointed and paid by the State, no suit for pay claimed by them could lie against the city. The case was therefore decided in favor of the defendant.

It was held under the acts of 1860, c. 7; 1862, c. 111, and 1862, c. 131, relating to the former Board of Police that, as a board of State officers, possessing the power, among others, to make disbursements, they could not be disturbed or their power suspended except by the legislature; and the disbursement of a portion of the fund for the payment of a salary of one of

the board, was a legal exercise of their official duty. A check given to one of the board, and accepted by him in payment of his salary, must be held to be a legal appropriation and disbursement, excluding to that extent the board from any further control over the amount thus appropriated. Though displaced by a force to which they yielded and could not resist, their powers and rights under their organization were still preserved, and they were amenable for any dereliction of official duty, except in so far as they were excused by uncontrollable events. They were a board of State officers, strictly within the jurisdiction of the State authorities, and the courts in determing their rights and obligations, have no other guide than the statute law of the State applicable to the case and the parties presenting the appeal. *Mayor &c. of Balt.* v. *Howard et. al.* 20 Md. 335. The validity and constitutionality of the act of 1860, c. 7, by which the Board of Police was created, was determined in *Mayor, &c. Balt.* v. *State ex. rel. of the Board of Police of Balt.* 15 Md. 376. Res. No. 22, Feb. 8, '60; 23, Feb. 11, '60. See *Habeas Corpus* case of Young, Valiant and Thomson, in report of Police Commissioners, Jan. 1867, and Res. Nos. 23, Nov. 13, '66; 1, Jan. 22, '67; 3, Jan. 28, '67, and 249; May 25, '67.

Held before the establishment of the Police Board, that the corporation of the city of Baltimore having, by its charter, power to prevent nuisances, was liable in damages to the owner of a horse for an injury done the horse, occasioned by the digging of a trench or hole in a street of the city, into which the horse fell, the driver having used reasonable and proper care and diligence to avoid the danger; and *that* the fact that the trench was dug by the owner of a house fronting on the street, for the purpose of conducting water on his premises from the water-pipes of the city, and that by the city ordinances on the subject, the necessary excavation, filling up and paving was to be done by such owner, did not relieve the corporation from the obligation under its charter, to keep the public highways free from nuisances and in a condition to be safely traveled.

Mayor &c., Balto. v. *Pennington & Harlan*, 15 Md. 12. But see *note*, under Art. XLVII, Streets, and following cases:

The Board of Police Commissioners are not made authorities of the City of Baltimore as such by any provision of law. Although they exercise authority within the city for public purposes and objects, and to aid in maintaining good order therein, they have not derived their power from the corporation, nor have they been made amenable to the City for the faithful discharge of their duties. Among their other duties they are specially required to prevent and remove nuisances within the city. A person while passing along one of the streets of Baltimore, was thrown down and injured by being run against by a sled going along the street at a rapid rate of speed. In an action against the City to recover damages for the injury, Held: that the City was not responsible, inasmuch as it had no control over the Board of Police Commissioners, who had exclusive charge of the removal of the nuisance complained of. *Altvater* v. *Mayor, &c.*, 31 Md. 462. See *Flynn* v. *Canton Company*, 40 Md. 312.

Article XXXVIII.—Ordinances.

The Board of Police Commissioners and the police officers appointed by the board are State officers, but they exercise the police power of the City of Baltimore, and it is their duty to enforce all the laws and ordinances of the city, which can be enforced by the police. They have the power to prevent the commission of crime, and to arrest and detain offenders for a hearing without warrant, wherever other police officers can do so by the common law, that is, where the offence, whether by common law, by statute, ordinances of the city or police regulations, is committed within their view. *Roddy* v. *Finnegan*, 43 Md. 492.

If a party not concerned in the violation of the law obstructs a police officer while the latter is inquiring into circumstances, for the purpose of enabling him to ascertain the offending party, such conduct is unlawful and justifies the officer in arresting him. *Ibid.*

Police officers, like other officers of the law, are not to be maltreated in the faithful discharge of their duty, free from malice, ill will, oppression or the use of any unnecessary force, but are entitled to aid and assistance. If they fail in the performance of duty, or their conduct proceeds from a spirit of oppression or annoyance, they place themselves beyond the immunity afforded by the law, and become offenders themselves and are liable to the severest penalties. *Ibid.*

An ordinance [sec. 3, p. 133, *ante*,] prohibited all persons from driving or placing any horse attached to a wagon upon any of the footways of the city. A. having purchased a load of hay from B., ordered the latter to deliver the hay at the window of his stable loft, and while it was being so delivered A. was arrested for a violation of the ordinance. In an action for an illegal arrest brought by A. against the officer making, it was held:

1. That if A. gave the order for the delivery of the hay at the window and it could not be delivered without driving over the pavement, or if he intended the wagon to be driven over the pavement, and B. so understood the order; or if A. stood by and made no objection thereto, but acquiesced in the act as done in pursuance of his direction, he was guilty of a violation of the ordinance, and the officer was justifiable in making the arrest, if he used no more force than was necessary to make the arrest and detention for hearing effectual.

2. That finding the parties in the act of violating the ordinance the officer was not only justified in making the arrest and detaining the offender for a hearing, but his duty required him to do so upon his responsibility as a police officer, without obtaining a warrant from any other quarter.

3. That the fact that A. had, prior to the unloading of the hay, and had since, unloaded other hay into his stable loft while the horses and wagon containing the same were placed upon the footway of the street for that purpose, could not be used to show his intention in the matter in question. *Ibid.*

An indictment in the Criminal Court of Baltimore charged the defendant with disobedience of an order of the Board of Police Commissioners of

Baltimore, issued on 22d July, 1877, (the time of the Baltimore riots), whereby the said board, judging that the public peace and tranquility required the same, and having lawful authority so to do, and in pursuance of the laws of said State in that behalf, ordered any and all "bar-rooms, drinking-houses, and all other places where liquor is usually sold in the city of Baltimore, to be temporarily closed, that is to say, to be closed until further notice." Held by the Court of Appeals, June 28, 1878, that: when the board issues such orders it must be for a definite period, and if the danger, at its close has not been averted, the time can be lengthened by another order. For its indefiniteness the order was illegal, and the judgment of the court below sustaining a demurrer to the indictment and discharging the accused was affirmed. *State* v. *Strauss.*

Just before the Fourth of July, 1873, the marshal of police issued an order instructing the police to enforce the ordinance of the city against firing crackers or other explosive combustibles within the city limits, [sec. 45, p. 299, *ante.*] The captain read the order to his men, one of whom very early on the morning of the Fourth saw a boy standing in a cart or wagon in a yard firing off crackers, one of which exploded in the air, and another fell in the street. There was proof that the gate was open, and the officer entered by it into the yard, and arresting the boy, took him to the station house, about 7 o'clock, and he (the boy) was taken back and put in one of the cells until the arrival of the justice, when he was fined and discharged. The friends of the boy claimed that the police officer had no right without a warrant to enter private premises to make an arrest for violation of a corporation ordinance. Suit was brought against the officer before a justice of the peace, and he fined the officer one cent. From this the police took an appeal, for the purpose of having their rights authoritatively determined. Brown, C. J., in City Court, December, 1872, reversed the decision of the justice, and held that when a police officer saw a violation of law he had a right to enter private premises and make an arrest without waiting for a warrant. See *Mitchell* v. *Lemon*, *note* p. 412, *ante.*

ARTICLE XXXIX.

PRINTER.

ORDINANCES.

1. City Printer to be appointed annually by convention of City Council: duties: bond to be approved by Mayor and Comptroller.
2. Joint Standing Committee on Printing and Stationery.
3. Prices to be paid printer.

ORDINANCES.

No. 6, s. 2, Nov. 21, '71.

City Printer to be appointed annually by convention of City Council.

1. There shall be appointed on the second Tuesday of November, and annually thereafter, by a convention of both branches of the City Council, a person or firm of integrity, who shall be *bona fide* engaged in the printing business in the city of Baltimore, to execute the printing required by both branches of the City Council, who shall perform the

Duties.

duties required of him or them by this or any other ordinance, and who shall, before he or they shall enter upon the

To give bond approved by Mayor and Comptroller.

discharge of his or their duties as such, execute a bond to the corporation, with such security as the Mayor and Comptroller may approve, in the penal sum of five thousand dollars, with the condition that he or they will faithfully discharge the several duties incumbent upon him or them; which bond shall be deposited in such place as the Mayor may select for depositing papers of that kind, and be delivered by him to his successor in office.

No. 138 s. 5, Oct. 21, '71.

2. There shall be appointed, as other joint standing committees are appointed, three members of the Council from

each branch, to constitute the joint standing committee on printing and stationery, who shall order all printing or other articles required by the Council, and examine and approve all bills for the execution of the same before they are presented to the Comptroller for settlement. Joint Standing Committee on Printing and Stationery.

3. For the work performed by the City Printer he may be allowed by the joint standing committee on printing and stationery, for the work specified, if performed, and approved by them, the following prices, to wit—For: No. 6, s. 1, Nov. 21, '71. Prices to be paid Printer.

200 copies of the journals of first and second branches of the City Council, say 100 copies for daily use during the session and 100 copies to be printed close work, and bound as usual, including index, at for printing per page	$1 10
Binding 100 copies each of first and second branch journals in the usual style, 200 books, at for binding per copy	50
1 copy of proceedings of each branch to be printed on writing paper, with space at the end of each day's proceedings for the signatures of the president and clerk of the branch, including index, at for printing per page.	01
200 copies ordinances and resolutions of the Mayor and City Council of Baltimore, printed on 24x38, 50 lb. S. S. & C. book paper, including index, at for printing per page	1 10
Binding said 200 copies, as usual, per copy	25
200 copies of the reports of the several departments, rule and figure work included, including index, printed on 24x38, 50 lb. S. S. & C. book paper, at for printing per page	1 25
To binding 200 copies of the same, as usual, per copy..	50
To printing 150 copies ditto, including covers and rule and figure work, printed on 24x38, 60 lb. tinted paper, 100 copies for first and 50 copies for second branch City Council, at for printing per page	50

Journals First and Second Branches.

Binding.

Proceedings.

Ordinances and resolutions.

Reports of departments.

Article XXXIX.—Ordinances.

Bills of each Branch. 70 copies of the bills of each branch on cap paper, 300 pages, at for printing per page, (no allowance to be made for blank pages.)..... 1 00

Tablet cards. 100 copies tablet cards, containing lists of members of City Council, 4 pages, on bristol board, at for printing per page..... 1 50

Yeas and nays. 1000 yeas and nays, at for printing per 1000..... 2 50

1000 yeas and nays, in convention, at for printing per 1000 ..... 3 00

Rules and regulations. 100 rules and regulations for government of both branches City Council, printed on 24x38, 60 lb. tinted book paper, at for printing per page..... 80

To binding the same in full English cloth, with side lettering in gilt, at per copy..... 01

Committees. 100 cards, list of committees of City Council, printed on best bristol board, at for printing per 100..... 8 00

Mayor's message. 1000 copies Mayor's message, or any other report ordered by special resolution of the City Council, printed on 24x38, 50 lb. tinted or S. S. & C. book paper, including covers, and rule and figure work, at for printing per page..... 1 75

1000 copies, more or less, Mayor's message translated into the German language, printed on 24x38, 50 lb. S. S. & C. book paper, including covers and rule and figure work (24 pages, more or less,) ordered by special resolution, at per printing and translating per page..... 2 25

Work not enumerated. And for all work not enumerated herein, or any additional quantities, such prices as may be determined upon by the joint standing committee on printing and stationery.*

* See secs. 15, &c. p. 19, *ante*, and Librarian, Art. XXXII.

ARTICLE XL.

RAILROADS.

STATUTE.

Power to Mayor and City Council to construct railways on streets.

ORDINANCES.

CARS.

1. Railway cars not to stand on streets unless chained: mode of chaining: penalty: not to remain on streets on Sunday: proviso.
2. Penalty for removing cars, &c.
3. Where cars may be loaded and unloaded: penalty:
4. Cars, &c. not to be placed across flagstones: penalty.
5. Streets between railroads and footways not to be obstructed: penalty.
6. Railroad cars regulated: penalty.
7. Rate at which railroad cars may move: penalty.
8. Vehicles in passing railways to take the right.
9. Not more than two cars in connection to be moved on track:
10. Minors not to jump on or off railroad cars: exception: penalty.

TRACKS AND SWITCHES.

11. Railway tracks regulated.
12. To be kept in good condition: penalty.

LOCOMOTIVE ENGINES.

13. Permission to use locomotive engines on certain streets.
14. Locomotive engines regulated: bell to be rung: penalty.
15. Penalty for using steam engines in city: exception: penalty.
16. Permission to use wood as well as coal or coke.
17. Speed regulated.
18. Application of ordinance.

RAILWAYS.

19. Railways to be examined: ordinance to be enforced.
20. When obstruction to be removed.
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23. How tracks over bridges shall be laid: penalty.

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24. Who entitled.
25. City passenger railway cars.
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BALTIMORE CITY PASSENGER RAILWAY.

27. Empowered to lay tracks on streets: single tracks: double tracks.
28. Supervision of the building of the road: rails: time for completing the tracks: in case of failure.
29. The gauge.
30. Conditions for laying down said tracks.
31. Regulations for running cars: fare.
32. Length of time the cars to run: speed.
33. Stock subscription books to be opened: notice to be given: excess of stock.
34. Required to purchase property of omnibus lines: in case of disagreement: proviso.
35. In case of becoming incorporated.
36. Materials, how and where obtained: labor, how performed.
37. How the streets shall be kept and at whose expense: penalty for non-compliance.
38. Abandonment of any route.
39. Privilege to purchase the stock of city railway: in case of disagreement as to value of said stock.
40. What part of gross receipts to be paid to City Register: how it shall be applied: power to reduce fare.
41. Grantees to give bond.
42–43. Additional tracks.
44. Speed during market hours along Hanover market: obstructing cars: penalty.
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CITIZENS' RAILWAY COMPANY.

59. Authority to lay railway on certain streets.
60. How to be built.
61. Grades of streets.
62. Cars not to remain standing: fare.
63. Opening of stock books.
64. If incorporated.
65. Streets to be kept repaired.
66. What part of receipts to park fund.
67. To give bond.
68. Streets.
69. Double or single tracks.
70–77. Additional tracks.

BALTIMORE, PEABODY HEIGHTS AND WAVERLY RAILROAD.

78. Tracks.
79. To be laid subject to inspection and approval of City Commissioner: proviso: penalty for non-compliance.
80. Tracks to conform to grades of streets: streets to be kept in proper repair: free from snow, &c.
81. Tracks not to be used by street vehicles: fine.
82. Quarterly statement to City Register: tax: license.
83. Completion of work: proviso.
84. Intervals of time at which cars shall be run: penalty.
85. Bond.
86. Privilege to use track on Charles street, between Fayette and German streets: consideration.
87. Books of subscription: notice in daily papers.
88. Assignment: additional tracks.
89. Right of way to other roads to run cars on track: consideration.
90. Requirements: bond to Balto., Peabody Heights and Waverly Railroad.
91. Double track on Howard street.

BALTIMORE AND YORKTOWN TURNPIKE.

92. Authorized to lay tracks on North avenue, &c.
93. Superintendence of work: grades: water courses: passengers for pay.
94. Cars not to remain standing on streets: police regulations: fare.
95. Streets to be repaired at expense of company: snow and other obstructions: penalty.
96. What part of gross receipts to City Register: penalty: city boundary avenue.
97. Right to change price of fare.
98. Forfeiture of right.
99-102. Additional tracks.

REDUCTION OF TAX.

103. Twelve per centum of gross receipts to be paid to city.
104. Agreement: Slawson fare boxes: children's fare.
105. Penalty for non-payment of tax.
106. Slawson boxes on B., P. H. & W. P. R.: proviso: amounts due by companies.
107. License on cars.

PEOPLE'S PASSENGER RAILWAY.

108. On what streets tracks to be laid.
109. Rails: inspection of City Commissioner: penalty.
110. Repaving: obstructions: penalty.
111. Vacating track for cars: penalty.
112. Fare: tax: license.
113. Time within which work to be begun and done.
114. Intervals of running cars.
115. Bond.
116. Board of directors: majority residents of Baltimore city.

DRUID HILL PARK RAILWAY.

117. Park Commission to lay down railway tracks on North avenue, &c.
118. Route: fare.

BALTIMORE AND HALL'S SPRINGS RAILWAY.

119. Tracks.
120. Manner in which tracks shall be laid.
121. Tracks to conform to grades of streets.
122. Tracks not to be used by vehicles: penalty.
123. Fare: quarterly statement to City Register: tax: license.
124. Completion of work.
125. Turnouts or sidings.
126. Bond.
127. Turnout or siding.
128. How constructed.
129. Indebtedness to city: tax after January 1st, 1876.
130. Switches on Harford, Central avenue, Aisquith street, &c.

BALTIMORE AND HERRING RUN RAILROAD.

131. Tracks.
132. Manner in which tracks shall be laid: proviso: penalty.
133. Tracks to conform to grades of streets.
134. Tracks not to be used by vehicles: penalty.
135. Fare: quarterly statement to City Register: tax: license.
136. Completion of work.
137. Bond.

BALTO. AND RANDALLSTOWN R. R.

138. Tracks.
139. Tracks to be laid subject to approval of City Commissioner.
140. To correspond to the grade of the streets: streets to be kept paved and in proper repair: free of snow, &c.

141. Street vehicles prohibited from using track: Police regulations.

BALTIMORE AND OHIO RAILROAD.

142. Authorized to introduce railroad into city.
143. From depot to city property, east of Jones' Falls.
144. On Camden street: Pratt and Camden streets connected.
145. On Green to Franklin street, &c.
146. The company not complying.
147. On Howard and Liberty to Baltimore street: on Baltimore street to city property, east of Jones' Falls: track completed.
148. On High, Hillen and Exeter streets.
149. Turn-outs.
150. Cars drawn by animal power: speed regulated: penalty.
151. Passenger cars speed.
152. When rails and obstructions may be removed.
153. To construct railways within the city, reserved: collecting toll.
154. Railway to be kept in repair.
155. To lay rails in certain streets.
156. How governed.
157. City Commissioners duty in respect to railways connected with main stem of B. & O. R. R.
158. Mode of assessing expense of railway.
159. Of collecting such assessment.
160. Grades of streets, how altered.
161. Private railway authorized.
162. Gutters not to be obstructed.
163. Private railway authorized.
164. What railways may be constructed.
165. Mayor may sign application.
166. Railway may be laid otherwise than on a street.
167. Restrictions.
168. B. & O. R. R. Co. authorized to construct railway on Alice Anna and other streets.
169. How governed.
170. B. &. O. R. R. Co. permitted to construct a branch on their road to south side of basin: proviso.
171. What articles to be transported on said road: exempt from wharfage.
172. Company may construct wharves.
173. Company authorized to construct a branch road from Pratt street to any part of Fell's Point.
174. What articles exempt from wharfage: articles of transportation, &c.
175. Privileges granted to said company: proviso: steam engine.
176. Damages to property, life, &c.
177. B. & O. R. R. Co. authorized to lay single track on certain streets: proviso.
178. Street grades not to be altered.
179. Track on Concord street: proviso.
180. Authorized to change curves at President and Howard streets: proviso.
181. Railroad track on South Paca street.
182. Not to occupy more than twenty-four feet width.
183. Railroad track on south Charles street: proviso: notice.
184. Branch road.
185. Restrictions.
186. Grades of streets.
187. Reservations to city.
188. Additional track.
189. Switch, &c.

190. Authorized to change grade of Fort avenue: expense.

BALTIMORE AND POTOMAC RAILROAD.

191. Authority to construct railway in city: in what streets.
192. Tunnels: grades: proviso.
193. Construction of tunnels: penalty.
194. Conditions: Western Maryland Railroad: Union Railroad.
195. Depot.
196. Construction of road across turnpikes and avenues.
197. Ventilation to tunnel.
198. Railroad along streets, &c.
199. How governed.
200. Time limited: completion of tunnel: proviso.
201. Water and gas mains.
202. Signals.
203. Offices and president.

NORTHERN CENTRAL RAILROAD.

204. Track of railway agreeably to plat in Register's office: Mayor, &c., to lay off ground for depots: to revert to city.
205. Railways to be removed when required.
206. Turn-outs.
207. Cars drawn by animal power: speed.
208. Railways kept in repair.
209. Right reserved to come in with the main stem.
210. Extending railroad along streets.
211. Time limited for laying rails.
212. Mayor authorized to remove.
213. Location of railroad on Wilk and Exeter streets.
214. Railroad extended to tide water.
215. Where tracks may be laid: tunnels.
216. Locomotives may be used.
217. Connection with main stem.
218. Reservation to city.
219. Grades to be established.
220. City to have supervision.
221. Terminus.
222. Rates of tonnage.
223. Wharves and coal shutes.
224. Tracks through Central avenue, &c.
225. Conditions.
226. Powers and privileges to N. C. R. R. Co.
227. Permission to lay down track on Belair avenue.
228. Conditions, &c.
229. Engines not to pass except between certain hours: penalty.
230. To give bond.
231. Damages, how recovered.
232. Streets to be placed in good condition.
233. Company not to be released from obligations, &c.
234. To lay two tracks on said avenue.
235. Powers reserved.
236. Route on Canton extension.
237. Penalty.
238. Change of route, plan and profile.
239. Offices to be located in Baltimore: bridges and streets to be kept in order.
240. Plats to be deposited.
241. Domain in streets.
242. Assent to ordinance.
243. Track on Eastern avenue: proviso.
244. Powers reserved.
245. Red lights: bells on horses: penalty.

PHILADELPHIA, WILMINGTON AND BALTIMORE RAILROAD.

246. Tracks laid along Fleet street, &c.: proviso: assent of Mayor.
247. Railroad not to obstruct streets: remedy: duty of Mayor.

Article XL.—Statute.

248. Canton Company to construct a track on Chester and Alice Anna streets: proviso: tracks, how constructed: when P. W. & B. R. R. to use locomotive engines on tracks.

UNION RAILROAD.

249. To lower bed of Belair avenue: bridge: proviso.

250. To occupy beds of John and Wolfe streets: proviso: how changes made.

251. Authorized to construct its railroad under Belvidere street: provisos.

WESTERN MARYLAND RAILROAD.

252. Tram railway: how laid.

BALTIMORE, CALVERTON AND POWHATAN RAILROAD.

Incorporation, &c.

BALTIMORE, CANTONSVILLE, AND ELLICOTT'S MILLS PASS. RAILWAY.

Incorporation, &c.

BALTIMORE AND DELTA RAILWAY.

Incorporation, &c.

BALTIMORE, HAMPDEN AND LAKE ROLAND RAILROAD.

Incorporation, &c.

BALTIMORE, HIGHLANDTOWN AND RIVERVIEW RAILROAD.

Incorporation, &c.

BALTIMORE AND PIKESVILLE RAILROAD.

Incorporation, &c.

CARROLLTON AVENUE RAILROAD.

Incorporation, &c.

STATUTE.

P. L. L., art. 4, sec. 856; 1831, c. 252.

Power to construct railways on streets.

The Mayor and City Council may, on the application or assent in writing of the owners of the major part in extent of front feet of the lots fronting on each side of any street, or part of a street, pass such ordinances as shall be necessary for the construction of any track or tracks of railway on and along any such street; and may permit and cause such alteration in the grade of such street as may be necessary for the more convenient and useful construction of such railway, and may levy and assess on all the lots fronting on the street, or part of a street, or on the owners of such lots, their just proportion of expense of such construction, and enforce the payment thereof; and the proprietor of any lot in front of which any railway shall be so constructed, and the just proportion of constructing which shall be paid by him, shall be entitled at his own expense to have a convenient sideling or turnout made to enable him to have the beneficial use of said railway.

Sidelings.

Article XL.—Ordinances.

ORDINANCES.

CARS.

1. It shall not be lawful for any railroad company, or any other person or persons or company, owning any car or cars, to permit such car or cars, when not in actual service, to remain in any paved street for a longer period than one hour, unless there be some chain or other fastening affixed to the wheels of every such car, except when several cars may be connected together, in which case the said chain or fastening shall be attached to one of the said cars, so as to prevent the car or cars from being moved by any person or persons, without violently breaking or removing the said chain or other fastening, and keep the said chain or fastening affixed as aforesaid, until the same may be regularly removed by the agent or person in the actual service of the said person or persons or company, owner or owners of any such car; and for every violation of the provisions of this section, the person or persons or company, owner or owners of the car or cars so remaining, and not chained or fastened as aforesaid, shall forfeit and pay, for each and every violation thereof, not less than one nor more than twenty dollars; and any person or persons, company, owner or owners, as aforesaid, who shall permit any car to remain in any paved street on Sunday, shall forfeit and pay five dollars for every car so remaining; provided, this section shall not be extended to cars engaged in the operation of making or repairing any railways or pavements within the city.

No. 34, s. 1, R. O.

Railroad cars not to stand on streets unless chained.

Mode of chaining.

Penalty.

Not to remain in streets on Sunday.

Proviso.

2. It shall not be lawful for any person, other than an agent or person in the actual service or employ of the railroad company, or other person or persons, or company, owning any car or other carriage on any railway within the city, without the consent or permission of the person rightfully having charge of the particular car, to put or attempt to assist to put any

Ibid, s. 2.

Penalty for moving cars, &c.

car in motion on any railway within the city, or to go on or into, or attempt, or assist any other person to get on or into any such car, or to remove, unfasten or break, or attempt or assist to remove, or unfasten or break any chain, lock or other fastening by which any such car or carriage shall be fastened or restrained from motion, or from being put in motion; and any person offending in the premises, shall forfeit and pay a sum not less than one nor more than twenty dollars.

Ibid, s. 3.

Where cars may be loaded and unloaded.

3. It shall not be lawful for any person or persons to load or unload any railroad car in any of the streets, lanes or alleys of the city, within the limits of direct taxation, except at the several depots, or by the consent of occupiers of houses or lots immediately opposite their respective premises, or load or unload coal, on or from any railroad car or cars, on any of the streets, lanes or alleys of the city, unless by the consent of the occupants of houses or lots opposite to the point where said persons may wish to load or unload said car or cars, under a penalty of five dollars for each and every offence.

Penalty.

Ibid, s. 4.

Cars, &c., not to be placed across flag stones.

4. It shall not be lawful for any railroad company, or any other person or persons, or company, owning any car or cars, to place or cause to be placed any passenger car, burden car, wagon or other vehicle on any railroad within the limits of direct taxation, in such manner as to obstruct the passage of foot passengers on any of the flag-stones at any of the cross streets within said limits, under a penalty of five dollars for each and every offence, and a further penalty of five dollars for any car which may remain for an hour after notice given to remove the same.

Ibid, s. 5.

Streets between railroad and footways not to be obstructed.

5. It shall not be lawful for any company, person or persons, to place any railroad cars of any description, on any turn-out or private switch, within the limits of direct taxation, in such manner as to obstruct the free passage along the line of the street between the railroad and the footway, under a penalty of five dollars for each and every offence.

Penalty.

6. It shall not be lawful for any company, person or persons, to place any railroad cars of any description, along the line of any street, in such manner as to prevent the passage of foot passengers, carts or drays, from one side of the street to the other, on any one square occupied by railroad cars; but in all cases, the company, person or persons, so occupying the street with railroad cars, shall leave an opening or space of not less than twenty feet, at or near the centre of the square, or at equal distances from the two nearest cross streets, under a penalty of not less than ten dollars for each and every offence. Ibid, s. 6. Railroad cars regulated. Penalty.

7. No passenger or burden car shall be driven on any of the railways within the limits of direct taxation, (except in ascending the heavy grades of streets, which may require a greater speed, when the rate shall not exceed six miles an hour,) at any faster gait than a walk, and at no time move without a brakesman, in addition to the driver, under the penalty for each and every offence of twenty dollars. Ibid, s. 7. Rate at which railroad cars may move. Penalty.

8. It shall be the duty of every person having charge of or driving any cart, dray, wagon or other carriage, which shall be passing on or along any street in which any railway is or shall be laid within the city, to travel or pass only on the right hand side, between the curb stone and the track of the railway, except when prevented by some obstruction in the street, or when it shall be necessary, for any sufficient cause, to cross or pass over such railway to the opposite side. Ibid, s. 8. Vehicles in passing railways to take the right.

9. It shall not be lawful for any person or persons, corporation or company, to move or cause to be moved, more than two railroad cars in connection, upon any railroad track leading through any of the streets of the city, where the descent of said road does not require the aid of propelling power, under the penalty of twenty dollars for each and every offence. Ibid, s. 9. Not more than two cars in connection to be moved on track. Penalty.

No. 11, Mar. 3, '68.
Minors not to jump on or off railroad cars.
Exception.
Penalty.

10. It shall not be lawful for any minor not in the employ of the railroad company, to jump on or from any railroad car, except the city passenger railway, whilst such car is in motion, under a penalty of one dollar for every such offence, to be collected as other fines and penalties are now recoverable.

TRACKS AND SWITCHES.

No. 54, s. 1, 1854.
Railway tracks regulated.

11. All railroad tracks and switches now laid, and those that may be hereafter laid in any of the streets, lanes or alleys in the city of Baltimore, shall be filled up between the rails thereof within one and a half inches of the top of the iron rails, and raised with a convex form in the centre even with the top of said rails, with good even stone pavements, or by planking the same with two inch oak plank.

Ibid, s. 2.
To be kept in good condition.
Penalty.

12. The owners and occupiers of all railroads and switches above referred to shall at all times keep them in good condition, as prescribed by this ordinance, under a penalty of ten dollars for every day (after notice shall have been given) that any part thereof shall, in the opinion of the City Commissioner, require repairing; and in case of the neglect or refusal to do the same within the time specified in said notice, then said commissioner shall have the same done in a good and sufficient manner, at the expense of said owner or occupier.

LOCOMOTIVE ENGINES.

No. 67, s. 1, R. O.
Permission to use locomotive engines on certain streets.

13. The Northern Central Railway Company are hereby authorized to use locomotive engines, adapted to a low speed, on the railroad track on North street, to and from Calvert station; the Baltimore and Ohio Railroad Company are authorized to use locomotive steam power upon their tracks between the city limits and Camden station, and along Pratt street, upon their track, from Howard street to the Mount Clare station; and the Philadelphia, Wilmington and Balti-

more Railroad Company are authorized to use locomotive engines on their railway track, between the eastern boundary line of the city and depot at the intersection of Canton avenue and President street.

14. When a locomotive engine is used within the limits of the city, a man shall be required to ride on the front of the locomotive engine when going forward, and when going backward on the tender, not more than twelve inches from the bed of the road, nor shall any locomotive engine be propelled at a greater rate of speed than five miles per hour, except when there are grades requiring a greater speed, and then it shall not exceed the rate of six miles per hour; and the person or persons having charge of such locomotive engine shall ring a bell when approaching any and every cross street, and no steam whistle attached to any locomotive engine shall be used within the limits of the city, except at the Mount Clare and Camden stations, and between said stations and the city limits; for any violation of the conditions herein set forth, the company so violating shall forfeit and pay the sum of ten dollars for each and every offence. Ibid, s. 2. Locomotive engines regulated. Bell to be rung. Penalty.

15. If any railroad company shall use or cause to be used any locomotive engine or engines propelled by steam on any railway track within the city of Baltimore, other than those where authorized by ordinances of the city, the company shall forfeit and pay for every such offence the sum of twenty dollars, to be collected as other fines and penalties of the city. Ibid, s. 3. Penalty for using steam engines in city limits. Exception. Penalty.

16. Privilege is granted the several railroad companies to use wood as well as coal or coke as a fuel for steam within the limits of the city of Baltimore; provided, however, that nothing herein contained shall be so construed as to prevent the Mayor and City Council of Baltimore from repealing all or any part of this ordinance, whenever they may deem it expedient. Ibid, s. 4. Permission to use wood as well as coal or coke. Proviso.

Ibid, s. 5.

Speed regulated.

17. No cars with or without horse power, shall, under the same penalty imposed by section fourteen hereof, be propelled at a greater speed than four miles an hour, within the city of Baltimore, unless attached to engines as provided for in said section fourteen.

Ibid, s. 6.

Application of ordinance.

18. This ordinance is intended to apply to all locomotive engines that now are or may hereafter be used within the limits of the city of Baltimore.*

RAILWAYS.

No. 6, Apl. 3, '50.

Railroad tracks to be examined

19. It shall be the duty of the City Commissioner from time to time to examine the construction of the several railway tracks authorized by ordinances to be laid within the limits of the city, and to report to the Mayor any obstruction or impediment to the ordinary use of any street or streets, caused by the said tracks being improperly laid and not being in conformity with the provisions of the ordinances authorizing their construction; and it shall be the duty of the Mayor to enforce the ordinance relating to the removal of said tracks, unless in his judgment the remedy shall be furnished by the enactment contained in the succeeding section.

Ordinance to be enforced.

* In running its engines and cars, in the thronged streets of a populous city, a railroad company is required to use a higher degree of caution than would be necessary when moving in the open country. A railroad company is bound to use precaution and vigilance corresponding with the dangerous results which may be occasioned by the negligent use of its machinery. A railroad company, in the lawful pursuit of its business, is bound to use such reasonable care and diligence as prudence would suggest and require in the passage of its locomotives through the thoroughfares of a city. Where a railroad company does not conform to the city ordinances, it is responsible for any accident occasioned by it, unless the injured party was also in fault. If the company failed with regard to such requirements, it is then not in the lawful pursuit of its business, and not entitled to the consideration of the law whose injunctions it has disregarded. Under such circumstances the highest possible vigilance could not protect it from the consequence of its lawless act. *B. & O. R. R. Co.* v. *State, use of Miller*, 29 Md. 252. See *B. & O. R. R. Co.* v. *Bahrs*, 28 Md. 647.

Article XL.—Ordinances.

20. It shall and may be lawful for the Mayor of the City to exercise his discretion in all cases where an obstruction or impediment is caused by the mode of construction of any railway within the city, to the ordinary use of said street, to have the said track entirely removed, or to have the said track so altered or arranged as to abate the evil complained of, by giving notice to said companies or owners of said railway track, who shall be allowed a reasonable time to make said alteration under the direction of the City Commissioner; and upon a failure on the part of said companies or owners to comply with the said notice, it shall be the duty of the City Commissioner to have the said work done, and the bills shall be collected from the owners of said railway tracks by legal proceedings, if the same shall be disputed or remain unpaid for the space of thirty days. Ibid, s. 2. When obstruction to be removed.

21. It shall be the duty of the City Commissioner to examine the construction of said railways, and enforce strictly all the provisions of ordinances relating to the obstruction of the gutters caused by the laying of said railway tracks; and in all cases of obstruction and impediments of any kind arising from the improper construction of railway tracks, in which no other remedy is now provided by ordinance, it shall be the duty of the City Commissioner to give notice to the owners of said railway tracks that unless the said obstructions be removed or altered so as to remedy the evil complained of within a reasonable time, that the City Commissioner shall proceed to have the said railway reconstructed at the cost of the owners aforesaid. Ibid, s. 3. Obstruction of gutters to be removed.

22. If at any time hereafter any railway shall be constructed within the limits of the city, in the mode or manner so as to obstruct the ordinary use of the street or streets in which the said railway shall be laid down, the owners of said railway shall be subject to a penalty of one hundred dollars, and be liable to a fine of five dollars for each and every day Ibid, s. 4. Penalty for obstruction.

such obstructions shall be permitted to remain after notice of the City Commissioner to remove the same.

RAILWAY TRACKS ACROSS BRIDGES.

No. 12, Feb. 20, '76.
How tracks over bridges shall be laid.

23. It shall not be lawful for any passenger railway company to construct any railway track over any of the bridges belonging to the city of Baltimore in any other manner than by notching the regular form of rail, or by laying a bar three fourths to one inch in thickness on the top of the floor of the bridge; and any person or persons or body corporate who shall violate the provisions of this section, shall forfeit and pay a

Penalty.

penalty of twenty dollars, and a further penalty of ten dollars for every day such violation shall be continued, to be recovered in the same manner as other fines and penalties are now recoverable.

RIGHT OF WAY.

No. 98, Oct. 19, '74.
Who entitled to way.

24. All vehicles going in the same direction, and upon the track with a passenger railway car, shall be entitled to the right of way of such track, and not compelled to leave the same for vehicles travelling in an opposite direction.

Ibid, s. 2.
City Passenger Railways.

25. This ordinance shall not in any way conflict with the right of way already granted the several city passenger railway companies for the use of their tracks.

Ibid, s. 3.
Penalty.

26. Each and every person violating the provisions of this ordinance shall be liable to a penalty of two dollars, the same to be collected as all other fines imposed by ordinances of the city.

BALTIMORE CITY PASSENGER RAILWAY.

No. 44, Mar. 28, '59.
Empowered to lay tracks on streets.

27. By Ordinance No. 44, March 28, 1859, the persons therein named and others were authorized and empowered to lay a double track of city passenger iron railways on Baltimore street, from the western limits of the city to Broadway;

thence along Broadway, diverging at Canton avenue, on each side of the market house, to Thames street—the tracks along the market not to be used during market hours—thence along Thames street east to Ann or Wolfe streets; thence north to Aliceanna street or Gough street, for the purpose of running thereon passenger cars to be drawn by horse power; and they are also authorized to lay down a single track on Lombard or Fayette streets, or both, as far as said streets may be graded and paved; and they are hereby further authorized and empowered, for the same purpose, to construct and lay down double tracks of railways upon Charles street, from the northern limits of the city to Read street, thence along Read street to Calvert street, thence along Calvert street to Lexington street, thence along Lexington street to North street* thence along North and South streets to Exchange Place, thence along Exchange Place and Lombard street to Exeter street, thence along Exeter street to Bank street, thence along Bank street to Ann street, thence along Ann street to Aliceanna street, thence along Aliceanna street to Windsor street,† thence along Windsor street to Essex street, thence along Essex and Burke streets to Lancaster street, thence along Lancaster street to Chesapeake street, thence along Chesapeake street to Elliott street, and thence along Elliott street to the eastern limits of the city, at Canton; also upon Hanover street or Sharp street, from Baltimore street to Hill street, thence along Hill street to Hanover street, thence along Hanover street to Montgomery street, thence along Montgomery street to Light street, and thence along Light street to Fort street, to be continued by way of Fort and Marshall streets to Ferry Bar, when said Fort street shall have been graded and paved from Fort street

Single tracks.

Double tracks.

* By Ordinance No. 21, May 11, '69, the company was authorized to remove its tracks from Lexington and North streets.

† By Ordinance No. 88, July 5, '72, the company was authorized to remove its tracks from Aliceanna and Windsor streets.

to Ferry Bar; also upon Eutaw street, from Baltimore street to Madison street, and thence northwestwardly along Madison street to the city limits, or as far on said street as the same shall have been graded and paved; also upon Green street, from Baltimore street to Pennsylvania avenue, and thence along Pennsylvania avenue to North avenue, or as far on said Pennsylvania avenue as the same may be graded and paved; also a double track upon Gay street, from Baltimore street to Baltimore Cemetery.*

Ibid, s. 2.

Supervision of the building of the road.

28. The said railway shall be built under the supervision of the City Commissioner and joint standing committee on highways, and the rails shall be of the most approved pattern, and be so constructed and laid down as not to obstruct or impede the free flow of water across the streets, or down the gutters thereof; and further, the track upon Baltimore street and Green street, Pennsylvania avenue and Gay street, also the track to the eastern boundary of the city at Canton, and Hanover street, or Sharp street, to the southern section of the city as far as paved, shall be laid down and completed within twelve months from the passage of this ordinance, and the remaining, mentioned in the preceding section, shall be completed as far as the streets therein designated may be graded

Time for completing the tracks.

*By Ordinance No. 3, Nov. 25, '59, the company was authorized to lay down single track upon such portion of Gay street as lies between Chesnut street and Chew street; and they were also authorized and empowered to lay down a single track upon Ensor street, from Chesnut street to Chew street, and along Chew street to intersect the double track at Gay street; and all the provisions, conditions and restrictions contained in Ordinance No. 44, March 28, '59, in relation to the construction and use of the tracks of railway therein mentioned, shall apply to the said tracks of railway upon Ensor street and Chew street; provided the written consent of the owners of property representing the majority of front feet on the line of said railway tracks on Ensor and Chew streets be first obtained, as provided for by law. And by Ordinance No. 56, Sept. 22, '65, the company was authorized and empowered to lay a single track of railway on Gay street, from the bridge over Jones' Falls to Chesnut street, in place of the two tracks; the said single track to be laid in the centre of the street.

and paved within such time thereafter as may be determined upon by the Mayor and City Comptroller, and not to exceed two years after the passage of this ordinance; and in case of failure of the company to comply with this section, they shall forfeit and pay five hundred dollars per month for every month until this section be complied with. In case of failure.

29. The gauge of said railway tracks shall be the same as that of ordinary street carriages in use in the city of Baltimore, in order to admit of the passage of such carriages upon the tram plate of the said railway; but no vehicles shall be permitted to use said railways for the purpose of carrying passengers for pay or hire.* Ibid, s. 3. The gauge.

30. In laying down said railways the proprietors thereof shall conform to the grades of the several streets used by them, as the same are now or may hereafter be established by law. Ibid, s. 4. Conditions for laying down said tracks.

31. The cars running upon said railways shall not remain standing on the line of their routes for passengers, but shall be subject to all the police regulations which are now or may hereafter be contained in the ordinances of the city, in regard to railway cars or other vehicles, so far as said regulations may be applicable thereto; and further, the price for transporting passengers from any one part of the city to any other on the line of these railways, shall not exceed the sum of five cents† Ibid, s. 5. Regulations for running cars. Price per passenger.

* This section further provided that, in no case should it be lawful to use said railroad cars for the accommodation of passengers on the Sabbath under a penalty of fifty dollars for each car so run on the Sabbath, to be collected as other fines; but by the act of 1867, c. 344, the Baltimore City Passenger Railway Company were authorized to run their cars on Sunday to the several termini of their routes, and to provide a sufficient number for the accommodation of the people of the city; provided, the provisions of the act should be submitted to the people of Baltimore for ratification, at the first election to be held in said city after its passage. The citizens of Baltimore accordingly voted on the question, and declared by a majority of votes for the running of the cars on Sunday; and this act was adopted.

† Changed to six cents, &c. See note of Acts of Assembly, *post*.

License. per passenger, and the sum of twenty dollars* shall be paid annually upon each car running regularly on said railway, as license money therefor, to the City Register.

Ibid, s. 6. 32. It shall be the duty of said company to run cars at intervals of not over ten minutes to the extent of their tracks, from 6 A. M. to midnight, from April first to October first; from 7 A. M. to midnight, from October first to April first, under a penalty of five dollars for each car that does not run to the extent of tracks as embraced in this ordinance, collectable as other city fines are collectable; and further, the running speed upon said roads shall not at any time be at a greater rate than six miles an hour in the built up portions of the city.

Length of time that the cars shall run.

Speed.

Ibid, s. 7. 33. The said company shall cause a book to be opened in this city, for the purpose of receiving subscriptions to the capital stock of said city railways, and the subscriptions to the same from such persons as may wish in their own right to become stockholders therein; and said book shall be opened for the purpose within ninety days from the passage of this ordinance, and its approval by the Mayor, and shall be kept open for five days; and the said company shall give notice of the time and place of opening said book in all the daily newspapers of this city ten days previous thereto, and in the event of more stock being subscribed for than said company are authorized to issue, the same shall be divided *pro rata* to each subscriber.

Stock subscription book to be opened.

Notice to be given of time.

Excess of stock.

Ibid, s. 8. 34. The parties hereby authorized to construct the railways aforesaid, are hereby required to agree with James Mitchell, Coleman & Bailey, and William Robertson, owners of existing omnibus lines in the city of Baltimore, for the purchase of their horses, harness, carriages and stabling, to be paid for in

Required to purchase property of omnibus lines.

* Reduced to $5, see sec. 107 of this Article.

cash before the streets shall be broken for the construction of any part of said railway; and for the purpose of ascertaining the true value or amount to be paid for said property, if the price demanded by said omnibus proprietors be deemed excessive, the parties to this giant shall appoint one referee, and the said omnibus proprietors another referee, who, in the event of disagreement, shall appoint an umpire—the decision of whom shall be final as to the price to be paid as aforesaid; provided, however, that if said omnibus proprietors shall refuse to sell out as provided for in this section, then the said parties authorized to construct passenger railways, shall be authorized to proceed without reference to said purchase from the omnibus proprietors.

In case of disagreement.

Proviso.

35. If the aforesaid parties, their associates, successors or assigns, shall hereafter become incorporated, the rights and privileges granted to them by virtue of this ordinance shall extend to such corporation upon the conditions herein prescribed, and until such acts of incorporation shall have been obtained, such association shall have all the rights and privileges hereby granted, or the successors of said parties, without further action of the Mayor and City Council of Baltimore.

Ibid, s. 9.

In case of becoming incorporated.

36. All the cars, iron rail, and other material used and employed in and upon or about the construction and use of said city railways, and all the labor necessary to the building, use and occupation of the same, shall be made, manufactured, employed and obtained in the city of Baltimore, and not elsewhere unless it shall appear, after due effort by advertisement, that any part thereof cannot be had or obtained within the prescribed limits, in a reasonable time, so as to enable said company to complete said railways within the time limited in this ordinance for the completion of the same, when after due effort as aforesaid, such part as cannot be had within the limits aforesaid may be had and obtained elsewhere.

Ibid, s. 10.

Material, how and where obtained.

Labor, how performed.

Ibid, s. 11.

How the streets shall be kept, and at whose expense.

37. The owners and proprietors of said railways shall keep the streets covered by said track, and extending two feet on the outer limits of either side of said tracks in thorough repair, at their own expense, and shall free the same from snow or other obstructions, in doing which they shall not cause to be obstructed the other portions of the street on either side of the railway tracks authorized by this ordinance to be constructed, and for non-compliance, the Mayor and City Council may impose such reasonable fines, not exceeding twenty dollars per square, to be collected as other fines are now collected.

Penalty for non-compliance.

Ibid, s. 12.

Abandonment of any route.

38. No route or routes of railway authorized to be constructed by the provisions of this ordinance shall be abandoned, or the use of them discontinued, unless a majority of the property holders upon said route or routes shall first assent thereto; in the event of said assent being obtained, said route or routes shall not be again used without the consent of the Mayor and City Council of Baltimore.

Ibid, s. 13.

Privilege to purchase the stock of city railway.

39. The Mayor and City Council of Baltimore shall have the privilege, within two years after the expiration of fifteen years from the passage of this ordinance, to purchase and buy out the stock and interest of said association or company, together with such appurtenances belonging to said railways as the said Mayor and City Council may deem proper, for and at a fair and equitable consideration or value, and in case of a disagreement as to said value and consideration, the Mayor and City Council aforesaid shall appoint one referee, and the said parties to this grant, or their assigns, shall appoint another referee, who, in the event of disagreement, shall appoint an umpire, the decision of whom shall be final as to the price to be paid aforesaid; and provided further, that if the said Mayor and City Council shall decline or neglect to give notice to said company of their intention to make said purchase within the aforesaid two years, then the grants and privileges herein given to said company shall continue to them or to their assigns, for

In case of disagreement as to value of said stock.

fifteen years longer, subject to all the conditions and terms contained in this ordinance, and renewable thereafter every fifteen years under the aforesaid terms and conditions.

Ibid, s. 14.

40. The said company shall, by their treasurer, under oath, pay into the hands of the City Register, quarterly, one-fifth [now twelve per centum] of the gross receipts accruing from the passenger travel upon said roads located within the city limits under this ordinance, or any extension of said limits which may be determined upon hereafter, the same to be applied to the establishment and improvement of the City Boundary avenue, and to the location, purchase and improvement of such park or parks as may be determined upon hereafter by the Mayor and City Council of Baltimore, for the benefit of the people of said city; said park or parks to comprise an area of not less than fifty acres each; and the said Mayor and City Council shall have the power on the completion of said improvements, to reduce the rate of fare on passenger travel to such limit within the range of one-fifth of the gross receipts of said road as they may deem expedient and advisable, the city at the same time relinquishing its interest in the receipts from said road to the extent of said reduction on said fare.

What part of gross receipts to be paid to City Register.

How it shall be applied.

Power to reduce rate of fare.

Ibid, s. 15.

41. The parties hereby empowered to construct a passenger railway aforesaid, shall give bond and security to the Mayor and City Comptroller, in the sum of one hundred thousand dollars, for the faithful performance of all the obligations and liabilities contained in this ordinance, and to commence the road within sixty days after the passage of this ordinance.

Guarantees to give bond.

No. 44, June 28, '60.

42. Permission is granted to the City Passenger Railway Company to lay down, construct and use for the space of two years, a single track of railway and the necessary switches on Greenwillow street, connecting the tracks on

To lay single track on Greenwillow street.

Pennsylvania avenue with the stables of said company; said track to be laid under the supervision of the City Commissioner, and when said track is removed the pavement to be replaced and put in same condition as before; the expense of the same to be paid by the said railway company.

No. 70, Aug. 1, '60.

Single tracks on Sharp, Hill and Hanover streets.

43. The said company is hereby authorized to construct a single track of tram railway on Sharp street, commencing on the south side of Baltimore street track to Hill street, and a single track along Hill street to Hanover street; also to construct a single track on Hanover street, commencing on the south side of the Baltimore street track to Hill street. From the intersection of Hill and Hanover streets south, the track to be laid agreeably to the provisions of Ordinance No. 44, approved March 28th, 1859; said tracks to be constructed in the centre of all the above named streets, at an equal distance from the kerb on either side.

Centre of streets.

Ibid, s. 2.

Speed during market hours along Hanover Market.

44. The said company shall be allowed to run their cars along Hanover street at the market during market hours, at a speed not faster than a walk; and also it shall not be lawful at the Hanover market for any person or persons to obstruct wilfully the passage of cars, by allowing their vehicles to remain on or about the track. Any person or persons violating the last clause of this section shall be subject to a fine of not less than one or more than five dollars for each and every offence, to be recovered as other fines and forfeitures are now recovered.

Obstructing cars.

Penalty.

No. 54, Sept. 11, '65.

Changing the route on Gay, Sharp and Green streets.

45. The said company is hereby authorized to construct a track or tracks of railway, connecting with their tracks at the intersection of Baltimore and south Gay streets, and extending along south Gay street to its intersection with Second street, and to run thereon the cars of the Green street route and those of the Sharp street route, as two separate and distinct lines—these lines to give and receive transfer tickets as

Transfer tickets.

provided for in the act of incorporation of the said company, and they shall place a sufficient number of cars upon the two routes to enable one to be started every ten minutes from each terminus of said routes.

46. The track or tracks authorized to be constructed by this ordinance, shall in all respects be governed by and subject to the same rules and regulations as are prescribed by the ordinances of the city for the government of other tracks of the said company. Ibid, s. 2. Subject to rules, &c.

47. The said company is hereby authorized and empowered to construct a double track of railway on North avenue, between Madison and Pennsylvania avenues, to connect the two lines on said avenues together, and also to construct a double track on Holliday street, between Baltimore and Fayette streets, to be the terminus and starting point for a new line, to run between Holliday street and North avenue; provided, that whenever Holliday street shall be opened south of Baltimore street, the terminus or starting point shall be removed to and made in Holliday street, between Baltimore and Second streets. No. 9, Feb. 23, '66. Double track on North avenue and Holliday street. Proviso.

48. The said company is requested and hereby authorized and empowered to lay tracks of their railways on High and Albemarle streets, connecting with their tracks on Baltimore street, for the purpose of running the cars of the Pennsylvania avenue line from its present terminus at North avenue to the President street station of the Philadelphia, Wilmington and Baltimore railroad; and the said company is further authorized and empowered to extend their tracks from the intersection of Calvert and Lexington streets, along Calvert street to connect with their tracks on Baltimore street, and to run over the tracks thus connected, a line of cars from the terminus on north Charles street to the terminus on Light street, thereby enabling passengers to reach either the Baltimore and Ohio or the Northern Central railway stations by the city cars. No. 21, s. 1, May, 11, '69; No. 27, Mar. 30, '70. Tracks on High and Albemarle streets. President street station. Calvert and Lexington streets. B. & O. R. R. station. N. C. R. W. station.

Ibid, s. 2.

Tracks on Townsend street to Lafayette square.

49. The said company are hereby authorized and empowered to lay a line of railway tracks from the intersection of Townsend street and Pennsylvania avenue, on Townsend street and Lafayette square, and to run a portion of the cars of the Pennsylvania avenue line, not exceeding one-half, over said track to Lafayette Square.

Ibid, s. 4.

Tracks on Baltimore street.

Patterson Park.

50. The said company is hereby authorized and empowered to lay a line of railway tracks from the intersection of Baltimore street with Broadway, along Baltimore street to Gist, and along Gist street to Patterson Park, and to run a portion of the cars of the Madison avenue and Broadway line to said park.

No. 27, Mar. 30, '70.

Authorized to lay tracks on certain streets to the Phila. depot.

51. The said company is hereby authorized and empowered to lay tracks of their railways on High and Albemarle streets, and on south Front and Plowman streets, between Baltimore and Albemarle streets, connecting with their track on Baltimore street and on Eastern avenue, between Albemarle and High streets, for the purpose of running the cars of the Pennsylvania avenue line from its terminus at North avenue to the President street station of the Philadelphia and Wilmington and Baltimore railroad.

Ibid, s. 4.

Citizens' Railway.

Authority to construct a track on Exeter street.

52. Whenever any company incorporated with the authority to build the passenger railway mentioned in section 59 of this article, shall have constructed the railway therein mentioned, from Patterson Park to Lafayette Square, they shall be authorized to construct a double track on Exeter street, between Pratt and Lombard streets, and thence along Lombard street to and beyond Albemarle street.

Ibid, s. 5.

Conditions on City Passenger Railway Co.

53. The privileges by this ordinance extended to the Baltimore City Passenger Railway Company, are extended upon condition that said company shall first abandon, in such form as shall be prescribed by the Mayor, all right which they now have, under their charter or existing ordinances, to lay down

tracks on Lombard street, between Exeter and South streets, and upon Exeter street, between Pratt and Lombard streets; and upon the further condition that said Baltimore City Passenger Railway Company shall, whenever the railroad mentioned in the preceding section shall be constructed, issue to passengers riding on the cars of said Baltimore City Passenger Railway Company, running from the depot of the Philadelphia, Wilmington and Baltimore Railroad, transfer tickets to the cars of said Patterson Park and Lafayette Square railroad, [now called Citizens' Railway Company,] at the corner of Albemarle and Lombard streets, and shall also receive into their cars, at the same point, passengers from the cars of said Patterson Park and Lafayette Square railway; and the terms upon which such transfer tickets shall be issued shall be determined by the Mayor and City Council of Baltimore, in case said terms cannot be arranged satisfactorily between the proprietors of said two railway companies. Transfer tickets

54. The said company is hereby authorized and empowered to lay a double track of their railways on Eutaw and Camden streets, from the corner of Baltimore and Eutaw streets to Camden station. No. 3, Nov. 29, '70. Tracks to Camden station.

55. The said company is hereby authorized and directed to place a railway switch on Eutaw street, between Fayette and Baltimore streets, the work to be done under the supervision and with the approval of the City Commissioner. No. 4, Nov. 18, '71. Railway switch on Eutaw street

56. The said company is hereby authorized and empowered to lay tracks of their railways on Bank street, from its intersection with Ann street to Chester street, and on Chester street,* Canton avenue and Essex streets, so as to join the Madison avenue and Broadway line, directly with the Canton No. 88, July 5, '72. Additional tracks.

* By Ordinance No. 147, Oct. 9, 1875, the company was authorized to remove its tracks from Chester street and Canton avenue, and from Essex street, between Canton avenue and Gist street.

line, and enable the company to run a line of cars, giving direct connection between the central and the extreme south-eastern portion of the city.

No. 147, Oct. 9, '75.

Bank street to Canton.

57. The said company is hereby authorized and empowered to lay tracks of their railways on Bank street to Gist street at Patterson Park, and down Gist street to Essex street, connecting at Essex street with its lines to Canton; provided the said company will offer no obstruction to the spaces between the railway tracks on Baltimore street being paved with Belgian pavement.

Ibid, s. 2.

Proviso.

Belgian pavement.

Subject to rules, &c.

58. The said company in the construction of the tracks authorized by the ordinances hereinbefore contained, and the running of its passenger cars thereon, shall in all respects be governed by, and subject to, the rules and regulations prescribed by the ordinances of the Mayor and City Council of Baltimore, and especially Ordinance No. 44, March 28, 1859, under which the said company was empowered to lay down and operate their lines of railways.

INCORPORATION OF BALTIMORE PASSENGER RAILWAY COMPANY.—1861-62, c. 71, enacted *inter alia*, that: 1. Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock, and Albert W. Markley, and others, their associates, assignees of all the rights, powers and privileges granted to William H. Travers, William S. Browning, William D'Goey, Robert Cathcart and Joshua B. Sumwalt, and their associates and assigns, by an ordinance of the Mayor and City Council of Baltimore, approved on or about the twenty-eighth of March, eighteen hundred and fifty-nine, are incorporated by the name and style of the Baltimore City Passenger Railway Company, and by that name shall have perpetual succession, and be capable to sue and be sued, to make and use a common seal, to make and pass by-laws, to acquire and hold all necessary real estate, and in general to have and exercise all such other corporate powers and faculties as may be necessary and proper to effectuate the purpose of this Act.

2. That the corporation by this Act created is hereby vested with all the rights, powers and privileges given and granted by the ordinance before mentioned, to be by the said corporation held, enjoyed and exercised in manner and form, and upon the terms and conditions, and subject to the

Article XL.—Ordinances.

CITIZENS' RAILWAY COMPANY.

59. By ordinance No. 70, July 9, 1868, the persons named therein and others were authorized and empowered to lay a double track of city passenger iron railways, commencing on

No. 70, s. 1, July 9, '68. Authority to lay railway on certain streets.

restrictions and limitations therein contained, except where the provisions of said ordinance may be inconsistent with this Act or any part thereof; and upon the acceptance of this Act by the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates, all railways, railway cars, horses, and other property of every description, real, personal and mixed, acquired and held by them for the purposes mentioned in, and to carry out the provisions of the aforesaid ordinance, shall be, and they are hereby, vested in said corporation.

3. That the corporation hereby created is also vested with all necessary power and authority to lay down and construct, and to use and operate passenger railways in any street or streets in the city of Baltimore, other than those named in the said ordinance, with the consent of the Mayor and City Council of Baltimore, and with the restrictions and limitations, and upon the terms and conditions in the said ordinance mentioned; provided, that the said Mayor and City Council shall have the privilege, within two years after the expiration of fifteen years from the date of the passage of said ordinance, to purchase and buy out the said corporation, and all its property and franchises, whether originally conceded by the ordinance aforesaid, or granted by this Act, for and at a fair and equitable consideration or value and in case of a disagreement as to the said value and consideration, the Mayor and City Council aforesaid shall appoint one referee, and the corporation hereby created shall appoint another referee, who, in event of disagreement, shall appoint an umpire, the decision of whom shall be final as to the price to be paid as aforesaid; and provided further, that if the said Mayor and City Council of Baltimore shall decline or neglect to give notice to the said corporation of their intention to make said purchase within the aforesaid two years, then the grants and privileges held and enjoyed by said corporation shall continue to belong to it for fifteen years longer from the expiration of said original fifteen years, subject to all the terms and conditions imposed and recognized by this Act, and continuable thereafter in like manner from time to time as aforesaid, upon the said terms and conditions.

4. That the corporation hereby created is hereby required to pay over to the Register of the City of Baltimore the one-fifth portion (see Reduction of Tax, ordinances, secs. 103–106,) of the whole passenger receipts of this corporation, at or before the stated periods named in the aforesaid recited ordinance of the city of Baltimore; in default of which payments, on or before

Gough street at Patterson Park, and running thence westerly on Gough street to Ann street; thence northerly along Ann street to Pratt street; thence westerly along Pratt street to Albemarle street; thence northerly along Albemarle street to Lombard street; thence westerly along Lombard street to

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the days appointed therefor, this corporation shall be liable to the penalty of one hundred dollars for each day of the continuance of such default, after ten days after the expiration of each quarter, to be recovered by the said city of Baltimore according to law; provided further, that the said corporation shall be subject to such police regulations as the Mayor and City Council of Baltimore may hereafter, from time to time, enact by ordinance for the government of their conduct in the performance of their duties under this law; and provided also, that said corporation hereby created shall provide books, in which shall be entered by a treasurer, under oath, the weekly receipts of said company, and that said books shall be open to the inspection of the Mayor and City Council of Baltimore.

9. That this Act shall go into operation immediately after the passage thereof, (Feb. 13, 1862,) and after the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates, or their attorneys or agents, shall declare their acceptance thereof by writing under their hands or the hands of their attorneys or agents, to be executed in duplicate, and shall file one of the said duplicates with the clerk of the Superior Court of Baltimore City, for enrolment among the land records of said city, and deliver the other to the Register of the City of Baltimore.

11. That the said company shall forfeit and lose all the rights and franchises granted by this Act, unless the said company shall build, equip and stock, and run their cars upon, in accordance with the ordinance aforesaid, the track to be laid from the intersection of Baltimore street and North street, out North to Lexington, along Lexington to Calvert, along Calvert to Read, along Read to Charles, and out Charles street to the city limits—the same to be continued and in full running order on or before January 1, 1863.

12. That the General Assembly hereby expressly reserves the power at all times to repeal, alter or amend this charter.

The Act of 1864, c. 170, recites that: the Act of 1861-62, c. 71, granted to the Baltimore City Passenger Railway Company, under the provisions of an ordinance of the Mayor and City Council of Baltimore, the right to receive the sum of five cents for transporting each passenger from any one part of the city of Baltimore to any other part on the line of their railways; the said ordinance further providing that one-fifth (see Reduction of Tax, ordinances, secs. 103-106,) of the receipts of the said company from passengers shall be paid to the Register of the City of Baltimore, to be applied to the purchase, location and improvement of such parks as may be determined upon, for the

Exchange Place; thence a single track westerly along Lombard street to Charles street; thence still on Lombard street a double track to Fremont street; thence northwesterly on Fremont street to Lexington street; thence westerly along Lexington street to Republican street; thence northerly on Republican

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benefit of the people of said city; and that it has been shown by the president and directors of the Baltimore City Passenger Railway Company that with the utmost economy they have been able to introduce into their management, the present rate of fare is inadequate to pay the cost of working their railways, and for keeping the track and equipment thereof in proper condition; and that the said company, after complying with the requirements of the act of incorporation, and having paid one-fifth of their receipts from passengers to the Register of the City of Baltimore, and after an entirely unremunerative service of over four years, find themselves further embarrassed by the unprecedented advance in the price of labor and material; therefore it enacts that the Baltimore City Passenger Railway Company is authorized and empowered to charge and collect six cents fare from each passenger passing from any one part of the city of Baltimore to any other part on the line of their railways, without charge for transfer tickets, and one-fifth of the gross receipts from passengers to be paid to the Register of the City of Baltimore, as provided for by the ordinance of the Mayor and City Council of said city.

1865, c. 100, recites that: in consequence of the further and extraordinary increase in the cost of labor and materials, it has become necessary that the Baltimore City Passenger Railway Company should have more effectual relief than was sought to be provided by the Act of 1864, c. 170; and that it is not deemed expedient, having due regard either for the interest and convenience of the public, or the welfare of the said company, that the rate of fare for a single passenger in the same car should be increased beyond six cents; it then enacts:

1. That the Baltimore City Passenger Railway Company is authorized and empowered to charge and collect six cents from each passenger passing from any part of the city of Baltimore to any other part, in any line of their railways, with a charge for transfer tickets of four cents; and one-fifth of the gross receipts from passengers to be paid to the Register of the City of Baltimore, as provided for by the ordinance of the Mayor and City Council of said city.

2. That the said Act of 1864, c. 170, and so much of the Act of 1861-62, c. 71, to which this is a supplement, as are inconsistent with the provisions of this Act, are hereby repealed.

3. That the said railroad company shall be and is compelled to run not

street to Mosher street; thence easterly along Mosher street to Oregon street; thence northerly along Oregon street to Fremont street; thence northwesterly along Fremont street to Presstman street; thence easterly along Presstman street to Division street; thence northwesterly along Division street to Northern Boun-

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less than four cars from the end of the line on Thames street, to the end of the line at Canton.

4. That the General Assembly hereby expressly reserves the power at all times to repeal, alter or amend this Act.

As to Sunday cars, see *note*, p. 733, *ante*.

NOTE.—The assignees of certain street railway franchises entered into articles of association, in contemplation of incorporation, wherein it was provided, *inter alia*, that the beneficial interest in the properties, rights and franchises of the association should be divided into a fixed number of shares, at a certain par value, transferable only on the books of the association. By the terms of the act of incorporation the associates became entitled to the stock of the company so formed, in proportion to their respective interests in the association, to be ascertained at the time of acceptance of the charter. One of the associates assigned certain of his shares before the incorporation, and his assignees having brought suit against the corporation for its refusal to issue to them certificates of stock in lieu of their shares, it was held:

1st. That the right of an associate or his assignee to sue for such refusal does not differ in principle from that of an ordinary assignee of stock.

2d. That the transfer from the assignor, although not made on the books of the association, passed his title and interest in the shares to the assignees, and they became thereby entitled to the stock of the corporation.

3d. That the shares thus assigned were personal property, the title to which would pass by transfer and delivery.

4th. That the assignees could, in their own names, maintain an action for the refusal to deliver the stock.

5th. That where the declaration avers an assignment under seal, accompanied by a delivery of the certificates of stock, the court will, on motion in arrest of judgment, presume that the assignment was made for a *bona fide* consideration, and that the jury so found.

6th. That a failure to ascertain the interest of the associate or his transferee at the time of the acceptance of the charter could not affect the right of either to the stock of the company in lieu of their shares.

7th. That defences based on the ground of issual of stock to the assignor prior to notice and demand by his assignee, or of indebtedness of the assignor to the association, should have been made at the trial below.

In an action at law against a corporation for refusing to issue or transfer

dary avenue. And they are further hereby authorized and empowered to construct and lay down a single track or iron railway, commencing where the aforesaid double track on Pratt street connects with the aforesaid double track on Albemarle street, to a point on said Albemarle street opposite to where the depot

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stock, the plaintiff may claim in the same suit the value of the stock, together with the dividends due thereon, and in such a case the measure of damages is the value of the stock at the time of the demand, together with the dividends accrued thereon at that time, with interest, to the day of trial. *Baltimore City Passenger Railway Company* v. *Sewell*, 35 Md. 238; 37 Md. 443.

Where the plaintiff was injured by one of the Baltimore City Passenger Railway cars, which at the time was running at a greater speed than was allowable under a city ordinance, (see sec. 32, p. 734,) it was held: that the passenger railway was guilty of negligence, if the accident could have been avoided had the car not been running at a prohibited rate of speed. *Baltimore City Passenger Railway* v. *McDonnell*, 43 Md. 535.

In a large, populous city, where all descriptions of vehicles are constantly passing and repassing, as well as persons on foot, including the aged and infirm, and children, who are young, and wanting in prudence and discretion, it is the duty of drivers of cars, not only to see that the railway track is clear, but also to exercise a constant watchfulness for persons who may be approaching the track. *Ibid.*

The plaintiff who was returning from market, accompanied by his wife, ran forward with his market basket on his arm and called to the driver of a street car, who stopped the car; the plaintiff got upon the front platform, placed his basket thereon, and asked the driver to be so kind as to take it, to which the driver assented; the car started immediately, and the plaintiff was thrown off, (or fell in the act of descending,) and was injured. The plaintiff himself never meant to be a passenger, but evidence was given that his wife did intend to ride in the car; this intention, however, on her part was not manifested in any manner to the driver, nor did the plaintiff communicate his own purpose not to ride. Held: a regulation of the City Passenger Railway Company, prohibiting passengers from getting on or off at the front end of any car, and requiring them to enter and descend by the rear platform only, is a reasonable regulation, and knowingly to violate it, without the compulsion of some existing necessity, is conclusive evidence of negligence on the part of the passenger; so that, should he sustain an injury in consequence thereof, he will have no right of action against the company, notwithstanding the driver may also have been negligent.

The circumstance that a driver or conductor may have given permission thus to use the front platform, is immaterial; for the company cannot be

buildings of the Philadelphia, Wilmington and Baltimore Railroad Company now stand, for the purpose of running on said single and double track or railways, passenger cars to be drawn by horse power.*

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bound by the act of their servant in attempting to dispense with a known and positive regulation.

The obligation of a railway company for the safe carriage of passengers, rests upon contract, and while the law casts certain duties upon the company, there is a co-relative obligation upon the passenger to observe the reasonable regulations of the company in entering and leaving the cars, and for the consequences of a breach thereof, the company is not responsible. In such case, the question of negligence on the part of the passenger is a legal question for the court to decide—unlike the case where the facts from negligence is to be inferred are controverted, or are numerous and complicated, and where no certain legal rule or standard can be laid down, and where, therefore, the question of negligence is necessarily to be submitted to the jury; and where there is thus evidence of a breach of legal duty on the part of the plaintiff causing the accident, and constituting negligence in law on his part, it is error to refuse specific instructions on the subject, even although the jury are correctly instructed in general terms as to the doctrine of contributory negligence. And here, the legal duty imposed upon the plaintiff was clear and well defined, and the failure on his part to perform it, if found by the jury, would constitute negligence in law, which would debar him from the right to recover.

The fact that a legible notice of such regulation was put up inside of all the cars, and the fact that the plaintiff had often previously ridden in the cars, are competent evidence that he had knowledge of its existence.

There being no evidence in the cause that the driver had any knowledge of the purpose of the plaintiff's wife to get on the car as passenger, nor any evidence to charge the defendant by reason of such purpose or intention on his part, a prayer that there was no evidence from which the defendant could be charged with any responsibilty, on the ground that the plaintiff's wife was to become a passenger on the car in question, ought to have been granted.

If an accident occur in consequence of violating a regulation of the company, which prohibits the conveyance of baskets or parcels unaccompanied by a passenger, the person participating in such violation, and so sustaining injury, will be debarred from recovering therefor, if it be shown that he had knowledge of such regulation. *B. C. P. R. Co.* v. *Wilkinson*, 30 Md. 224.

* So much of the above section as conflicts with Ordinance No. 27, Mar. 30, '70, on p. 740, *ante*, is repealed by said ordinance.

60. The said railway shall be built under the supervision of the City Commissioner, and the rails shall be of the most improved pattern, and the said tracks in their gauge to be the same as that of the Baltimore City Passenger Railway, and to be so constructed and laid down as not to obstruct or impede the free flow of water across the streets or down the gutters thereof. Ibid, s. 2. How to be built.

61. In laying down said railways, the proprietors thereof shall conform to the grades of the several streets used by them, as the same are now or may hereafter be established by law; and further, that no street vehicle shall be permitted to use said railways for the purpose of carrying passengers for pay or hire. Ibid, s. 3. Grades of streets.

62. The cars running upon said railways shall not remain standing on the line of their routes for passengers, but shall be subject to all the police regulations which are now or may hereafter be contained in the ordinances of the city in regard to railway cars or other vehicles, so far as the said regulations may be applicable thereto; and further, the price for transporting passengers from any one part of the city to any other, on the line of these railways, shall not exceed the sum of seven cents per passenger, and the sum of twenty dollars [now five] shall be paid annually upon each car running regularly on said railways, as license money therefor to the City Comptroller. Ibid, s. 4. Cars not to remain standing. Police regulations. Fare not to exceed seven cents. License.

63. The grantees aforesaid, their associates or assigns, shall, after the passage of this ordinance, cause a book to be opened in this city for the purpose of receiving subscriptions to the capital stock of said city railways, and the subscriptions to the same, from such persons as may wish in their own right to become stockholders therein; and the said books shall be opened for this purpose within ninety days from the passage of this ordinance and its approval by the Mayor, and shall be kept open for five days, and said grantees shall give notice of the Ibid, s. 5. Opening of stock books.

time and place of opening said books, in at least three of the daily newspapers of this city, ten days previous thereto.

Ibid, s. 6. If incorporated.

64. If the aforesaid grantees, their associates or assigns, shall hereafter become incorporated, the rights and privileges granted to them by virtue of this ordinance shall extend to such corporation upon the conditions herein prescribed.

Ibid, s 7. Streets to be kept in repair. Snow, &c.

65. The owners and proprietors of said railways shall keep the streets covered by said tracks, and extending two feet on the out limits of either side of said tracks, in thorough repair, at their own expense, and shall free the same from snow or other obstructions, and in doing which they shall not cause to be obstructed the other portions of the streets on other side of the said railway track, and for the non-compliance herewith, the Mayor and City Council may impose such reasonable fines, not exceeding twenty dollars per square, to be collected as other fines are now collected.

Ibid, s. 8. What part of receipts to Park fund.

66. The aforesaid grantees, by their treasurer, under oath, shall pay into the hands of the City Register, quarterly, one-fifth of the gross receipts [now twelve per centum] accruing from the passenger travel upon said roads, or any extension thereof, which may be determined upon hereafter, the same to be used and applied to the park fund, as is now paid by other passenger railway companies.

Ibid, s. 9. To give bond.

67. The parties hereby empowered to construct the passenger railways aforesaid, shall give bond and security to the Mayor and City Comptroller in the sum of fifty thousand dollars, for the faithful performance of all the obligations and liabilities contained in this ordinance.

Ibid, s. 10. Streets.

68. The parties herein named shall not be required to lay down the railways aforesaid upon any of the streets hereinbefore named, until the same shall have been graded and paved.

69. If the grantees shall deem it expedient, in consequence of the narrowness of any street or streets upon which double tracks of railways are authorized to be laid, to dispense with the use of one track, then it shall and may be lawful for them to do so; provided, the City Commissioner shall approve such change. Ibid, s. 11. Double or single tracks. Proviso.

70. The Citizens' Railway Company of Baltimore is hereby authorized to lay city passenger iron railway tracks in the following streets, in addition to those mentioned in the ordinance to which this a supplement, that is to say: in South street, from Lombard street to Baltimore street, and in North street, from Baltimore to Fayette streets, along Fayette street* from North street to Carey street, along Carey street from Fayette street to Lafayette avenue, along Lafayette avenue from Republican street to Gilmor street,† along Gilmor street from Lafayette avenue to Cumberland street, and along Cumperland street to the Northern avenue, along Republican street from Fayette street to Lexington street, along Paca street from Fayette street to Camden street, and along Camden street from Paca street to Eutaw street, and along Eutaw street to Lombard street; provided, however, that only a single track shall be laid in the following of the above enumerated streets, that is to say: in Fayette street, between North and Fremont streets, and in North street. No. 85, June 29, '70. Additional tracks. Proviso.

* By resolution No. 307, Sept. 26, 1876, the City Commissioner was directed to have the switch-track on Fayette street, near Eutaw street, removed, at the expense of the Citizens' Railway Company, and that permission be granted to said Company to lay down a switch-track at the point above mentioned, provided it be constructed of steel groove rails, laid in such manner as not to interfere with the grade of the street.

† By ordinance No. 2, Nov. 17, '74, the company was authorized to remove one of its tracks on Lafayette avenue between Republican and Gilmor streets, so that there shall be only a single track on the bed of said avenue between the streets aforesaid.

Ibid, s. 2. Ordinances.

71. The said track shall in all respects be laid on the streets mentioned in the preceding section, and the cars run on said streets subject to all the provisions and regulations prescribed in the ordinance to which this is a supplement.

Ibid, s. 3. Completion of work.

72. The tracks shall be laid down and completed before September, 1871, in all the streets enumerated in this ordinance, and the ordinance to which this is a supplement, [p. 743, &c., *ante*,] except where such streets may not be graded and paved by such date, otherwise the privileges so granted shall be revoked and cease; provided, however, that this forfeiture shall apply only to those streets where the company shall have failed to lay their tracks before the time above limited.

Proviso.

No. 109, June 19, '71. Additional tracks.

73. The said company is hereby authorized to lay city passenger iron railway tracks in the following streets, in addition to those mentioned in the ordinance to which this is a supplement, [p. 743, &c., *ante*,] that is to say: beginning for the same at the corner of Gist and Gough streets, thence running northerly along Gist street to Baltimore street, thence westerly on Baltimore street to Ann street, thence southerly on Ann street to Pratt street, thence easterly on Pratt street to Gist street, and on Exeter street from Lombard street to Fayette street, on Fayette street from Exeter to South streets, on Carey street from Townsend street to Mosher street, on Mosher street from Park to Stricker streets, and on Stricker street to Calhoun street, and on Calhoun street to the city limits; on Baker street from Gilmor to Division streets, and on Division street to the city limits, and the requirements of the original ordinance, in relation to the payment of the one-fifth [now twelve per centum] of the passenger receipts to the park fund, shall be applicable to the receipts in the routes named in this supplement.

No. 7, Nov. 2, '71. Additional tracks.

74. The said company is hereby authorized to lay city passenger iron railway tracks in the following streets, in addition to those mentioned in the ordinance to which this is a supple-

ment, [p. 743 *ante*,] that is to say: on Howard street, from Lombard street to Fayette street, said tracks to be double along the line of said street, after the present railroad track is removed from the bed of the street; provided, that in the event of the privilege being hereafter granted to any other company to run a railroad along Howard street, from Fayette street north, the said company shall, if so expressed in the ordinance giving it such privilege, pass its cars to and fro over the line of the Citizens' Railway Company on Howard street, between Fayette and Lombard streets, upon paying a proper sum to said Citizens' Railway Company, to be determined on by the City Commissioner.

75. The said company is further authorized to lay a double city passenger iron railway track on Fayette street, from Fremont to Howard streets, and the said tracks shall in all respects be laid on the streets mentioned in this ordinance, and the cars run on said streets, subject to all the provisions and regulations prescribed in the ordinance to which this is a supplement; and provided, that the privileges in this section granted shall in no manner release the said company from its obligation to run its cars on Lombard street, between said Howard and Fremont streets; and provided further, that the cars so to be run on said Lombard street shall be run at intervals of not more than ten minutes.

Ibid, s. 2.
Double track.
Ordinances.
Proviso.
Intervals of running cars.

76. The said company is hereby authorized at any time to lay down and construct for use and travel thereon a single track of railway of iron, such as it is now using on other streets in the city of Baltimore, on Mosher street, beginning at the intersection of that street with Gilmor street and continuing on Mosher street to Republican street, and thence on Republican street to connect with the track of said company now on said last named street, where it is intersected by Lafayette avenue.

No. 2, Nov. 17, '74.
A single track on Mosher and Republican streets, &c.

Ibid, s. 3.

Track to be built under supervision of City Commissioner.

77. Said track shall be built under the supervision of the City Commissioner, and in laying it down the said company shall conform to the grades of said streets on which the same is to be laid, as the same are now or may hereafter be constructed, and when laid and ready for use, it shall be subject to the same uses by said company as its other tracks now are, and subject to the same conditions, limitations and reservations as contained in the ordinance to which this is a supplement. [P. 743 *ante*.]

INCORPORATION OF CITIZENS' RAILWAY COMPANY.—The Act of 1870, c. 438, enacted, *inter alia*, that:

1. Samuel Snowden, Jacob Rice, Matthew B. Sellers, John Richardson, Capt. Geo. A. Coleman, James S. Hagerty, Doctor J. J. Moran, Wm. J. Hooper, John W. Munson, Andrew J. Myers, Alfred P. Burt and others, their associates, by an ordinance of the Mayor and City Council of Baltimore, numbered seventy, approved July ninth, eighteen hundred and sixty-eight, are hereby incorporated by the name and style of the Citizens' Railway Company, and by that name shall have perpetual succession and be capable to sue and be sued, to make and use a common seal, make and pass by-laws, to acquire all necessary real estate, and to hold the same, and in general to have and exercise all such other corporate powers which may be necessary and proper to effectuate the objects and purposes of this act.

2. The corporation by this act created, is vested with all the rights, powers and privileges given and granted by the ordinance before mentioned, to be by the said corporation held, enjoyed and exercised, in manner and form, and upon the terms and conditions, and subject to the restrictions and limitations therein contained, except where the provisions of said ordinance may be inconsistent with this act or any part thereof.

3. The corporation hereby created is also vested with all necessary power and authority to lay down and construct, to use and operate passenger railways in any street or streets in the city of Baltimore, other than those named in the ordinance aforesaid, with the consent of the Mayor and City Council of Baltimore, under the restrictions and limitations in said ordinance contained; provided, nevertheless, that this act shall not be construed to grant to the corporation hereby created, the right or privilege to lay down, use or operate in any street or streets of the city of Baltimore, in which the Mayor and City Council of Baltimore have already authorized the construction of passenger railways by other companies, except with the consent of such companies; and provided also, that the said Mayor and City Council shall have the privilege within two years after the expiration of fifteen years from the date of the passage of said ordinance, to purchase

BALTIMORE, PEABODY HEIGHTS AND WAVERLY RAILROAD.

78. By Ordinance No. 27, March 28, 1872, the persons therein named and others were authorized and empowered to lay down and construct iron railway tracks, single or double, with turn- No. 27. Mar. 28, '72. Tracks.

and buy out the said corporation, and all its property and franchises, whether originally conceded by the ordinance aforesaid or granted by this act, for and at a fair and equitable consideration or value, and in case of a disagreement as to said value and consideration, the Mayor and City Council aforesaid shall appoint one referee, and the corporation hereby created shall appoint another referee, who in event of disagreement shall appoint an umpire, the decision of whom shall be final as to the price to be paid, as aforesaid; and provided further, that if the said Mayor and City Council shall decline or neglect to make such purchase within the aforesaid two years, then the grants and privileges held and enjoyed by said corporation shall continue to belong to it for fifteen years longer from the expiration of said original fifteen years, subject to all the terms and conditions imposed and recognized by this act, and continuable thereafter in like manner from time to time as aforesaid, upon the said terms and conditions.

7. This act shall take effect on and after the date of its passage; provided, that the parties herein named, or a majority of them, shall, within sixty days, signify their acceptance thereof in writing, said acceptance to be acknowledged before some justice of the peace of the State of Maryland in and for the city of Baltimore, and recorded in the office of the clerk of the Superior Court of Baltimore City.

By the Act of 1876, c. 118, this company was authorized to increase its capital stock from three hundred thousand to a sum not exceeding five hundred thousand dollars; provided, the said company shall from and after the passage of this act [March 23, 1876,] run all its cars through from one terminus of the road to the other.

NOTE.—A bill alleged the incorporation of certain persons by the name of the Citizens' Railway Company, and that by a section of the act of incorporation it was provided that the parties named in the act should choose from their number a president; and the remaining incorporators, or a majority of them, should act as a board of directors for the management of the affairs of the company until the first general meeting of the stockholders; it further alleged that a majority of the parties named in the act accepted the same as required, and books of subscription to the capital stock were formally opened, which contained an agreement by which it was agreed that the parties subscribing would take the number of shares opposite their respective names; that the capital stock of the company should not be more than $300,000, and it should be divided into shares of $20 each; that as

tables at either end, as hereinafter specified, and of the gauge of other passenger railways now in use in the city of Baltimore, and to run passenger cars thereon, to be drawn by horses through and on the following named streets: That is to say, commencing on German street at the west line of South street, and with a double track on German street to Charles street; and on Charles street to Saratoga street; and with a single track on Saratoga street, to and on Park street, to and on Franklin street to Howard street, and on Howard street, running north from Franklin street with a double track to and on Park avenue, to and on Dolphin street, to and on Bolton street, to and on McMechen street to the northern limits of the city; also with a single track on Howard street from Franklin street, running south to Lexington street, and on Lexington street to Charles, to connect with the double track on Charles street; also with a double or single track on Townsend street, from Bolton street to John street, and thence on John street, to the northern limits of the city, under the name and style of the Park Railway Company.

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soon as two thousand shares should be subscribed, each subscriber would pay $5 per share, at the office of the treasurer. The bill further charged that the complainants subscribed collectively for eight thousand and fifteen shares, and had been ready and willing at all times to comply with their legal undertakings when lawfully required; that certain corporators declined to act as such, and only four remained; that one of the four refused to unite with the remaining persons, who, being but three in number, did not constitute a majority of the incorporators after the election of a president, and were therefore incompetent to perform the duties required of them: that notwithstanding such incompetency, they issued a call for the payment of $5 per share, and at the same time published a notice for the election of officers on a day named; and that the defendants pretending to be stockholders in the corporation proceeded to elect officers thereof; that said defendants had taken possession of seal, books, &c., of the corporation and kept them concealed; that by their agents they had begun to dig up the streets, and put down rails in accordance with the privileges granted by the act of incorporation to the complainants and others having a majority of the stock. The complainants further charged that they did not make any payment on account of the shares subscribed by them, because the person named as treasurer had not been legally elected, and because the parties

79. The said railway track shall be laid down and constructed subject to the inspection of the City Commissioner, and in a manner receiving his approval, so as not to impede or obstruct the free flow of water in the street or gutters, and the crossings of the gutters by the said railway tracks shall be covered with iron plates, and to such extent as the City Commissioner may direct; provided, that in the event of the non-compliance on the part of the said railroad company with the provisions of this section, then the said railroad company shall forfeit and pay a fine of not less than ten dollars, nor more than twenty dollars, for every gutter not covered as herein provided, or for the obstruction of the free flow of water in every gutter so covered; and to forfeit and pay an additional fine of not less than five dollars nor more than ten dollars for each and every day such non-compliance may continue to exist, the said fines to be recovered as other fines are recoverable.

Ibid, s. 2.

To be laid subject to inspection and approval of City Commissioner.

Proviso.

Penalty for non-compliance.

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who issued the call had no right to do so. The bill charged fraud and conspiracy, and prayed for an injunction, a discovery, and the appointment of a receiver. Held:

1. That the complainants, upon their own showing, were mere subscribers who refused to comply with the terms of their own subscription.

2. That the complainants by subscribing to the shares of stock, promised not only to take the shares, but to pay for them in accordance with the terms and conditions of the subscription.

3. That the complainants having failed to comply with the conditions and terms of their subscription to the capital stock of the railway company, without any default on the part of the corporation or its officers, had no such rights or interests in the stock as to entitle them to an injunction.

Where a corporation has gone into operation, and rights have been acquired under its charter, every presumption should be made in favor of its legal existence.

Where an act of incorporation is accepted, and the company organized provisionally thereunder, no subsequent withdrawal of any of the corporators will affect its vitality.

The mere subscribing to the stock of an incorporated company does not constitute the subscriber a stockholder, but puts it in his power to become such by compelling the corporation to give him the legal evidence of his being a stockholder, upon his complying with the terms of the subscription. *Busy et. al.*, v. *Hooper et. al.*, 35 Md. 15.

Ibid, s. 3.

Tracks to conform to grades of streets.

Streets to be kept in proper repair.

Free from snow, &c.

80. The said railway tracks shall be made to conform to the grades of the several streets occupied by them, and in case the said grades or any of them shall hereafter be changed, the proprietors of the said railway shall, at their own expense, make corresponding alterations of the said tracks; and the streets aforesaid along and through which the said tracks may be laid, shall at all times be kept in proper repair and free from snow and other obstructions, at the expense of the proprietors of said railway, not only between the tracks, but for two feet beyond the outsides thereof.

Ibid, s. 4.

Track not to be used by street vehicles.

Penalty.

81. No person shall be allowed to use street vehicles on the aforesaid tracks of railway to the hindrance and delay of the cars, and all persons who shall upon the call or signal of any driver, conductor, or other persons in charge of a car passing on its route, wilfully neglect or refuse to vacate said tracks, shall be subject to a fine of no more than ten nor less than five dollars, to be collected according to the provisions of Article XIX, relating to Fines.

Ibid, s. 5.

Fare.

Quarterly statement to City Register.

82. The fare for the transportation of a single passenger, from terminus to terminus, within the city limits, on the line of railway by this ordinance authorized to be constructed, shall not exceed the sum of six cents; and it shall be the duty of the proprietors of the said railway hereinbefore named, their associates, successors, or assigns, through their treasurer or other proper officer or employee, to present quarterly to the City Register a statement of the gross earnings from the passenger travel on the line of said railway, and to accompany said statement with the affidavit of the person making the same as to its correctness, and to pay at the same time to the City Register, for the use of the park fund, one fifth [now twelve *per centum*,] of the said gross receipts; and for each car in daily use on the route of said railway, the proprietors shall pay annually to the City Comptroller a license of twenty dollars, [now five,] and the cars of the said railway, and the running of the same, shall be sub-

ject to all the police regulations of the city of Baltimore, made and provided in such cases.

83. The persons hereinbefore named, their associates, successors or assigns, shall commence the work of laying down and constructing the railway tracks aforesaid within ninety days, and shall complete the said work, and commence the regular running of cars within one year after the approval of this ordinance, otherwise the rights and privileges herein granted shall be null and void; provided, however, the provisions of this section shall not apply in the case of any one of the streets hereinbefore named which may not be paved and graded at the time of the approval of this ordinance. Ibid, s. 6. Completion of work. Proviso.

84. It shall be the duty of the proprietors of said railway to run the cars on their routes from terminus to terminus, at intervals not exceeding ten minutes, from six A. M. to midnight, between April 1st and October 1st, and from seven A. M. to midnight, from October 1st to April 1st, under a penalty of five dollars for each car that does not run to the extent of tracks as embraced in this ordinance. Ibid, s. 7. Intervals of time at which cars shall be run. Penalty.

85. The persons herein named and referred to, or their successors or assigns, shall, before commencing the work of constructing railway tracks as aforesaid, file with the City Comptroller a bond to the Mayor and City Council of Baltimore, to be approved by him, in the sum of thirty thousand dollars, as a consideration for the faithful performance of all the obligations and liabilities contained in this ordinance. Ibid, s. 8. Bond.

86. In the event of the privilege being hereafter granted to any other company to run passenger railway cars along Charles street, from Fayette street south to German street, said company shall, if it is expressed in the ordinance giving it such privilege, have the right to pass its cars to and fro over the track of said Park Railway Company on Charles street, between Fayette street and German street, on paying such a Ibid, s. 9. Privilege to use track on Charles street, between Fayette and German streets.

Consideration. sum to said railway as may be determined by the Mayor, City Commissioner and President of said Park Railway Company, or a majority of them.

No. 74, June 7, '72.

87. The persons named in the first section of the Act of

Books of subscription. Assembly of 1872, c. 369,* shall, on or before the twentieth day of June, 1872, procure books wherein shall be written or printed the following words: "We whose names are hereto subscribed, do respectively and severally promise to pay to the Baltimore, Peabody Heights and Waverly Railroad, the sum of twenty-five dollars for each share of capital stock of said company set opposite our names respectively in such manner and proportions, and at such times, as shall be determined by the president and directors of said company or a majority of them. Witness our hands and seals this——

Notice in daily papers. day——1872," and shall thereupon give notice in one or more of the daily papers published in the city of Baltimore for one week at least, of the time and place, when and where the said books shall be opened for subscription, which place shall be at the office of the Peabody Heights and Waverly Railroad Company of Baltimore county in the city of Baltimore, and said book or books shall be there opened on the day to be named at ten o'clock A. M., and kept open until at least three thousand shares shall have been subscribed for and taken.

*The Baltimore, Peabody Heights and Waverly Passenger Railroad was incorporated by act of 1872, c. 369. It authorizes the company to lay down and construct, maintain, use and operate passenger railways in the city of Baltimore, on all such streets or parts of streets as may be designated in any ordinance or ordinances which may be passed on the subject by the Mayor and City Council of Baltimore, and upon such terms and subject to such conditions as may be made by such ordinance or ordinances, and to receive and to take such tolls and fares as may be designated by such ordinance or ordinances, and as to all other matters not therein mentioned and provided for, the rights and powers of said company shall be the same as those of the Baltimore City Passenger Railway Company. The persons named in ordinance No. 27, March 28, '72, p. 755 *ante*, assigned their right to B. P. H. & W. P. R. Co.

88. In addition to the powers which the said company has now or may hereafter acquire by assignment from the persons named in the ordinance, approved March 28, 1872, (p. 755 *ante*,) and which assignment is hereby ratified, it is hereby further authorized and empowered to lay down a single or double track of passenger railway on North avenue, from John street to the terminus of the Peabody Heights and Waverly Railroad of Baltimore county, at the intersection of North avenue and north Charles street, and connect with the same; and it is further authorized and empowered to run passenger cars thereon, to be drawn by horses and with all the privileges and under all the restrictions imposed by the ordinance before mentioned.

Ibid, s. 2.
Assignment.
Additional tracks.

89. If at any time hereafter the Mayor and City Council of Baltimore shall grant to any other road the right to lay railway tracks and run thereon city passenger cars on North avenue west from John street, they shall then have the power to grant to such other road the right to run their cars upon the tracks of the Baltimore, Peabody Heights and Waverly Railroad on North avenue, between Charles and John streets, under such regulations and upon the payment of such sum or sums of money to said Peabody Heights and Waverly Railroad as shall be agreed upon and fixed by the Mayor, City Commissioner and President of said Baltimore, Peabody Heights and Waverly Railroad, or a majority of them.

Ibid, s. 3.
Right of way to other roads to run cars on track of B. P. H. & W. R. R. on North avenue.
Consideration.

90. The Mayor and City Council of Baltimore, in hereafter granting to other parties the right to run cars upon the tracks of the Baltimore, Peabody Heights and Waverly Railroad, either on Charles street south from Fayette to German street, as provided for in section 86, *ante*, or on North avenue between Charles and John streets as provided in the preceding section, shall require in either case of such party

Ibid, s. 4.
Requirements of others using tracks.

or parties before exercising such rights a good and sufficient bond to be given to the Baltimore, Peabody Heights and Waverly Railroad, as security for the faithful performance of all the requirements of any agreement made and fixed by the Mayor, City Commissioner and President of said P. H. & W. R. R., by whom also said bond shall be fixed and approved.

Bond to B. P. H. & W. R. R.

No. 106, June 8, '75.

Double track on Howard street.

91. The said company is hereby authorized and empowered to lay down and keep in repair a double track on Howard street, to extend one hundred and fifty feet south of the south side of Franklin street, and to connect the same with its track on Franklin street.

BALTIMORE AND YORKTOWN TURNPIKE ROAD.

No. 7, s. 1, Feb. 17, '63.

Authorized to lay tracks on North avenue, &c.

92. The president, managers and company of the Baltimore and Yorktown Turnpike Road are hereby authorized and empowered to lay down a double track of the City Passenger Railways on North avenue, from Greenmount avenue to north Charles street, and on Greenmount avenue from the city limits to Forrest street, and on Forrest, Hillen and East streets to Gay street, so as to connect with the city passenger railways at those points.*

Ibid, s. 2.

City Commissioner to superintend.

93. The said railways shall be built under the superintendence of the City Commissioner; the rails to be similar in all respects to those now in use for passenger railways in

*This ordinance recited that, by the Act of 1860, c. 259, the president, managers and company of the Baltimore and Yorktown Turnpike Road were authorized to extend the railways authorized to be built under that Act, into the city of Baltimore, to such point or points, through such streets or ways, and to connect, or cause the same to be connected, with such of the railway tracks in said city, or which may be constructed therein, as the Mayor and City Council of Baltimore shall permit, direct and ordain, and subject to such restrictions, terms and conditions as said Mayor and City Council may prescribe and impose.

this city; to be so laid down as to conform to the grades of the several streets as they are now, or may hereafter, be established, through which they pass, and so as not to impede or obstruct the free flow of water in the streets or gutters thereof. The gauge of said railways also to be the same as that of the passenger railways now in use in this city, so as to allow vehicles to run upon the tram plate of the rail; but no vehicle shall be permitted to use said railways for the purpose of carrying passengers for pay or hire.*

Conform to grades.

Not to obstruct water courses.

Passengers for pay or hire.

94. The cars running upon said railways shall not remain standing on the line of these routes for passengers, and shall be subject to all the police regulations as to speed and otherwise, that are now, or may hereafter be prescribed by ordinances of the city in regard to railway cars or other vehicles, so far as said regulations may be applicable thereto; and further, the price of transporting passengers on the track of railways hereby authorized to be laid down on Greenmount avenue, Forrest, Hillen and East streets, for any distance, shall be five cents for each person over ten years of age, and for children ten years old and under, a sum not exceeding three cents each, and over the track on North avenue, two cents for each person over ten years of age, and for children ten years old and under, one cent each.†

Ibid, s. 4.

Cars not to remain standing on street.

Subject to police regulations.

Fare.

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*Section 3 provided that the cars should not run on Sunday, but, by act of 1868, c. 308, the company was authorized to run its cars on that day.

†By above section the rate of fare is fixed at five cents for each passenger for all distances within the city limits. The act of 1865, c. 115, authorized the company to collect from each passenger over the road not more than thirty cents for the distance between the city limits and Towsontown; and not more than six cents for each mile or fraction of a mile for way passengers on any portion of its railway. In the case of a passenger to the city from a place on the road distant less than a mile from the city, it was held:

1. That the company had no right to claim from him more than eleven

Article XL.—Ordinances.

Ibid. s. 5.

Streets to be repaired at expense of company.

Snow and other obstructions.

Penalty.

95. The president, managers and company of the Baltimore and Yorktown Turnpike Road shall keep the streets covered by said tracks, and extending two feet over the outer limits of either side of said tracks, inclusive, in thorough repair, at their own expense, and shall free the same from snow and other obstructions, in doing which they shall not cause to be obstructed the other portion of the streets, and for every non-compliance with this provision, the said company shall forfeit and pay a fine of twenty dollars per square, to be collected as other fines are now collected.

Ibid, s. 6.

What part of gross receipts to City Register.

Penalty.

City Boundary avenue.

96. The president, managers and company of the Baltimore and Yorktown Turnpike Road shall, by their treasurer, under oath, pay into the hands of the City Register during the first ten days of January, April, July and October, in each and every year, commencing for the first of said payments in October, 1863, one-fifth [now twelve *per centum*] of the gross receipts accruing from passenger travel upon said railways within the limits of the city, as hereby authorized; and in default of the payment being made within the ten days appointed, the said Baltimore and Yorktown Turnpike Road Company shall be liable to the penalty of fifty dollars for each and every day during the continuance of such default, to be recovered as other fines and forfeitures are now recoverable; said receipts to be applied to the establishment and improvement of the City Boundary avenue, as reported upon at the annual session of the Mayor and City Council of Baltimore in 1853, by commissioners appointed at the annual session of 1851,(Res. Nos. 124 and

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cents, that is to say, six cents for the fraction of a mile beyond the city limits, and five cents for the route over its road in the city.

2. That while the company might provide for any reasonable "drawback" for its own security, it must not be in the face of the law, which gave it no authority to receive more than eleven cents. Below that limit, as a *maximum*, it could exercise its own discretion as to the amount of fare, or any discount on the same. *Balto. & Yorktown Turnpike* v. *Boone*, 45 Md. 344.

138,) and to the improvement of Druid Hill and Patterson Parks, and such others as may be determine upon hereafter.

97. And it is hereby made a condition precedent to the acceptance of the provisions of this ordinance by the said Baltimore and Yorktown Turnpike Road Company, that the Mayor and City Council of Baltimore shall have the right and privilege to alter and modify the price for carrying passengers, within the limits of the city, at any time hereafter when they may deem it expedient for the public good. Ibid, s. 7. Right to change price of fare.

98. Should the Baltimore and Yorktown Turnpike Road Company fail to commence the construction of the railways hereby authorized to be laid down, before May 1, 1863, and complete them before November 1, next ensuing, or should it fail to run it cars daily on the two routes hereinbefore designated, according to the true intent and meaning of this ordinance, for the space of one year after having commenced the same, then, and in either case, the said company shall forfeit all rights and privileges granted under and by authority of this ordinance. Ibid, s. 8. Forfeiture of right.

99. The president, managers and company of the Baltimore and Yorktown Turnpike Road are hereby authorized to construct temporary tracks of passenger railways on Northern Boundary avenue from Greenmount avenue to Charles street; the work to be done under the supervision and subject to the approval of the City Commissioner; provided, however, and it is hereby made a condition precedent to the acceptance of this ordinance by the said president, managers and company, that when that portion of Northern Boundary avenue as aforesaid has been paved and graded, they, the said president, managers and company will without delay remove the tracks herein authorized to be temporarily constructed, and put down tracks of railway similar to those now in use by the Baltimore City Passengers Railway Company. No. 15, Mar. 21, '63. Tracks on Northern Boundary avenue, &c. Proviso.

Article XL.—Ordinances.

No. 40, June 20, '65.
Construct tracks on Hillen and Holliday streets.

100. The president, managers and company of the Baltimore and Yorktown Turnpike Road are hereby authorized and empowered to construct a track of passenger railways upon Hillen and Holliday streets, joining with their tracks at the corner of East and Hillen streets, and terminating at the intersection of Holliday street and Lexington street; provided, however, and it is hereby made a condition precedent to the acceptance of this ordinance by said president, managers and company, that said track shall be removed at any time after six months' notice to that effect by the Mayor and City Council.

At six months' notice to remove tracks.

No. 130, Oct. 14, '71.
Railway on Holliday street.

101. The president, managers and company of the Baltimore and Yorktown Turnpike Road are hereby authorized and empowered to extend their lines of railway on Holliday street from the present terminus, at the intersection of Holliday and Lexington streets, to its intersection with Baltimore street.

Ordinances.

102. The president, managers and company of the Baltimore and Yorktown Turnpike Road shall, in laying down and working the extension authorized to be made by the preceding section, be governed by and subject to all the provisions of the ordinance approved February 17, 1863, No. 7, and of ordinance No. 40, of 1865, under which they are empowered to lay down railway tracks within the limits of the city of Baltimore.

NOTE.—The legislature has the power to authorize the construction of a railway on the bed of a turnpike road, with the consent of the turnpike company, and the construction of such railway does not effect the right of the turnpike company to collect tolls under its charter. Under the provisions of the Act of 1804, c. 51, [amended by Acts of 1878, c. 261, and 1878, c. 470,] and its supplements, and of the Act of 1824, c. 105, the Baltimore and Yorktown Turnpike Company have the right to charge and collect tolls on such portion of their road as lies within the limits of the city of Baltimore. *Hooper v. President, &c. Baltimore and Yorktown Turnpike Road*, 34 Md. 521.

The Act of 1872, c. 337, authorized the president, managers and company

REDUCTION OF TAX.

103. The Baltimore City Passenger Railway Company, Citizens' Railway Company, Baltimore, Peabody Heights and Waverly Passenger Railway Company, and Baltimore and Yorktown Turnpike Road Company, from and after the first day of July, 1874, are each and separately required to pay to the City Register twelve *per centum* of their gross receipts in lieu of the one-fifth, as now required under their respective grants.

No. 48, June 9, '74. Twelve per cent. of gross receipts to be paid to city.

104. On or before this act shall take effect it shall be agreed upon by the various railway companies named in this ordinance, with the Mayor of Baltimore City, that those companies which have the Slawson fare boxes in use on their cars shall discard and remove the same, and each and all of them, and any other company that may hereafter be incorporated, shall covenant and agree with the Mayor that they or any similar contrivance shall not be placed therein, and

Ibid, s. 2. Agreement. Slawson fare boxes.

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of the Baltimore and Yorktown Turnpike Road to sell, grant and convey, unto any body corporate of this State, all the rights and franchises conferred upon the president, managers and company of the Baltimore and Yorktown Turnpike Road aforesaid, in and by the Act of 1860, c. 259, entitled a further supplement to an act entitled on act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes; to authorize the laying down and equipment of a railway on the Baltimore and Yorktown turnpike road, between Baltimore and Towsontown, and the collection of tolls thereon; and also the railway and railway tracks made and constructed and laid down thereunder, and the right to use, manage and enjoy the same in perpetuity, in the manner and under the terms and conditions, and with the privileges in the said last mentioned act provided, and all the cars, horses and other equipments and furniture to said railway appertaining, and to receive payment therefor in money, or in capital stock of the corporation so purchasing the same, or otherwise, as may be agreed upon by and between the said parties, and that the act shall take effect when accepted by a majority in value of the stockholders of the president and managers and company of the Baltimore and Yorktown Turnpike Road, aforesaid, at a general meeting.

Children's fare. that children under twelve years of age shall pay not more than four cents fare.

Ibid, s. 3. 105. In default of the payment of the tax hereinbefore provided for, on or before the days or time appointed for making such payment, the corporations or railroad companies shall be liable to the penalty of one hundred dollars for each day of the continuance of such default after ten days after the expiration of each quarter, to be recovered by the Mayor and City Council according to law.

Penalty for non-payment of tax.

Ibid, s. 5. 106. Nothing herein contained shall be so construed as to prevent the use of the Slawson box by the Baltimore, Peabody Heights and Waverly Passenger Railroad Company; provided the said company shall continue to use cars of the same dimensions as are now running upon their railway; provided, further, that no company shall have the benefit of the reduction of tax aforesaid unless they shall, within ten days after the first day of July, 1874, have settled up or made payment for the amount that may be respectively due on the first day of July, 1874.

Slawson box on B. P. H. W. R. R.

Proviso.

Amounts due by companies.

No. 55, Apr. 30, '73. 107. The license of city passenger railway cars shall be five dollars per annum upon each car.

License on cars.

THE PEOPLE'S PASSENGER RAILWAY.*

No. 74, June 28, '78. 108. William Frederick, Jacob Tome, Michael P. O'Hern and George W. P. Coates, of the city of Baltimore, in the State of Maryland, or a majority of them, and those who

On what streets tracks to be laid

* By the Act of 1878, c. 230, the People's Passenger Railway Company of Baltimore city, incorporated under the Act of 1876, c. 242, providing for the creation and regulation of incorporated companies, is empowered to accept subscriptions to its capital stock in personal property or real estate, or in both personal property and real estate, at such valuation as may be agreed upon between said company and those subscribing at the time of said subscription, instead of pursuing the provisions of the seventh section of said act.

are now or may hereafter become associated with them, and their successors and assigns, are hereby authorized and empowered to lay down and construct iron railway tracks, as hereinafter specified, and of the gauge of other passenger railways now in use in the city of Baltimore, and to run thereon passenger cars, to be drawn by horses, through, along and on the following named avenues and streets, that is to say: commencing on Druid Hill avenue, at the southeasternmost line of North avenue, and with a double track on Druid Hill avenue to Paca street; thence by a double track on Paca street to a point sixty feet south of the south side of Saratoga street; thence by a single track on Paca street to a point sixty feet to the north of the north side of Fayette street; thence with a double track on Paca street to South Paca street, on South Paca street to Warner street, on Warner street to Henrietta street, on Henrietta street to Charles street, on Charles street to Randall street, on Randall street to Webster street, on Webster street to Fort avenue, on Fort avenue to Benjamin street, with branch on Hull street to Nicholson street, on Hull street to Nicholson street, thence to the southwest branch of the Patapsco river, with a lateral branch beginning at the intersection of Randall and Charles streets, on Charles street to the water's edge.

109. The said railway track shall be laid down and constructed with a rail five inches wide, equal to any now in use by other railway companies, subject to the inspection of the City Commissioner, and in a manner to receive his approval, and so as not to impede or obstruct the full flow of water in the streets or gutters, and all crossings of the gutters by the railway tracks aforesaid shall be covered with iron plates, and to such extent as the City Commissioner may direct; provided, that in case of non-compliance on the part of the railway company aforesaid with the provisions of this section, then the said railway company shall forfeit and pay a fine of not less than

Ibid, s. 2.

Rails.

Inspection of City Commissioner.

Penalty. ten nor more than twenty dollars for every gutter not covered as herein provided, or for the obstruction of the free flow of water in every gutter so to be covered, and shall forfeit and pay an additional fine of not less than five nor more than ten dollars for each and every day such non-compliance may continue to exist after due notification thereof, said fines to be recovered as other fines are recoverable.

Ibid, s. 3. 110. The said railway tracks shall be so made as to con-
Repaving. form to the grades of the several streets to be occupied by them, and in case the several streets to be occupied by them shall in future be repaved with any improved pavement, Belgian or otherwise, the proprietors of said railway shall repave the spaces between the tracks, and two feet on either side of said railway, with said improved pavement, Belgian or otherwise, at their own exclusive expense, under a penalty of twenty dollars per square for each week that said spaces between the said railway tracks, and two feet on either side remain unpaved with such improved pavement, Belgian or otherwise, after due notice to the proprietors of said railway, the said fine to be collected as other city fines are now collected; and in case the said grades or any of them shall be changed hereafter, the proprietors of the railway aforesaid, at their own expense, shall make corresponding alterations of the said tracks, and the owners and proprietors of said railways shall keep the streets covered by said tracks, and extending two feet on the outer limits of either side of said tracks, in thorough repair at their own expense, and shall free the same from snow or other
Obstructions. obstructions; in doing which they shall not cause to be obstructed the other portions of the street on either side of the railway tracks authorized by this ordinance to be constructed, and for non-compliance the Mayor and City Council may im-
Penalty. pose such reasonable fines, not exceeding twenty dollars per square for every day each square is obstructed, to be collected as other city fines are now collected.

111. No one shall be allowed to run or use street or other vehicles on the said railway tracks, to the hindrance and delay of the cars thereon, and all persons who upon the call or signal of any driver, conductor, or other party in charge of a car passing on its route, shall neglect wilfully or refuse to vacate said track, shall be subject to a fine of not less than two or more than five dollars for each and every such offence, to be collected conformably with the provisions of Article XIX, relating to Fines. Ibid, s. 4. Vacating track for cars. Penalty.

112. The fare for the transportation of a single passenger from terminus to terminus, (or less distance, at such passenger's option,) within the city limits on the line of railway by this ordinance authorized to be constructed, shall not exceed the sum of six cents, and it shall be the duty of the proprietors of the said railway, their associates, successors or assigns, through their treasurer or other proper officer or employee, quarterly to present to the City Register, for the use of the park fund, twelve *per centum* of the said gross receipts, and the Mayor and City Council of Baltimore hereby reserve the right and power to increase the said *per centum* at any time hereafter, and for each car in daily use on the route of said railway the then proprietors shall pay yearly to the City Comptroller a license tax of five dollars, and the cars of the said railway and the running of the same shall be subject to all the police regulations of the city of Baltimore in such cases made and provided. Ibid, s. 5. Fare. Tax. License.

113. The persons named hereinbefore, their associates, successors or assigns, shall commence the work of laying down and constructing the railway tracks aforesaid within two months from the approval of this ordinance, and shall complete the said work and commence the regular running of cars within nine months after the approval hereof; otherwise the rights and privileges herein granted shall be null and void; provided, however, that the provisions of this section shall not Ibid, s. 6. Time within which work to be begun and done.

apply in case any one of the streets hereinbefore named may not have been paved and graded at the time of the approval of this ordinance, or should any of said streets be undergoing repair by the city authorities in such manner as to interfere with the laying and constructing of the railway tracks aforesaid, said provision not to apply until such repairs shall have been completed, the tracks of said road, however, to be laid on such streets or parts of streets as far as opened, paved and graded.

Ibid, s. 7.

Intervals of running cars.

114. It shall be the duty of the proprietors of said railway to run the cars on their routes from terminus to terminus within the city limits at intervals not exceeding ten minutes from six o'clock A. M. till eleven o'clock P. M. every day, under a penalty of five dollars for each car that shall not run to the extent of tracks as embraced in this ordinance; provided, they shall employ a conductor and driver on each car.

Ibid, s. 8.

Bond.

115. The persons herein named and referred to, or their successors or assigns, before commencing the work of constructing railway tracks as aforesaid, shall file with the City Comptroller a bond to the Mayor and City Council of Baltimore, to be approved by the Mayor, in the sum of ten thousand dollars, as a security for the faithful performance of all the obligations and liabilities contained in this ordinance.

Ibid, ss. 9, 10.

Board of directors.

Majority residents of Baltimore city.

116. The railway privileges conferred by this ordinance are granted upon the condition that the same shall be at all times under the control and management of a board of directors, a majority of whom shall be *bona fide* residents of the city of Baltimore, and if at any time the said railway shall cease to be controlled by a board of directors, a majority of whom shall be residents of said city of Baltimore, the privileges hereby granted shall be revoked, and this ordinance shall

be null and void. Nothing herein shall be so construed as to prevent the city from withdrawing the privileges herein conferred. Revocable.

DRUID HILL PARK RAILWAY.

117. Should the Park Commission deem it expedient, they may, under the direction of the City Commissioner, lay down railway tracks on the North avenue, between Madison avenue extended and the Reisterstown road, with a view of facilitating the railway access to Druid Hill Park, subject to the same conditions as those established in the similar grant hereinbefore made to the president, managers and company of the Baltimore and Yorktown Turnpike Road, and the said commission may delegate this power for a period not exceeding five years to any party with whom they may agree for the construction of a railway track or tracks to or within the park. No. 37, s. 4, May 2, '63. Park Commission to lay railway tracks on North avenue, &c.

118. It shall be lawful for the persons with whom the Park Commission may contract to run the cars upon the route built by them, and commencing at the intersection of North avenue and Madison avenue extended, and ending at a point near the pavilion in Druid Hill Park, to charge the following rates of fare, viz: five cents for each person each way, and three cents for each child under twelve years of age each way. No. 39, June 14, '65. Route. Fare.

NOTE.—By 1861-'62, c. 258, John W. Randolph, William Chesnut, William H. Cathcart, Jonathan Brock and Ephraim Hoffman, and their associates, successors and assigns, were created a corporation and body politic, by the name and style of the City Park Railway Company, and by that name to have perpetual succession, and be able and capable in law to sue and be sued, to make and use a common seal, to ordain and pass by-laws and regulations necessary for conducting the affairs of the corporation, to acquire and hold all necessary real estate, and in general to have and exercise all such other corporate powers and faculties proper to effectuate the purpose of this act.

2. The object of the said corporation is to be the building, construction and working of a passenger railway in Baltimore county, from Druid Hill Park, to connect with the Baltimore City Passenger Railway Company at

BALTIMORE AND HALL SPRINGS RAILWAY.

No. 90, July 16, '72.
Tracks.

119. The Baltimore and Hall Springs Railway Company* is hereby authorized and empowered to lay down and construct single iron railway tracks, (with sidings at the points hereinafter specified, of the gauge of other passengers railways now in use in

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any or all of the different termini of said company's roads on the Northern avenue of said city.

3. The corporation hereby created is vested with all necessary power and authority to lay down, construct and to use and operate passenger railways, with double or single tracks, over the roads known as Madison avenue extended, Pennsylvania avenue, or any other road, made or to be made, between said Druid Hill Park and the Northern boundary of Baltimore city.

4. The capital stock of this corporation shall consist of three thousand shares of the par value of twenty dollars per share.

5. The said company shall for running the cars on said route, be entitled to charge no more than three cents a passenger for the trip between the said park and Northern avenue, and five cents for the round trip.

6. The City Park Railway Company, hereby incorporated, shall not be authorized by anything contained in this act to exercise banking privileges, or to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

Under this act the railway tracks of the Baltimore City Passenger Railway Company were extended in the spring of 1878, from North avenue to the entrance of Druid Hill Park on Madison avenue extended.

*The Baltimore and Hall Springs Railway Company was incorporated by the Act of 1870, c. 444. The fifth section thereof authorized the company to make and construct a railway, with single or double track and sidings, as they may deem expedient for the transportation of passengers, by horse power, from Baltimore city to Hall Springs, in Baltimore county, to connect with the Baltimore City Passenger Railway at the corner of Chew street and Central avenue, or such other place or places as may be deemed most advantageous to the interest of the company, and in like manner with the terminus of the said Baltimore City Passenger Railway on the Belair road, at or near the Baltimore Cemetery, by a road to be laid from said terminus to Hall Springs, on the Belair road or adjacent thereto, and crossing from the Belair road to the Baltimore and Harford turnpike, at a point near to Herring run. The act of 1872, c. 199, extended the time for completion of this road to April 13, 1875.

the city of Baltimore, and to run passenger cars thereon,) to be drawn by horses through and on the following named streets: commencing on the north boundary line on Harford avenue to Central avenue, thence southwardly on Central avenue to Madison street, thence on Madison street westwardly to Aisquith street, thence on Aisquith street southwardly to Fayette street, thence on Fayette street westwardly to North street, to connect with the Citizens' Passenger Railway at that point.

Ibid, s. 2.

120. The said railway tracks shall be laid down and constructed subject to the inspection of the City Commissioner, and in a manner receiving his approval, and so as not to impede or obstruct the free flow of water in the streets or gutters, and the crossings of the gutters by the said railway tracks shall be covered in such manner and to such extent as the City Commissioner may direct.

Manner in which tracks shall be laid.

Ibid, s. 3.

121. The said railway tracks shall be made to conform to the grades of the several streets occupied by them, and in case the said grades of any of them shall hereafter be changed, the said company shall, at its own expense, make corresponding alterations of the said tracks, and the streets aforesaid, and through which the said tracks may be laid down, shall at all times be kept in proper repair, and free from snow and other obstructions at the expense of the said company, not only between the tracks but for two feet beyond the outer edge thereof.

Tracks to conform to grades of streets.

Free of snow, &c.

Ibid, s. 4.

122. No person shall be allowed to use street vehicles on the aforesaid tracks of railway to the hindrance and delay of the cars, and all persons who shall upon the call or signal of any driver, conductor, or other persons in charge of a car passing on its route, wilfully neglect or refuse to vacate said track shall be subject to a fine of not more than ten, nor less than five dollars, to be collected according to the provisions of Article XIX relating to Fines.

Tracks not to be used by vehicles.

Penalty.

Ibid, s. 5.

123. The fare for the transporation of a single passenger from terminus to terminus within the city limits on the line of

Fare.

the railway by this ordinance authorized to be constructed, shall not exceed the sum of six cents; and it shall be the duty of the president or other proper officer of the said Baltimore and Hall Springs Railway Company to present quarterly to the City Register a statement of the gross receipts accruing on the passenger travel on the line of said railway from terminus to terminus within the limits of the said city, and to accompany said statement with the affidavit of the person making the same as to its correctness, and to pay at the same time to the City Register, for the use of the park fund, one-fifth [now twelve *per centum*,] of the said gross receipts, and for each car in daily use on the route of the said railway, the said company shall pay annually to the City Comptroller a license of twenty dollars, [now five,] and the cars of said railway, and the running of the same, shall be subject to all the police regulations of the city of Baltimore made and provided in such cases.

Quarterly statement to City Register.

Tax.

License.

Ibid, s. 6.

124. The said company shall commence the work of laying down and constructing the railway tracks aforesaid within ninety days, and shall complete the said work and commence the regular running of cars within one year from and after the approval of this ordinance, otherwise the rights and privileges herein granted shall be null and void.

Completion of work.

Ibid, s. 7.

125. The said company is authorized and empowered to construct two turn-outs or sidings upon the line of said route, the one to be located upon Aisquith street, at a point between Fayette and Madison streets, and the other upon Central avenue, between Madison street and Harford avenue.

Turn-outs or sidings.

Ibid, s. 8.

126. The said company shall, before commencing the work of constructing the railway tracks as aforesaid, file with the City Comptroller a bond to the Mayor and City Council of Baltimore, to be approved by him, in the sum of twenty thousand dollars, conditioned for the faithful performance of all the obligations and liabilities contained in this ordinance.

Bond.

127. The company is hereby authorized and empowered to construct a turn-out or siding upon the line of the route, authorized by the preceding ordinance, to wit, at the junction of Central avenue with Harford avenue and upon Fayette street between Holliday and North streets. No. 107, Oct. 18, '72. Turn-outs or sidings.

128. The said sidings shall be constructed subject to the provisions as to drainage, repairs, and construction, to the approval of the City Commissioner, as embodied in the preceding ordinance. Ibid, s. 2. How constructed.

129. The Baltimore and Hall Springs Railway Company is relieved from its accrued indebteness to the city of Baltimore upon transfering $6,243\frac{97}{100}$ to the City Register for account of the city of Baltimore, the amount of said indebtedness to December 31, 1873, in the shares of the capital stock of said company; and from the first of January, 1874, until the first of January, 1876, the said company is relieved entirely from the payment of the park tax, and thereafter the said company is required to pay to the City Register out of its gross receipts, on its city line, such proportion of park tax as may then be required by existing laws. (See p. 767, *ante*.) No. 47, June 9, '74. Indebtedness to city. Park tax after Jan. 1, '76.

130. The said company is hereby authorized and empowered to put down four additional switches, in connection with their track, at such points on Harford avenue, Canal street or Central avenue, Aisquith street and Fayette street, as shall be designated by the City Commissioner, said tracks or switches to be laid down under the supervision of the City Commissioner, provided that no additional switch shall be laid down on Fayette street, between Gay and North streets. No. 101, May 25, '75. Switches on Harford avenue, Central avenue, Aisquith street, &c.

BALTIMORE AND HERRING RUN RAILROAD.

131. By ordinance No. 99, Nov. 1, 1873, the persons named therein and others were authorized and empowered to lay down and construct iron railway tracks, single or double, with turntables at either end, as hereinafter specified, and of the gauge No. 99, Nov. 1, '73. Tracks.

of other passenger railways now in use in the city of Baltimore, and to run passenger cars thereon, to be drawn by horses, through and on the following named streets. That is to say, commencing at the eastern limits of the city, at Baltimore street, and running thence westerly on Baltimore street to Gist street, thence northerly on Gist street to Orleans street, thence westerly on Orleans street to Forrest street, thence southerly on Forrest street to Douglas street, thence westerly on Douglas street to Chesnut street.

Ibid, s. 2.

Manner in which tracks shall be laid

132. The said railway track shall be laid down and constructed subject to the inspection of the City Commissioner, and in a manner receiving his approval, and so as not to impede or obstruct the free flow of water in the streets or gutters, and the crossings of the gutters by the said railway tracks shall be covered in such manner and to such extent as the City Commissioner may direct; provided, that in the event of the non-compliance on the part of the said railroad company with the provisions of this section, the said railroad company shall forfeit and pay a fine of not less than ten dollars nor more than twenty dollars, for every gutter not covered as herein provided, or for the obstruction of the free flow of water in every gutter so covered, and to forfeit and pay an additional fine of not less than five nor more than ten dollars for each and every day such non-compliance may continue to exist, the said fines to be recovered as other fines are recoverable.

Proviso.

Penalty.

Ibid, s. 3.

Tracks to conform to grades of streets.

133. The said railway tracks shall be made to conform to the grades of the several streets occupied by them, and in case the said grades or any of them shall hereafter be changed, the said company shall, at its own expense, make corresponding alterations of the said tracks, and the streets aforesaid, and through which the said tracks may be laid down, shall at all times be kept in proper repair, and free from snow and other obstructions, at the expense of the said company, not only between the tracks, but for two feet beyond the outer edge thereof.

Free of snow, &c.

134. No person shall be allowed to use street vehicles on the aforesaid tracks of railway to the hindrance and delay of the cars, and all persons who shall upon the call or signal of any driver, conductor, or other person in charge of a car passing on its route, wilfully neglect or refuse to vacate said tracks, shall be subject to a fine of not more than ten nor less than five dollars, to be collected according to the provisions of Article XIX, relating to Fines. Ibid, s. 4. Tracks not to be used by vehicles. Penalty.

135. The fare for transportation of a single passenger from terminus to terminus, within the city limits, on the line of the railway by this ordinance authorized to be constructed, shall not exceed the sum of six cents, and it shall be the duty of the president or other proper officer of the said Baltimore and Herring Run Railroad Company to present quarterly to the City Register a statement of the gross receipts accruing on the passenger travel on the line of said railway from terminus to terminus, within the limits of said city, and to accompany said statement with the affidavit of the person making the same as to its correctness, and to pay at the same time to the City Register for the use of the park fund, one-fifth [now twelve *per centum*, see p. 767 *ante*] of said gross receipts, and for each car in daily use on the route of said railway, the said company shall pay annually to the City Comptroller a license of twenty dollars [now five, see p. 768 *ante*] and the cars of said railway and the running of the same shall be subject to all the police regulations of the city of Baltimore, made and provided in such cases. Ibid, s. 5. Fare. Quarterly statement to City Register. Tax. License.

136. The said company shall commence the work of laying down and constructing the railway tracks aforesaid within ninety days, and shall complete the said work and commence the regular running of cars within one year from and after the approval of this ordinance, otherwise the rights and privileges herein granted shall be null and void. Ibid, s. 6. Completion of work.

Ibid, s. 7.

Bond.

137. The said company shall, before commencing the work of constructing the railway tracks as aforesaid, file with the City Comptroller a bond to the Mayor and City Council of Baltimore, to be approved by him, in the sum of twenty thousand dollars as a consideration for the faithful performance of all obligations and liabilities contained in this ordinance.

BALTIMORE AND RANDALLSTOWN RAILROAD.

No. 68, May 24, '72.

Tracks.

138. The Baltimore and Randallstown Railroad Company* is hereby authorized and empowered to lay down and construct a single iron railway track with necessary sidings, and to run passenger cars thereon drawn by horses through and on the following avenues and streets; commencing at a point on Fulton avenue where the Baltimore and Liberty Turnpike Company crosses the same, and running thence northwardly on Fulton avenue to its intersection with Baker street, and thence eastwardly on Baker street to Pennsylvania avenue.

Ibid, s. 2.

Track to be laid subject to approval of City Commissioner.

139. The said railway track shall be laid down and constructed subject to the inspection of the City Commissioner and in a manner receiving his approval, and so as not to impede or obstruct the free flow of water in the streets or gutters, and the crossings of the gutters by the said railway track shall be covered in such manner and to such extent as the City Commissioner may direct.

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*The subscription book of this railroad incorporated as the "Baltimore and Randallstown Railroad," was headed as follows: "Baltimore and Randallstown Railroad." We, the undersigned, whose names are hereto affixed do hereby agree to subscribe to the amount of stock set opposite our names in the capital stock of the Baltimore and Randallstown *Horse* Railroad, &c. Held: that the introduction of the additional word in the name could not mislead a subscriber, and that the subscription would have been valid, even if the true name had been omitted from the commencement of the heading. *Oler* v. *B. & R. R.*, 41 Md. 583. See this case as to incorporating horse railways under act of 1870, c. 476, amended by 1876, c. 242, authorizing construction of railroads.

140. The said railway tracks shall be made to conform to the grade of the several streets occupied by them, and in case said grades or any of them shall hereafter be changed, the said company shall at its own expense make corresponding alterations of the said tracks; and the streets aforesaid through which the said tracks shall be laid down shall at all times be kept paved and in proper repair and free from snow and other obstruction, at the expense of the said company, between the tracks and for two feet beyond the outer edge thereof.

Ibid, s. 3.

To correspond to the grade of streets.

Streets to be kept paved and in proper repair

Free from snow, &c.

141. No person shall be allowed to use street vehicles on the aforesaid tracks of railway to the hindrance and delay of the cars, and all persons who shall, upon the call or sign of any driver, conductor or other person in charge of a car passing upon its route, wilfully neglect or refuse to vacate said tracks, shall be subject to a fine of not more than ten nor less than five dollars. Said railway shall be subject to the police regulations of the city of Baltimore, made and provided for in such cases, and shall be subject to removal by receiving six months' notice from the Mayor.

Ibid, ss. 4, 5.

Street vehicles prohibited from using track.

Penalty.

Police regulations.

BALTIMORE AND OHIO RAILROAD.

142. Ordinance No. 28, March 28, 1829, enacted the following: the president and directors of the Baltimore and Ohio Railroad Company are hereby authorized to introduce and construct said road from the first stone, at the western boundary of the city, to Baltimore street, along or near to the line as laid down by the board of engineers, in their report, dated January 31, 1829, a copy of which report, with the seal of the said company, and the plats and documents accompanying the same, shall be filed in the Register's office; provided, the president and directors in the construction of said road shall not deviate from the elevation of sixty-six feet, as designated by said report.*

No. 28, Mar. 28, '29.

Authorized to introduce railroad into city.

* This ordinance recites that the president and directors of the Baltimore

No. 18, s. 1, Apr. 4, '31. From depot to city property east of Jones' falls.

143. The Baltimore and Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or of both, from the depot [removed] on Pratt street, and thence along the centre of Pratt street to President street to the property of the city on the east side of Jones' Falls; provided, that said track or railway be completed before October 1, 1832.*

Ibid s. 2. On Camden street.

144. The Baltimore and Ohio Railroad Company are hereby also authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or both,

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and Ohio Railroad Company, have, by a communication dated February 2d, and a resolution of February 7th, 1829, requested permission of this corporation to introduce the main stem of the said road within the limits of the city, and the said president and directors having also furnished a copy of the report of the board of engineers of said company to the president and directors, dated January 31st, 1829, in which the route of the said road is laid down from the first stone to the Belair road.

1827, c. 209, enacted that it shall and may be lawful for the president and directors of the said company to begin the said railroad at any point within the said city of Baltimore, which they may think proper, and to make and extend the said road from such point to the outer limits of the said city; and that the same powers, rights and privileges shall be and are hereby granted to the aforesaid company, within the limits of the city of Baltimore, in relation to, and in connection with, the said railroad within the said city, as are granted to them in relation to, and in connection with, the said railroad in any other part of the State; and the said company shall, within the said city, be subject to the same obligations that are imposed on them in other parts of the State, by the original act to which this is a supplement, (1826, c. 123;) provided, always, that the said road to be constructed within the said city, shall be so constructed and made as not to tnterfere with the free use and traveling on said streets; and provided, also, that the said railroad shall not pass through any of the streets, lanes or alleys of said city, without the consent of the Mayor and City Council of Baltimore being first had and obtained.

*By ordinance No. 57, June 11th, 1847, the Baltimore and Ohio Railroad Company was released from the obligation in the above section, to continue the use of stone in the repairs or reconstruction of the company's tracks within the city—and permission was given to use timber in the repairs or reconstruction of said tracks; provided that the said tracks be graded according to resolution No. 122, approved April 22d, 1846.

along the centre of Camden street, from the west of Light street to the centre of Paca street, or along any part of it which they may deem necessary; and to continue such track, if they shall find it convenient and practicable so to do, from the centre of Paca street westwardly along the centre of or across any street or streets, or other ground on or over which the Mayor and City Council may lawfully grant such permission, to either of the depots of the said company, near Pratt street. And the said company may also by similar tracks along the centre of Charles street, Howard street and Paca street, or any of them, connect the tracks on Pratt street and Camden street, at any one or more places as they may find it to be necessary.*

Pratt and Camden streets connected.

145. The said Baltimore and Ohio Railroad Company are hereby further authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or both, from the intersection of Pratt and Green streets, along the centre of Green street to Franklin street, thence along Franklin to Eutaw street, thence southwardly along Eutaw to Camden street.

Ibid, s. 3.

On Green to Franklin street, &c.

446. Should the said Baltimore and Ohio Railroad Company fail to construct the track down Pratt street to the city property, at the time specified in section 143, then all the rights and privileges granted by this ordinance to the Baltimore and Ohio Railroad Company shall cease and be of no avail.†

Ibid, s. 4.

The company not complying.

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*No. 6, April 3, 1850, repealed so much of the second section of the ordinance as authorized a track in Camden street; provided, however, that should a majority of the property owners on said street desire a track, the same to be constructed by the said Baltimore and Ohio Railroad Company.

For other streets than above mentioned, see 1831, ord. No. 34; 1832, res. No. 33; 1832, ord. No. 41, ord. No. 42; 1833, ord. No. 26; 1836, ord. No. 42; 1737, ord. No. 36, No. 41; 1838, ord. No. 1, No. 7; 1843, ord. No. 9; 1845, ord. No. 21, No. 37.

†By Res. No. 33, Mar. 31, '32, it was provided that the track of railway authorized to be laid down and constructed, by virtue of the provisions of this ordinance, might be made of wood from Stiles street to the city property,

Ibid, s. 5. 147. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down a single track of railway, of iron or stone, or both, commencing with the same at the intersection of Pratt and Howard streets, north on Howard street to Liberty street, and along on Liberty street to the centre of Baltimore street, and east along the centre of Baltimore street to Exeter street, and by said street to the city property on the east of Jones' Falls; or the railroad may, at their option, commence a track of railway at the intersection of Eutaw and Baltimore streets, thence down the centre of Baltimore street to Exeter, and by said street to the city property on the east of Jones' Falls; provided, that whenever the said company shall commence the said track, either from Pratt or Eutaw street, they shall complete the same throughout its whole extent, as described in this section, within three years from said commencement.

On Howard and Liberty to Baltimore street.

On Baltimore street to city property east of Jones' falls.

Proviso.

Track completed.

Ibid, s. 6. 148. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down a single track of railway, of iron or stone, or of both, commencing at the intersection of Baltimore and High streets, thence along the centre of High street to the centre of Hillen street, thence to the centre of Exeter street, and down the centre of said street till it unites with the railway at the intersection of Baltimore and Exeter streets.

On High, Hillen and Exeter streets.

Ibid, s. 7 149. The Baltimore and Ohio Railroad Company shall construct as many turn-outs at the intersections of such streets, and also along the line of the railway hereby authorized, as this corporation may at any time require or authorize.

Turn-outs.

Ibid, s. 8. 150. All and every car, wagon or other vehicle, which may pass on any of the railways authorized to be constructed by

Cars drawn by animal power.

on the east side of Jones' Falls, and the time limited by the said ordinance for completing the said track to the said property, was extended to three months after President street should be graded from Stiles street to the said property.

this ordinance, shall be drawn by animal power, and not drawn or propelled by steam; and shall be at a rate not exceeding three miles per hour, for wagons or other vehicles of burden; and for passenger cars, at such rate as may be approved of from time to time by the Mayor and City Council, under a penalty of five dollars for each offence, to be sued for and recovered as other fines and forfeitures are recovered. Speed regulated. Penalty.

151. The rate at which passenger cars may pass on any track or railways shall not, until otherwise permitted, exceed six miles per hour, under the penalty imposed by the preceding section. Ibid, s. 9, Passenger cars speed.

152. If at any time after the construction of the aforesaid railways, by the president and directors of the Baltimore and Ohio Railroad Company, it shall appear to the Mayor and City Council of Baltimore, that the said railways, or any part thereof, shall constitute an obstruction or impediment to the ordinary use of any street or streets, of which the said Mayor and City Council shall be the sole judges, the directors aforesaid shall, on the requisition of the Mayor, either forthwith provide a remedy for the same satisfactory to the said Mayor and City Council; or if they fail to find such remedy, they shall, within one month after receiving such requisition, proceed to remove such obstruction or impediment, and to replace the street or streets in the same condition in which they were before the railway was laid down; and should the said president and directors decline or neglect to obey the requisition of the Mayor, the Mayor, after having given one month's notice, shall cause the obstructions or impediments to be removed, and the original condition of the street or streets restored at the expense of the said president and directors. Ibid, s. 10. Rails and obstructions. When may be removed. Notice.

153. The right to connect tracks of railways within the city with the main stem of the Baltimore and Ohio railroad, or on any of its branches, as may be deemed expedient, is hereby reserved to and by the Mayor and City Council of Ibid, s. 11. To construct railways within city reserved.

Baltimore; and this corporation shall also have the right of
Collecting toll. charging and collecting a toll upon all cars, wagons and vehicles, which may pass upon any track or tracks so constructed.

Ibid, s. 12. 154. The right to pass and enforce all such ordinances as
Railway to be kept in repair. may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made within the city by the Baltimore and Ohio Railroad Company, maintained and kept in good order and repair, at the cost and charge of the said company, is hereby reserved to the Mayor and City Council of Baltimore.*

No. 34, Apr. 25, '31. 155. The president and directors of the Baltimore and
To lay rails in certain streets. Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or wood, or of all or either of them, from the railroad or railway of the Baltimore and Ohio Railroad Company, at the intersection of Pratt and Cove streets, or at the intersection of Cove and Portland streets; thence northerly along the centre of Cove street to Saratoga street; thence eastwardly along the centre of Saratoga street to Chatsworth street; thence northerly along the centre of Chatsworth street to its intersection with George and Biddle streets; thence easterly along the centre of Biddle street to the property of the city known by the name of the old Almshouse lot; and with the consent of the Baltimore and Susquehanna Railroad Company first had and obtained, to unite the same with the Baltimore and Susquehanna Railroad.

Ibid, s. 2. 156. All limitations, reservations, stipulations, restrictions
How governed. and regulations contained in ordinance No. 18, April 4, 1831, [Sec. 143, &c.,] and applicable to any of the permissions

*By Res. No. 231, May 9, '67, the City Commissioner was directed to notify the proper officers of the Baltimore and Ohio Railroad Company to have the track formed by stone on south Paca street, between Baltimore and Pratt streets, removed in accordance with this ordinance, sec. 152.

granted thereby, or to any of the railways mentioned therein, or to the use of or travel upon the same, shall extend and apply to the permission given and the railway authorized by this ordinance, and to the use of and travel on the same, as fully as if they were here at large repeated and set out, except that the railway hereby authorized may be of wood, and that there shall be no time limited for the completion thereof.

No. 41, Apr. 6, '32.
City Commissioner's duty in respect to railways connecting with main stem.

157. Whenever the City Commissioner shall receive an application, in writing, to that effect from the owner or owners of the major part in extent of front feet of the lots fronting on each side of the following described streets, to wit: Paca street, north of Pratt street; Howard* street, north of Pratt street; in Green street, from Pratt street to Franklin street; along said street to Eutaw, and in Green street, south, to Columbia street; Franklin street, between Howard and Eutaw

*By ordinance No. 39, June 10, 1854, it was provided that: Whenever a majority of the property holders, proprietors of the railway track on Howard street, between Pratt and Franklin streets, should convey to the Mayor and City Council of Baltimore all right and title they held or ever possessed in said railway track, constructed under an ordinance approved April 6th, 1832, No. 41, (secs. 157–163,) and when such conveyance, properly authenticated and approved by the City Counselor, have been deposited with the Register of the City, then the Baltimore and Ohio Railroad Company were authorized and empowered, with the authority of the Mayor, to take possession of the railway track, as aforesaid, to hold and enjoy the same as their property as fully as should any portion of their road, entitled to all the privileges and subject to all the penalties conferred and imposed on said company by its charter and the supplements thereto, and to any ordinances of the city of Baltimore, relating to railway tracks within the city limits; provided the said company reconstructed the railway track as aforesaid within six months from their acceptance of the same; the work of reconstruction to be done under the direction and supervision of the City Commissioner; and that in the event of the conveyance of the railway track as aforesaid, then and in that case said company should deliver tonnage to all persons doing business on the line of said track, coming from the road of said company, as was the custom; and to continue to deliver tonnage as aforesaid, on the same terms, and as long as said company should deliver tonnage in other parts of the city.

And by ordinance No. 12, April 4, 1862, the Baltimore and Ohio Railroad

streets; Baltimore street, between Paca and Eutaw streets; Eutaw street, between Franklin and Pratt streets; Patterson street; Cheapside street; Mill street; Cable street, from Patterson to Commerce street; Commerce street, south of Pratt street, or South street, south of Pratt street; or the owners of the major part in extent of front feet of the lots on the western and southern fronts of Bowly's wharf, he is hereby authorized and directed to contract with the Baltimore and Ohio Railroad Company, to slope down and construct a single track of branch railway of iron, or of stone, or of both, in any and every of the aforesaid streets, or parts of them, to which any such application may refer, in the same manner in which the main stem of the said railroad in Pratt street is now laid down and constructed; or if the said company should refuse to enter

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Company was authorized, under the superintendence of the City Commissioner, to remove the railroad track on Howard street, south of Franklin street, and to construct a new and substantial track in place thereof, of wood and iron, and to connect the Howard street track, south of Lee street, with the track of the said company in Ohio avenue, with the consent of the owner or owners of the property over which it might be necessary to pass in making such connection.

The said company was thereby authorized to use locomotive engines, propelled by steam, for the transmission, when absolutely necessary, of government freight, upon the railroad track between Bolton Depot and Camden Station, and upon the connection with the track in Ohio avenue, at a speed not exceeding four miles an hour; provided that the bell of the engine was rung during the passage thereof between the said points; and further, the use of steam, except for army purposes, was thereby restricted to the hours between eleven o'clock P. M. and sunrise, during which time the ringing of the bell of the engine should be dispensed with, and a man employed, whenever the train was in motion, during the day or at night, to precede it on horseback, for the purpose of keeping the track clear.

For every violation of any of the provisions of the preceding two sections, the said company to forfeit and pay twenty dollars, to be recovered before a justice of the peace of said city; and further, the owners and occupiers of property connected with the railway track on Howard street, not to be deprived of any rights or privileges existing and enjoyed at the time of the passage of this ordinance.

The railroad on Howard street, north of Baltimore street, was removed under a resolution of May, 1869.

into such contract, or the applicant should prefer it, the said commissioner may contract with any other person or persons, or company, to lay down and construct the said railways so applied for, provided they be constructed in the same manner as the said main stem is now constructed, and he is hereby authorized, in either case, under the superintendence of the Baltimore and Ohio Railroad Company, to fix and construct as many turn-outs or turn-abouts on the said main stem as may be necessary to connect the said main stem with the said branch railways, or from Pratt street along Light street wharf to Lee street.*

158. Whenever the City Commissioner shall have entered into any contract as aforesaid, it shall be his duty to assess the entire cost of any such track, and all the expenses incident to its construction, upon all the property fronting upon that part of either of the said streets in which it may be constructed, together with the commission of the City Collector, for collect-

Ibid, s. 2.

Mode of assessing expense of railway.

* This ordinance recites that it has always been the intention of the corporation to provide for the distribution of the trade coming upon the railroads, throughout the whole of the city, as improved, so far as it may be practicable; and that the Legislature have authorized and directed the Mayor and City Council to provide for the construction of railways throughout the city; and that the Baltimore and Ohio Railroad Company have, through their president, expressed their disposition to give every reasonable facility in their power to the extension of the trade of the Baltimore and Ohio Railroad along any line of branch railway which the city may authorize to be connected with their main stem; provided, that such railways be so constructed as to afford the same economy and facility for traveling as the main line of the road, and in such manner as not to occasion additional cost or inconvenience to the company.

Ordinance No. 25, April 9, 1832, provided: That whenever the City Commissioner should receive an application in writing to that effect, from the owner or owners of the major part in extent of front feet of the lots fronting on each side of the intersection of Green and Franklin streets, up Franklin street to Eutaw street, he was authorized and directed to contract with the Baltimore and Ohio Railroad Company to lay down and construct a single track of branch railway of iron, or of stone, or of both, in the same manner and on the same terms and conditions as is contained in the above ordinance.

ing the same; but in no case shall the said owners be charged for taking up the stone pavement and repairing the same to a greater extent in width than eleven feet.

Ibid, s. 3.

Of collecting such assessment.

159. The said commissioner shall first make out a correct list of the names of all the owners of said property fronting on each side of the said street or streets, or part of it, or them, and the amount to be assessed to every such owner or owners shall be in proportion to the number of front feet owned by him, her, or them, on the said street or part of a street; and the said list of names, together with the amount assessed to each, shall, without delay, be handed by him to the City Collector, who shall, as soon as practicable thereafter, collect the same, in the same manner in all respects as the city taxes are collected, and when collected pay the same to the Register of the City; and the said commissioner is hereby authorized, with the approbation of the Mayor, from time to time, to draw upon the Register for the amount of the said funds.

Ibid, s. 4.

Grade of streets, how altered.

160. Whenever it may be necessary or proper, in the opinion of the City Commissioner, to alter the grade of any of the said streets, or of any part or parts of any of them, he is hereby authorized and empowered to make the said alteration or alterations, provided an instrument or instruments of writing, to be approved by the City Solicitor, shall be first executed and filed in the Register's office, containing the assent of the owner or owners of a majority of front feet of the property to be affected by such alteration, and binding the said owners, or one or more of them, or any other person who may assume the responsibility, and whose solvency shall be approved by the Mayor, to pay the whole damages and cost of such alteration.

Ibid, s. 5.

Private railway authorized.

161. The owners of the property on the north side of Pratt street, south of Carpenter's alley, between Paca street and Green street, are hereby authorized to construct a track of

railway, subject in all respects, as far as may be, to the provisions of this ordinance, from the main stem of the Baltimore and Ohio railroad, opposite the said property, to the centre of a street forty feet wide, which they have proposed to lay out in said property, running, as designated on the accompanying plat, from the letter A to the letter B, provided the said new street be paved under the direction of the City Commissioner, conformably to the ordinances of the city, simultaneously with the construction of the said railway thereupon, and flagstones be placed across the said new street, where it will intersect Pratt street, at the sole expense of the said owners; and the said track of railway shall be connected with the said main stem, at a point immediately opposite the centre of said new street, by a turn-about; and for the purpose of designating the course and situation of the said new street, the accompanying plat shall be filed in the Register's office, and be deemed and considered a part of this ordinance.

Ibid, s. 6. Gutters not to be obstructed.

162. All the railways authorized to be made by this ordinance shall be so laid down and constructed as not to interrupt the free passage of the water in any gutters of the said streets, or of any other street; and the Mayor and City Council may remove any railway made in violation of this ordinance at the expense of the holders of the same property which was assessed for its construction.

Ibid, s. 7. Private railway authorized.

163. The owners of the lumber yard in Pratt street, occupied by A. G. Cole, Coates & Co., are hereby authorized to construct a railway from the said main stem, to and into the said lumber yard, subject, as far as may be, to all the general provisions of this ordinance. The tracks of the railway in Ellicott street and Hollingsworth street shall be hereafter considered and treated in the same manner, to all intents and purposes, as if they had been laid down and constructed under the provisions of this ordinance.

No. 48, s. 1, May 24, '53
What railways may be constructed.

164. Whenever the City Commissioner shall receive an application in writing to that effect, from the owner or owners of the major part in extent of front feet of the lots fronting on each side of Clement, River, Jackson, Belt, Great Hughes, Light, Hill and Lee streets, and any streets lying between either of them, or from the major part in extent of front feet of the lots fronting on each side of such part or parts of either of the said streets or intermediate streets through which it may be intended to make a branch railway from the Baltimore and Ohio Railroad, they are hereby authorized and directed to contract with the Baltimore and Ohio Railroad Company to lay down and construct a single track of branch railway, of iron and wood, in the same manner and on the same terms and conditions as are contained in the preceding ordinance; and if the said company shall refuse so to contract, the said Commissioner may contract with other persons, as is provided in said ordinance.

Ibid, s. 2.
Mayor may sign application.

165. The Mayor is hereby authorized and directed to sign for the city, in respect of any city property which may front on said streets or any of them, or any part of either of them, designed for the said branch railroad; provided the Mayor shall think the interest of the city will be promoted thereby.

Ibid, s. 3.
Railway may be laid otherwise than on a street.

166. In case the said commissioner shall deem it expedient to locate any such branch railroad, otherwise than on a street or streets, he shall be and is hereby authorized and directed so to do; provided he shall have previously obtained the consent of the holders of the property on which the same may be located, which consent may be given in perpetuity or for a term of years; and the Mayor is hereby authorized to agree for the city, in respect of any property belonging to the city, on which it may be proposed to locate any such branch of the line of any street.

Article XL.—Ordinances.

167. No such branch railroad provided for in this Act shall be carried through any part of any street which may pass through any portion of a ship-yard or manufacturing establishment, actually and necessarily in use, without the consent of the owner or owners, or lessee or lessees thereof; and provided further, that nothing herein contained shall withhold from the city the right to take up the same, whenever it may deem it necessary or for its interest to do so. Ibid, s. 4. Restrictions.

168. The Baltimore and Ohio Railroad Company is hereby authorized to introduce, construct and lay down a single track of railroad, of wood and iron, from the intersection of President and Aliceanna streets, eastwardly along Aliceanna street to Canal street, thence southwardly along Canal street to Lancaster street, thence westwardly along Lancaster street to Exeter street, thence northwardly along Exeter street to unite with the said rail track in Aliceanna street. No. 41, Apr. 7, '37. Baltimore and Ohio Railroad Company authorized to construct railway on Aliceanna and other streets.

169. Section 10 of ordinance No. 18, of 1831, (sec. 152 *ante*,) shall apply in every respect to the tracks of railroad hereby authorized to be constructed and laid down. Ibid, s. 2. How governed. Removal.

170. The Baltimore and Ohio Railroad Company is hereby authorized to construct and lay down and keep in repair a branch of their road, with one or two tracks, to some point on navigable water on the south side of the basin, within the limits of the city, between Hughes' quay and Fort McHenry; and in the location and construction of the same the said company shall be permitted to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided, that no grade of any street, already graded and paved, shall be altered or interfered with, except under the direction of the City Commissioner, so far as may be necessary in the laying of the rails on the same; and provided, that the whole be under such salutary regulations as the city authorities may, from time to time, prescribe; and provided No. 21, Apr. 19, '45. Baltimore and Ohio Railroad Company permitted to construct a branch of their road to the south side of the basin. Proviso.

also, that the moving power on said branch road does not exceed four miles per hour.

Ibid, s. 2.

What articles to be transported on said road.

Exempt from wharfage.

171. The articles to be transported upon said branch road, shall be confined to coal, iron, iron ore, stone, plaster, lime, and other earths and minerals; and all of the above described articles shall be exempted from wharfage, dockage, or any other charges on the part of the city, or on the part of the Baltimore and Ohio Railroad Company, except the port tonnage established by the law of Congress, for the term of twenty years, and for so much longer term as the Mayor and City Council shall at any time hereafter deem it proper to grant.

Ibid, s. 3.

Company may construct wharves.

172. The said company shall have power to construct, at the termination of said branch of their road on tide-water, such wharves as they may require for their own use; provided, the wharf property used belonging to the city does not exceed in extent two hundred front feet; and the said company shall have power to extend their said railroad upon said wharves out to such depth of water as may be required; provided, it shall not be extended to any point beyond the Port Warden's line, as now established.

Ibid, s. 4.

Company authorized to construct a branch road from Pratt street to any part of Fell's Point.

173. The Baltimore and Ohio Railroad Company is hereby authorized to construct and lay down, and keep in repair a branch of their road, with one track, from Pratt street down Concord street, or from Pratt street down the Falls avenue, or any other more practicable route, to the city block, or to the present Baltimore and Ohio Railroad Company's depot, by crossing the falls at or between Aliceanna and Pratt streets, and from thence, with the privilege of continuing east along Aliceanna street and Wilk street to Canton, or to any private wharf or wharves on Fell's Point, by the consent of the proprietors thereof.

Ibid, s. 5.

174. The following articles that may be transported upon the said branch road, granted by the preceding section on any

road now laid down in that direction, when used by the Baltimore and Ohio Railroad Company, viz: coal, iron, iron ore, stone, plaster, lime and other earths, and all other minerals, shall be exempted from wharfage, dockage, or any other charges on the part of the city, except the port tonnage established by the law of Congress, and on the part of the Baltimore and Ohio Railroad Company, except the charges paid to other companies, for the term of twenty years, and for so much longer term as the Mayor and City Council shall, at any time thereafter, deem it proper to grant. The Baltimore and Ohio Railroad Company is authorized to transport over the tracks herein named all articles of trade and merchandise whatsoever, and such articles only as are herein specified, are allowed to be shipped free from charge, as specified in this ordinance.

What articles exempted from wharfage.

No. 37, May 2, '45. Articles of transportation, &c.

175. All the powers and privileges granted by sections 170 and 171 shall be extended to the Baltimore and Ohio Railroad Company on any track now laid down, or on any branch road that may be hereafter laid down by this act, or on any road now laid down in that direction, when used by the Baltimore and Ohio Railroad Company, east of Mount Clare depot; subject, however, to the same salutary regulations by the city authorities, as prescribed by section 170; provided, that the company does not occupy any greater space of the city wharf at the city block than may be equal in width or front to the lots now occupied by the company under deed from the city, on Lancaster street, free of wharfage, on the articles specified by the preceding section; provided, also, that the steam power over the railway tracks down Pratt street to the city block be used between the hours of nine at night and five in the morning, from the first of November till the first of April, and between the hours of nine at night and four in the morning, from the first of April to the first of November, and a man shall be required to walk in advance of the steam engine in passing through the streets on all occasions.

No. 21, s. 6, '45. Privileges granted to said company subject to salutary regulations.

Proviso.

Steam engine.

Ibid, s. 7.

Damages to property, life, &c.

176. The Baltimore and Ohio Railroad Company shall be held responsible for all damages done to property in the laying down of the rails contemplated to be laid down by virtue of this ordinance; and they shall also be responsible for all damages done to the life or limbs or property of others, caused by the passage of their locomotive or locomotives through the streets of the city, when resulting from the negligence of their agents.

No. 38, s. 1, May 18, '60.

B. & O. R. R. authorized to lay single track on certain streets.

177. The Baltimore and Ohio Railroad Company is hereby authorized and empowered to lay down and keep in repair a single track of railway from the Harford run along the bed of Aliceanna street to Caroline street; thence along the bed of Caroline street to Thames street; thence westwardly to Philpot street; thence to Point street, and from the intersection of Caroline and Thames streets eastwardly along Thames street to Fell street, thence to the water, and from the intersection of Fell and Wolf streets, along the bed of Wolf street to Canton avenue; provided the consent of a majority of property holders along the lines of said streets shall have been first obtained.

Proviso.

Ibid, s. 2.

Street grades not to be altered.

178. In the laying down of the tracks provided for in the above section, no grade of any street, already graded and paved, shall be altered or interfered with, except under the direction of the City Commissioner, so far as may be necessary in the laying of the rails of the same, and the whole be under such salutary regulations as the city authorities may from time to time prescribe.

No. 101, Oct. 18, '60.

Track on Concord street.

179. The Baltimore and Ohio Railroad Company is hereby authorized to introduce, construct and lay down a single track or railroad of wood and iron from the intersection of Pratt and Concord streets, through Concord street to the south side of the Fish Market space; the work to be done to the satisfaction of and under the superintendence of the City

Commissioner; provided, that the consent of the owners or a major part in extent of front feet of the lots fronting on each side of any street through which said track is proposed to be extended shall be first obtained in writing and deposited with the City Register. Proviso.

No. 72, May 18, '64. Authorized to change curves at President and Howard streets.

180. The Baltimore and Ohio Railroad Company is hereby authorized to change the location of the curves at President street and Howard street, in the track connecting the station of the Philadelphia, Wilmington and Baltimore Railroad with the Camden station of the Baltimore and Ohio railroad, so as to enlarge the radii of curviture thereof, by laying down a continuous curve of the largest radii which can be obtained, without encroaching on the building line of other property than that which may be owned by the company; provided, that in crossing the foot-ways in front of or on either side of the company's property, the inside rail of the track shall not be laid nearer than ten feet to the building line of other than the company's property. Proviso.

No. 6, Mar. 20, '67. Railroad track on S. Paca st.

181. The consent of the Mayor and City Council is hereby given to the Baltimore and Ohio Railroad Company to lay the road which they are authorized to construct under the act of 1866, c. 154, along the length of south Paca street extended; commencing for the same at the end of the tangent at Clare street, and ending at the boundary of the city at Gwynn's falls; said railway track to be laid under the supervision and direction of the City Commissioner, in such manner as not to obstruct the drainage of adjacent land, or interfere with the proper grade of South Paca street when extended.

Ibid, s. 2. Not to occupy more than 24 feet width.

182. The consent given by this ordinance shall not be construed to authorize or permit the Baltimore and Ohio Railroad Company to occupy more than 24 feet in width of the bed of said street, excepting so much of said street as will be required for placing a bridge over Gwynn's falls.

No. 22, Apl. 10, '68.
Railroad track on S. Charles street.

183. The president and directors of the Baltimore and Ohio Railroad Company are hereby authorized and permitted to connect, continue, construct and lay down a railroad track on south Charles street, from Camden street to Conway street, and from Charles street down Conway street to Light street;

Proviso.

provided said railroad track shall be removed when required by the Mayor and City Council of Baltimore, upon giving six months' notice of said intention.*

No. 52, s. 1, July 17, '69.
Branch of road.

184. The same authority to lay down and keep in repair a branch of their road on the south side of the basin that is given to the Baltimore and Ohio Railroad Company, in an ordinance passed at the annual session of 1845, and a supplement to the same passed at the session of 1845, [sec. 170, &c., *ante*,] is hereby granted to the Baltimore and Ohio Railroad Company, with reference to a branch with one or two tracks from a point on the centre line of Wells street, where the Locust Point branch of said road diverges from the centre line of said street, thence easterly on the line of Wells street to Claggett street, connecting said Wells and Claggett streets by a suitable curve, thence southeasterly on Claggett street to the northwest side of Stuart street, and thence easterly and northerly by a curved street, as in process of condemnation [by ordinance No. 53, June 17, 1869,] to the centre of Neal street, and thence northeasterly on the line of Neal street, as laid down on Popleton's plat, to the northeast side of Fort avenue to a con-

* By act of 1868, c. 284, the Baltimore and Ohio Railroad Company was authorized, with the consent of the Mayor and City Council of Baltimore first had and obtained, to lay a single track connecting with the track at the corner of Charles and Camden streets, in the city of Baltimore, and thence down Charles street to Conway street, and thence along Conway street to Light street; said track to be subject as to its location, construction and use, to the same authority and control as other tracks or branches of said railroad laid on the streets of said city; provided, that all cars bringing tobacco to the city of Baltimore on any line of railroad, connecting through any streets of said city with the track of the Baltimore and Ohio railroad should be allowed the free use of the track authorized by this act.

nection with the tracks of the Baltimore and Ohio Railroad Company as there situate, and to the tide water on the northwest branch of the Patapsco river, with a view to a connection by water with the Philadelphia, Wilmington and Baltimore Railroad.

185. All restrictions contained in the ordinance to which this is a supplement upon the privileges therein granted shall be held to apply to the privileges hereby granted. Ibid, s. 2. Restrictions.

186. Whenever, in the opinion of the Mayor and City Council, it shall be necessary or proper to change the grade of any street or streets through which the track of the Baltimore and Ohio Railroad Company may run by virtue of the provisions of this ordinance, the same shall be done at the cost and expense of the said company. Ibid, s. 3. Grades of streets.

187. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track hereafter to be made within the city by the Baltimore and Ohio Railroad Company kept in good order and repair, or removed at the cost and charge of the said company, is hereby reserved to the Mayor and City Council of Baltimore. Ibid, s 4. Reservations to city.

188. The Baltimore and Ohio Railroad Company is hereby authorized to lay down and keep in repair a single track of railway, from a point on the line of its track on Wells street, between Henry and Johnson streets, and running thence by a curved line over the property of said company to Johnson street, and thence along the bed of Johnson street to Donaldson street, or to a point near thereto on the eastern side of Johnson street. No. 45, June 8, '74. Additional track.

189. Permission is hereby granted to the Baltimore and Ohio Railroad Company to place a switch on Marriott street, near Cookse street, and to lay down sidings across the Baltimore and Ohio Railroad Company's property and Towson Resolution No. 198, Apl. 10, '73. Permission to place switch, &c

street, and running into the property of the Baltimore and Ohio Railroad Company east of Towson street and adjacent to the European wharves, the same to be done at the company's expense.

Authorized to change the grade of Fort avenue.

190. The Baltimore and Ohio Railroad Company is hereby authorized to change the grade of Fort avenue, from that authorized by existing ordinances, by extending the level of said avenue from a point fifty feet west of Neal street to a point on the west side of Armstrong alley, thence by a uniform grade to a point fifty-one feet nine inches westerly from the west side of Harper street, being a point one hundred and three feet three inches to the eastward of David alley, the said avenue being bounded for the entire distance by the property of the Baltimore and Ohio Railroad Company, provided the expense of said change of grade shall be borne exclusively by the said railroad company.

Expense.

NOTE.—To entitle the plaintiff in an action against a railroad company to recover damages for injuries sustained by him in being caught between two cars of the defendant, while he was attempting to cross a street, it must be shown that such injuries were directly caused by the want of ordinary care and prudence on the part of the defendant, and that they could not have been avoided by the exercise of reasonable care and caution on the part of the plaintiff. If the plaintiff exercised reasonable care, though he may have been guilty of some negligence or want of caution, he is still entitled to recover for any injury sustained in consequence of the defendant's negligence. *Baltimore and Ohio Railroad Company* v. *Fitzpatrick*, 35 Md. 32, and 36 Md. 619.

The owner of a lot of ground fronting on a public street suffered a railroad company, which had constructed one track on said street, to lay down and complete, at considerable expense, two additional tracks thereon, and made no complaint and interposed no objection during the progress and construction of the work, but acquiesced therein. Ten years after the completion of the two additional tracks, the owner of the lot filed a bill in equity, asking that the railroad company might be restrained from using or maintaining more than two tracks, upon the ground that the use of the three tracks was an obstruction of his right of way over said street, and had done and was doing him an irreparable injury, for which he had no adequate remedy at law. Held: that the complainant had not used due diligence in making his

BALTIMORE AND POTOMAC RAILROAD COMPANY.

191. The Baltimore and Potomac Railroad Company is hereby authorized, in the construction within the limits of the city of Baltimore of the railroad, which under its charter it is authorized to make and maintain, to locate and construct the same along or across such parts of such streets of said city of Baltimore as are hereinafter named, that is to say: from some point on the line of the Northern Central Railway as newly located, and running thence in a westerly direction across Cathedral street to a point on North avenue east of the Northern Central Railway, as first located, and thence, under the centre of North avenue, to a point between McMechen and John streets, and thence by a curved line

No. 26, s. 1, May 29, '69.

Authority to construct railway in city.

In what streets.

application, and was, therefore, not entitled to an injunction. *Baltimore and Ohio Railroad Company* v. *Strauss*, 37 Md. 237.

Between six and seven o'clock in the evening, in the month of January, 1871, the Baltimore and Ohio Railroad Company, by its agents, was engaged in making up a train of freight cars on the line of Howard street, north and south of Camden street, preparatory to its leaving the city of Baltimore. The engine was attached to the south end of the train, some distance below Camden street, and was backing the cars up Howard street, to couple with the cars north of Camden street. A person being at Camden station started to go to the Fountain Hotel, on the north side of Camden street, a short distance from the corner of Howard street. On reaching the corner of Howard and Camden streets he found the crossing blocked up by the cars as above described; but instead of waiting until the train had moved, or walking up to Pratt street, a distance of a square, when he could have crossed without risk, he attempted, although it was dark, and without looking or inquiring whether an engine was attached to the train, to climb over the platform of the car, and thus cross to the opposite side of the street. While in the act of pulling himself up by the handle attached to the car, with one foot on the platform and the other hanging down, the train suddenly moved, and his leg was caught and crushed between the two cars. In an action by the injured party against the railroad company to recover damages, it was held that the attempt of the plaintiff to get on the platform of the car under the circumstances, was such an act of carelessness as amounted in law to contributory negligence, and disentitled him to recover. *Lewis* v. *Baltimore and Ohio Railroad Company*, 38 Md. 588.

through and under the intervening property, to the intersection of John and Wilson streets; thence, under John street, at said intersection and along the centre of Wilson street, from the northeast side of John street to the termination of said Wilson street, at Pennsylvania avenue; across Pennsylvania avenue, at its intersection with Wilson street; across Fremont street, at or near its intersection with Winchester street; along Winchester street, as at present located, from Fremont street to Gilmor street, and also along any extension of Winchester street, westwardly of Gilmor street, in case Winchester street should be extended westwardly of Gilmor street, on a line with said Winchester street, as it is now located, east of Gilmor street; and also across Gilmor, Mount, Fulton, Monroe, Payson and Pulaski streets, and all the intervening alleys running parallel therewith at some point on said streets and alleys between Cook street on the north and Townsend street on the south; and also across Winchester, Tenant and Mosher streets, and all intervening alleys running parallel therewith, at some point on said streets, between Fulton street and the western boundary line of the city; and the said company is also authorized to construct its road under North avenue, from a point between John street and McMechen, and thence under the intervening property in Baltimore county around the Mount Royal Reservoir, to a point on the Northern Central Railway, as newly located north of North avenue in Baltimore county, so as to make a northern connection with said Northern Central Railway; said last mentioned connection to be made through a continuous and covered tunnel from North avenue northwesterly to the said Northern Central Railway.

Ibid, s. 2. Tunnels.

192. The said Baltimore and Potomac Railroad Company in constructing the railroad along or across the said North avenue, John street, Wilson street, Pennsylvania avenue, Fremont street and Winchester street, from Fremont street

to Fulton street, and also across Gilmor, Mount* and Fulton streets, and all intervening alleys, shall construct the same in a tunnel to be carried under the said streets; and shall, moreover, in constructing the said railroad along or across any of the other streets or alleys mentioned in the preceding section, construct the same in a tunnel; provided, the grade of said streets and alleys shall be established high enough in reference to the grade of said railroad as to enable the said railroad to be carried under them; and the said Baltimore and Potomac Railroad Company, in constructing its road through the ground lying between North avenue and John street, and the ground lying between Gilmor and Monroe streets, shall so construct, enclose and surround the same as that the said railroad, and all engines or cars passing over the same, shall be entirely concealed from the view of persons using the streets or avenues of the city and binding on said property or adjacent thereto; and the said railroad company shall construct its railroad through said tunnel with a double track, when said road is finished and in running order.

Proviso.

Grades.

193. The tunnel or tunnels mentioned and provided for in the preceding section, shall be so constructed and arched as to leave uninjured and secure the streets under which said tunnels shall be made; and if in constructing the said railroad across or under any of the streets or alleys mentioned in this ordinance it shall become necessary to take up any pavement on said streets, or excavate the same, then and in that event the said Baltimore and Potomac Railroad Company shall restore the surface of said streets to the same condition in which they

Ibid, s. 3.

Construction of tunnels.

*By Resolution, No. 458, July 23, 1875, on passage of ordinance for the grading, paving and kerbing of Mount street, between Cook street and Townsend street, the City Commissioner was directed to notify the Baltimore and Potomac Railroad Company to construct a tunnel under the bed of Mount street, at the point where their railroad tracks cross said Mount street, the City Commissioner to see that the above ordinance, No. 26, approved May 29th, 1869, were complied with in this matter.

were before being interfered with by said company, which streets shall be so restored to their former condition by the said Baltimore and Potomac Railroad Company within such period of time and in such manner as shall be prescribed by the Mayor and City Commissioner; and the said Baltimore and Potomac Railroad Company in constructing the said railroad under or across any of the aforesaid streets, shall take all such precautions to prevent accidents and injuries to persons or vehicles using said streets, as shall be prescribed by the City Commissioner, and for every violation of any of the provisions of this section the said company shall be subject to a
Penalty. fine of not less than ten nor more than fifty dollars for each day that the said company shall fail to comply with the regulations of the said Mayor and City Commissioner; to be recovered for the use of the Mayor and City council of Baltimore, as other fines and penalties for the violation of ordinances of the city are recovered.

Ibid, s. 4. 194. When the railroad which the said Baltimore and
Conditions. Potomac Railroad Company is hereby authorized to construct and maintain through the streets of the city shall have been constructed, it shall be the duty of the said Baltimore and Potomac Railroad Company, and they are hereby required to
Western Maryland Railroad. Union Railroad. afford facility to the Western Maryland Railroad Company and the Union Railroad Company for the passage of passengers and freight over that portion of the Baltimore and Potomac Railroad hereby authorized to be made within the city limits, under such rules and regulations as shall be determined
Provisos. by the Baltimore and Potomac Railroad Company; provided, that the amount to be paid within any one year by the said Western Maryland and Union Railroad Companies, respectively, to the said Baltimore and Potomac Railroad Company, for the said passage of passengers and freight over said portion of said railroad, shall not exceed such proportion of the interest on the original cost of said portion of said railroad, and

of the cost of maintenance of the same, as the amount of the aggregate of business carried over said portion of said Baltimore and Potomac railroad for each of said companies respectively, bears to the whole amount of business carried over said portion of said railroad for the said three companies; provided, that the said work shall be subject to the inspection of the City Commissioner, who shall have the power of compelling the said company to do its work so as to protect the interests of the city.

195. The said Baltimore and Potomac Railroad Company shall establish at least one general depot for passengers and freight, and one or more way stations between Pennsylvania avenue and the point where said railroad shall cross the Baltimore and Frederick Turnpike. Ibid, s. 5. Depot.

196. The said Baltimore and Potomac Railroad Company, in constructing its road across the Baltimore and Frederick-town Turnpike, the old Frederick road or turnpike, and Lafayette avenue as extended into Baltimore county, and other avenues adjacent to and leading into the city of Baltimore, shall carry the said railroad by tunnel under said turnpike and avenues, or by bridges over the same, and in such manner as not to interfere with the travel over the same; provided, the corporation or persons having control of the said turnpikes and avenues shall so arrange and adopt the grades of the same as to enable said railroad to be carried over or under said turnpikes and avenues, and whenever it shall be necessary to alter the grade of said turnpike or of any of said avenues which at the time of said construction of said railroad shall have been actually graded; the expense of said alteration shall be borne by said Baltimore and Potomac Railroad Company. Ibid, s. 6. Construction of road across turnpikes and avenues. Proviso.

197. No opening or holes for the purpose of ventilation shall be made in any of the streets or avenues of said city under which said tunnel shall be made, but said Baltimore Ibid, s. 7. Ventilation to tunnel.

and Potomac Railroad Company shall, if any ventilation of such tunnel additional to that afforded by the mouths is required, supply the same by means of chimneys, shafts or flues, erected at proper points, on property belonging to said company, and of such height and construction as shall ventilate said tunnel without annoyance to persons or property in proximity thereto.

Ibid, s. 8.

Railroad along streets, &c.

198. The said Baltimore and Potomac Railroad Company in constructing its said railroad along or across any of the streets mentioned in section 191, under which there are any sewers, shall construct the same in reference to such sewers, in such manner as shall be directed by the City Commissioner, and so that the sewerage through said streets shall not be injured or disturbed, and all the expense of the alteration of any existing sewers along any of said streets which the City Commissioner shall determine to be necessary in consequence of the construction of said railroad, shall be borne by said Baltimore and Potomac Railroad Company, and if in the judgment of the City Commissioner the construction of said railroad along or across any of said streets shall render necessary the making of any new sewers which would not otherwise have been required, then all such sewers shall be made under the direction of the City Commissioner, and the expense thereof shall be borne by said Baltimore and Potomac Railroad Company.

Ibid, s. 9.

How governed.

199. The exercise of all the powers of locating, constructing, maintaining and using said railroad track through the city of Baltimore conferred by this ordinance, or that may be conferred by any amendment or supplement thereto, or by any future ordinance, shall be and remain at all times and in all respects, so far as the safe, free and unobstructed enjoyment and use of the streets, ways, avenues and alleys of the city of Baltimore are concerned, and subject to and under the control of the Mayor and City Council of Baltimore.

200 The said Baltimore and Potomac Railroad Company shall complete the tunnel entirely within two years from the time after it is commenced in the city, otherwise this ordinance to be void and of no effect; provided, that the work is not interfered with in the meantime by proceedings in the courts against said railroad company. But said company may commence that portion of said tunnel lying between the west abutment of the bridge to be built over Jones' Falls at North avenue, and the track of the Northern Central Railway as at present located, without the same being considered a commencement of said tunnel within the meaning of this section; provided, that the work on said portion of said tunnel shall be commenced on or before May 1st, 1870, and completed within five months from that time.*

Ibid, s. 10.

Time limited.

No. 49, Apr. 25, '70.

Sec. 10 of ordinance of May 29, 1869, amended.

Completion of tunnel.

Proviso.

* The Act of 1870, c. 80, s. 7, recites the ordinance May 29, 1869, [Sec. 191, &c., *ante*,] and provides for charging toll on road where it crosses the western boundary of the city, &c.; provided, however, the fourth section of the ordinance [sec. 194, p. 804,] be complied with.

The constitutionality of this Act of 1870, c. 80, providing for taking private property for the construction and repair of railroad is maintained in *Shipley* v. *Balto. & Potomac R. R. Co.*, 34 Md. 336.

Authority by the legislature to a railroad company to tunnel the streets of a city may be granted by implication. *Balto. & Potomac R. R. Co.* v. *Reaney*, 42 Md. 118.

Damage done to the house of a party by reason of the excavation of a street by a railroad company made under lawful authority, is not *damnum absque injuria*, and he may recover therefor without showing that the power delegated to the company has been illegally or negligently exercised. *Ibid.*

As against a municipal government in the careful exercise of its right and power to grade, change and improve a street, there can be no right of action for an unavoidable injury done; but as against a private corporation in no wise connected with the municipal government, obtaining authority to use the streets in an extraordinary manner for its own private purposes and profit, the case is different. As against such party, the owner of a lot of ground with a building thereon, bounding on a street, is entitled to the natural support which the bed of the street may afford to the foundation of his house. And notwithstanding authority may have been obtained both from the city and the State Legislature, to make the extraordinary use of the street, yet that authority must be exercised at the peril of the party to whom

No. 26, s. 11, May 29, '69. Water and gas mains.

201. In the construction of said tunnel under the bed of the streets herein named, ample provision shall be furnished to the water and gas mains; and in the event of its being necessary to change or disturb them, the same must meet with the concurrence of the Water Board or City Commissioner, and all cost of said change must be borne by the Baltimore and Potomac Railroad Company.

Ibid, s. 12. Signals.

202. The said company in giving signals within the limits of the city shall give such signals, unless in cases of especial danger, by the ringing of bells instead of blowing steam whistles.

Ibid, s. 13. Offices. President.

203. The principal offices of said Baltimore and Potomac Railroad Company shall always be located within the corporate limits of the city, and the president of said company shall be a resident citizen of the State of Maryland.

NORTHERN CENTRAL RAILWAY.*

No. 33, s. 1, April 25, '31.

204. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct and lay down a track of

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it is delegated; and if any injury accrues to private property in the exercise of this power, the party producing it must be held liable; and such liability arises, even though the injury is the natural or inevitable result or consequence of the act authorized to be done. The owner of the corner house binding on the street excavated, being entitled to such such support to the foundation of his building as the bed of the street afforded before it was excavated, if the adjoining house was bound to the corner house, and was lawfully dependent upon it for its stability, the disturbance of the natural support of the corner house by the act of the party making the excavation, whereby injury is done to the adjoining house, furnishes the owner of the latter a cause of action that entitled him to recover for such injury. The measure of damages in such case would be a sum that would compensate the plaintiff for the injuries done to his particular interest in the premises. *Ibid.*

* By 1854, c. 250, the Baltimore and Susquehanna Railroad Company, the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company and the Susquehanna Railroad Company were consolidated by the name of the Northern Central Railway Company, subject to all laws and ordinances, contracts and liabilities applicable or relating to said companies, &c.

railroad or railway, of stone or iron, or of both, from the main stem of said road, from or near a point marked A on a plat filed by said company in the Register's office, along or near the route marked by a red line, to or near a point marked B on the old Almshouse lot west of Eutaw street, and also, from or near said point A, along or near a red line marked A, C, D, to or near a point marked D, on the city property on the east side of Jones' Falls; the said last mentioned route to be continued along the west side of Harford Run, after the said branch shall intersect Canal street.*

Track of railway agreeably to plat in Register's office.

*By Ordinance No. 23, March 30, '53, the Baltimore and Susquehanna Railroad Company was directed to remove that portion of their road between Monument and Wilk streets, from the west side of Central avenue to the middle of said avenue, over the bed of Harford run, and so to elevate said road as to make it the highest part of the avenue; and also to repair all that part of the road east of Jones' Falls, so as not to prevent or interfere with travel on the streets through which it passes. It repealed the portion of above section relating to the railway track on the west side of Harford run.

1849, c. 532, enacted: that the southern terminus of the Baltimore and Susquehanna Railroad shall be at the depot erected on Calvert street, in the city of Baltimore, including the said depot, and so much of the lot on which it stands as may be necessary for the convenient use of said depot, and that the president and directors of the Baltimore and Susquehanna Railroad Company shall be, and they are hereby, invested with all the rights and powers necessary for the construction, repair and use of a line of railroad, in and from said Calvert street depot, along their present line of railroad tracks on the bed of North street, and through Bolton depot to the city limits, as fully in every respect as said company now possesses the right and power to construct, repair and use its railroad beyond the limits of the city of Baltimore.

2. That the president and directors of said company shall be, and they are hereby, authorized to construct, repair and use a second track of railroad, parallel to their present track, from said Calvert street depot to the city limits, and if in their judgment necessary, to alter the location of their present track; provided, that before said company shall be authorized to construct a second track, it shall widen the streets through which its road passes, in the manner hereinafter provided, for which purposes the said company is hereby authorized to widen the streets through which said tracks are or may be located to the further width of twenty feet, and may acquire the necessary ground and materials by gift or purchase, or by condemnation, in the manner prescribed and authorized by the original act to which this is

Mayor and City Council to lay off ground for depots.

And the Mayor and City Council do hereby agree to lay off at the old Almshouse and the city property on the east side of Jones' Falls, a lot of ground of one acre at each place, to be used by the company as a depot for the erection of buildings necessary for the operation of the company; provided, however, that if the said company should at any time hereafter cease to use the said depots, or either of them, for twelve

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a further supplement; and for the purposes of such condemnation, the sheriff and justices of the peace of Baltimore city and Baltimore County Court, are hereby invested respectively with all the powers, authority and duties within the limits of the city of Baltimore, as the sheriff and justices of the peace of Baltimore county and Baltimore County Court are respectively charged and invested with by the said original act, beyond the limits of the city of Baltimore; provided, that nothing in this act contained shall deprive the Mayor and City Council of Baltimore of the right and power to fix and prescribe the rate of speed at which the said railroad company may run their cars and locomotives within the city limits; and provided, that the Legislature reserves to itself the right to repeal this act whenever in its discretion it may deem it expedient.

3. The opening of certain proposed streets located upon the map of Baltimore city, through the Bolton depot of said company, would seriously injure the operations of said company, and would be of no benefit to any considerable portion of any of the citizens: therefore, be it enacted, that the following streets, or such parts of them as run through the said Bolton depot lot, shall be, and they are hereby, forever closed, namely: all that part of Hoffman street lying between Foster alley and Cathedral street; all that part of John street lying between Dolphin and Cathedral streets, and all that part of West Oliver street lying between Dolphin and Cathedral streets, and no other street, lane or alley shall be opened through the said lot without the assent of the president and directors of said company; provided, the said company, on being so notified and required by the Mayor and City Council of Baltimore, or by their duly authorized agents, shall open Dolphin street of a width of sixty feet in a straight line to Cathedral street, and shall give, for the purposes of a street, a strip of ground along the east side of Foster alley, forty feet in depth, and extending from Dolphin to Preston streets, thereby making Foster alley, now twenty feet wide, a sixty feet street; and further, shall open Preston street, from Foster alley to Cathedral street, and shall deed to the city of Baltimore the ground so to be given for the beds of streets. (See p. 825, *post.*)

4. That the president and directors of said company be, and they are hereby, authorized to refuse to transport the cars, goods and merchandise of any individuals or company, after he, they or it shall have violated the pub-

months, that then, and in such case, they shall revert to the Mayor and City Council of Baltimore, in as full and absolute a manner as if this ordinance had never been passed; provided, however, that the said company may remove any and all buildings or improvements erected on said depot or depots. To revert to the city.

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lished rules and regulations of said company, until full satisfaction shall be made for such violation; and that any individuals or company transporting upon said railroad without the knowledge of said company, any gunpowder or friction matches, shall be subject to a fine of one hundred dollars for each offence, to be recovered in the name of the State, before any justice of the peace as other fines—one-half for the use of the informer, and one-half for the use of the State; provided, a copy of this section be published with the rules and regulations of the company.

5. That the president and directors of said company may allow individuals or companies to use their own cars in the transportation of goods or merchandise on its road at rates of toll to be fixed by said company; provided, and it is hereby declared, that said company shall not be liable for any damage done through accident to said cars, or any loading therein, unless the same was occasioned by the wilful misconduct or gross negligence of said company or its agents; provided, that all the expenses incurred by the city authorities by the proceeding heretofore had under the Act of 1838, c. 226, and the ordinances of the city of Baltimore regulating the manner of opening the streets, and so forth, for opening the streets, or any of them, mentioned in this section, through Bolton depot lot, shall be paid by the Baltimore and Susquehanna Railroad Company.

6. That the president and directors of said company be, and they are hereby, invested with all the rights, powers and privileges granted under the original act of incorporation, and which may be necessary to carry into effect the provisions of this act.

7. That the president and directors of said company shall be, and they are hereby, authorized to run any of the locomotives or cars belonging to said company, on any railroad connecting with that of said company, or with the York and Maryland Line Railroad, whenever in their judgment the interest of the Baltimore and Susquehanna Railroad Company will be promoted by such arrangements.

8. That all Acts of Assembly inconsistent with the provisions of this act, in so far as they are so inconsistent, be, and the same are hereby, repealed.

9. That this act shall be of no force and effect until a majority in value of the stockholders of said company, including the State of Maryland, whose assent is hereby given, in general meeting assembled, shall have assented to the same, and shall have deposited with the Treasurer of Maryland the written evidence of such assent.

Article XL.—Ordinances.

Ibid, s. 2.

Railways to be removed when required.

205. Nothing herein contained shall be so construed as to prevent the Mayor and City Council of Baltimore, at any time hereafter, to cause the whole or any part of the said branches authorized by this ordinance, which may be laid on the bed of any street, lane or alley, to be taken up and removed at the expense of said Baltimore and Susquehanna Railroad Company, whenever so required by the Mayor and City Council of Baltimore.

Ibid, s. 3.

Turn-outs.

206. The Baltimore and Susquehanna Railroad Company shall construct as many turn-outs at the intersection of such streets, and also along the line of the railway hereby authorized, as the Mayor and City Council of Baltimore may at any time require or authorize.

Ibid, s. 4.

Cars drawn by animal power.

207. All and every car, wagon, or other vehicle, which may pass on any of the railways authorized to be constructed by this ordinance, shall be drawn by animal power, and not drawn or propelled by steam; and shall be at a rate not exceeding three miles per hour for wagons of burden, and for passengers cars at such rate as may be approved from time to time by the Mayor and City Council, under a penalty of five dollars for each offence, to be sued for and recovered as other fines and forfeitures are recovered; and until the rate at which passengers cars may travel shall be regulated, they shall be allowed to travel at a rate not exceeding six miles per hour.*

Speed.

Ibid, s. 5.

Railways kept in repair.

208. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made within the city by the Baltimore and Susquehanna Railroad Company maintained and kept in good order and repaired at the cost and charge of the said company, is hereby reserved to the Mayor and City Council of Baltimore.

* See secs. 7, 14 and 17, *ante*.

209. The right to connect by tracks of railway within the city with the main stem of the Baltimore and Susquehanna railroad, or its branches, as may be deemed expedient, is hereby reserved to and by the Mayor and City Council of Baltimore, and the Mayor and City Council of Baltimore shall also have the right of charging and collecting a toll upon all cars, wagons and vehicles which may pass upon any track or racks so constructed. Ibid, s. 6. Right reserved to come in with the main stem.

210. The president and directors of the Baltimore and Susquehanna Railroad Company are hereby authorized and empowered to extend their railroad and branches therefrom through and along any of the streets of the city which they may select, and which may be approved by the Mayor, for the purpose of forming rail communications from the main stem of said road to the following points, to wit:—to the track laid in Howard street at its intersection with Franklin street, to the city block, passing through old town, and to any depot which may be established on Calvert street, or between the same and Jones' Falls north of Saratoga street. No. 31, s 1, April 10, '37. Extending railroad along streets.

211. No railroad track shall be laid down in any street, under the provisions of this ordinance, until the said railroad shall be completed to the borough of York; provided, however, that this section shall not be so construed as to prohibit the railroad company from selecting the route through the different streets, as provided for in the preceding section, and to purchase such depots as they may deem proper and expedient; and furthermore, when the rails are located in any of the streets of the city, they must be done so as to meet the approbation of the City Commissioner. Ibid, s. 2. Time limited for laying rails.

212. The power and authority are hereby reserved to the Mayor and City Council of Baltimore to require the said Baltimore and Susquehannna Railroad Company, at any time hereafter, to take up and remove any track of railway which Ibid, s. 3. Mayor authorized to remove.

may be laid down in any street under the provisions of this ordinance, if the same shall be found injurious to the city; and if the said company shall not remove any such track within six months after receving notice to that effect, the Mayor and City Council shall be authorized to have the same removed at the expense of said company.*

Notice.

No. 36, April 19, '39.
Location of railroad on Wilk and Exeter streets.

213. The president and directors of the Baltimore and Susquehanna Railway Company are hereby authorized, with the approbation of the Mayor, to locate the Baltimore and Susquehanna Railroad so as to run from its intersection with Canal and Wilk streets, westwardly along the centre of Wilk street to Exeter, thence along the centre of Exeter street southerly to the city property on the city block; provided, the construction of the said road be done under the supervision of the City Commissioner.

Proviso.

No. 55, s. 1, June 20, '54.
Railroad extended to tidewater.

214. Permission is hereby given the Baltimore and Susquehanna Railroad Company to extend their road to tidewater, as authorized under the Act of Assemby of 1853, c. 191.†

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*By Ordinance No 59, May 11, '63, the Mayor was authorized and directed to give notice to the president and directors of the Northern Central Railway Company to take up and remove their track in the centre of the bed of Central avenue, in accordance with the provisions of the above section.

† Sec. 4 of this act provided that the Mayor and City Council of Baltimore are authorized and empowered to construct branches, or to authorize individuals to do the same, from the tracks outside the city proposed by the act, through or along any street in said city that may be deemed necessary, subject to the same rules and regulations as are required for private switches on the main line of said road.

Held, that the Act of 1853, and the assent of the Mayor and City Council given in section 214, above, do not give the railroad company the right to locate its lateral road through the city over such route, and with such grade or grades as the company in the exercise of its discretion might deem expedient. The Act of 1853, c. 191, did not design to take away from the municipal legislature the jurisdiction and control over its streets and high-

Article XL.—Ordinances.

215. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct and lay down and keep in repair a branch of their road, either with one or two tracks, beginning at the North avenue, east of the present track, to some point on navigable water on the northwest branch of the Patapsco river, east of Jones' Falls; and in the location and construction of the same the said company shall be permitted, under the direction and with the consent of the Mayor and City Commissioner, to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided, that no grade of any street already graded and paved shall be altered or interfered with, except under the direction of the Mayor and City Commissioner; and provided, that the whole may be under such salutary regulations as the city authorities may from time to time prescribe; provided, further, that the branch road, as aforesaid, in its construction, shall be carried under the North avenue, Decker, Charles, St. Paul, North and Belvidere streets, and York avenue, and all avenues intervening between said North avenue and the streets as aforesaid, and by a tunnel commencing at the York avenue and running under Hoffman street; said tunnel terminating near the intersection of Ann and Hoffman streets, crossing Belair avenue on the level of the grade of said avenue, near Greenwood gardens, and crossing the Havre-de-Grace turnpike, near the intersection of Fay-

Ibid, s. 2.

Where tracks may be laid.

Tunnels.

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ways given the city by its charter, with power to fix and determine their grades with a view to the public convenience. The power reserved by Act of 1853, c. 191, to Mayor and City Council over the subject, is complete and unimpaired. The right to give or withhold their assent to the construction of the road necessarily involves the right of prescribing the terms and conditions upon which their assent is given. The provisions of above ordinance are valid and binding upon the company, as conditions upon which the assent of the city was granted. All the above sections must be construed together. It was proper for the Mayor and City Council to require the railroad to be made under the supervision of the Mayor and City Commissioner. *N. C. R. W. Co.* v. *Mayor, &c.*, 23 Md. 93.

ette and Luzerne streets, and then by the most practicable route to the eastern limits of the city towards its terminus at tide-water, on the northwest branch of the Patapsco river, within the present corporate limits of the city of Baltimore.

I bid, s. 3.

Locomotives may be used.

216 The said Baltimore and Susquehanna Railroad Company are hereby authorized to use locomotive engines, adapted to a slow speed, in said extension; provided, this ordinance shall not be so construed as to prevent the Mayor and City Council of Baltimore at any time regulating the speed of said engines through any or all the streets through which it may pass.

Ibid, s. 4.

Connection with main stem.

217. The right to connect by tracks of railway within the city with the main stem of the Baltimore and Susquehanna railroad, or any of its branches, as may be expedient, is hereby reserved to the Mayor and City Council of Baltimore.

Ibid, s. 5.

Reservation to city.

218. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made in the city by the Baltimore and Susquehanna Railroad Company maintained and kept in good order and repair, at the cost and charge of said company, is hereby reserved to the Mayor and City Council of Baltimore.

Ibid, s. 6.

Grades to be established.

219. Before the Baltimore and Susquehanna Railroad Company shall proceed to lay all or any part of the road on any of the streets authorized by this ordinance, the City Commissioner shall establish the grades of all the streets through which said road may pass, by the City Surveyor and engineer of and at the cost of the said Baltimore and Susquehanna Railroad Company.

Ibid, s. 7.

City to have supervision.

220. It is expressly understood that the laying of the track, as provided for in this ordinance, through any or all the streets above named, shall be under the supervision of the Mayor and City Commissioner.

Article XL.—Ordinances.

221. The terminus and all the improvements thereat of said branch road shall be on the northwest branch of the Patapsco river, at or near the Lazaretto, within the present corporate limits of the city of Baltimore. Ibid, s. 8. Terminus.

222. The said Baltimore and Susquehanna Railroad Company shall not enter into any arrangement with any individual or incorporated company for the transportation of tonnage or passengers to and from the line of their road, to any point on the seaboard, at a less rate per ton and per capita per mile than the rate established by said company for the transportation of the same to and from the city of Baltimore, except only by the permission of the Mayor and City Council of Baltimore. Ibid, s. 9. Rates of tonnage.

223. The said company shall have power to construct such wharves and coal shutes at the termination of said branch road, on the northwest branch of the Patapsco river, as may be requisite to accommodate the business of the company; subject, however, to all ordinances now existing, or that may hereafter be passed, regulating the business of the harbor of the city of Baltimore. Ibid, s. 10. Wharves and coal shutes.

224. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct a track along the bed of Central avenue to the intersection of Aliceanna street, and along said street to its intersection with Caroline street, and along Caroline to its intersection with Thames street, and along Thames street to connect with the tracks of said company, as provided in this ordinance, by such street as may be designated by the Mayor and City Council of Baltimore; provided, the track authorized to be put down on the bed of the streets as aforesaid shall be constructed under the supervision of the City Commissioner, and subject to all ordinances regulating railroad tracks within the limits of this city, now existing or which may hereafter be passed, and to be removed at the discretion of the Mayor and City Council of Baltimore. Ibid, s. 11. Track through Central avenue, &c.

Ibid, s. 12.

Conditions.

225. If the said Baltimore and Susquehanna Railroad Company shall refuse to comply with the provisions and conditions contained in section 221, then the permission given by said ordinance shall be null, void and of no effect.

Ibid, s. 13.

Northern Central Railway Company to have same powers and rights.

226. Should the Baltimore and Susquehanna Railroad Company be consolidated with the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company, and the Susquehanna Railroad Company of the State of Pennsylvania, by the name of the Northern Central Railway Company, under the acts of the State of Maryland and Pennsylvania, authorizing the consolidation of the same, then, and in that case, the said Northern Central Railway Company shall be entitled to all the privileges and subject to all the provisions and penalties of this ordinance.*

No. 51, s. 1, June 10, '57.

Permission to lay down track on Belair ave.

227. The Northern Central Railway Company is hereby authorized to lay down a single track of the ordinary structure used by the said company in their road, upon the bed of Belair avenue, from the present track on Monument street to the intersection of said avenue with Eager street, and thence upon the line of the bed of Eager street to its intersection with the track of the said Northern Central Railway Company's road, being constructed and leading to tide-water at Canton.

Ibid, s. 2.

Conditions, &c.

228. The said company shall in the use of the said track be subject to the conditions and limitations, and shall observe all the regulations that are comprised and set forth in the first section of the ordinance entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to use steam

*By Res. No. 180, June 26, 1856, the Northern Central Railway Company was authorized to change the route of the railroad track from Central avenue to Thames street, authorized by above ordinance, from the bed of Aliccanna and Caroline streets to the bed of Eastern avenue and Bond streets, to Thames, to Philpot, and to Fell streets.

engines within the limits of the city of Baltimore, May 2, 1845, No. 38.*

229. The said Northern Central Railway Company shall not use within the limits of direct taxation any portion of the track authorized to be laid by this ordinance for the passage of any engine or train of cars, excepting between the hours of nine o'clock at night and five in the morning; and should the said company violate the provisions of this ordinance, they shall be liable to a fine or penalty of twenty dollars for each violation, to be recovered before any justice of the peace in the city of Baltimore, to be sued for in the name of the Mayor and City Council of Baltimore, upon the information of any person or persons who may be cognizant of such violation.

Ibid, s. 3.

Engines not to pass except between 9 o'clock at night and 5 in morning.

Penalty.

230. The said Northern Central Railway Company shall enter into bonds with the Mayor and City Council of Baltimore in the penal sum of fifty thousand dollars, to take up and remove the temporary track, permission to lay down which is granted in section 227, at the expiration of two years from the laying down of the same; and in the event of the said temporary track not being taken up and removed within three months after the expiration of the above named time, then the bond shall be forfeited for the benefit of the Mayor and City Council of Baltimore.

Ibid, s. 4.

To give bond.

*The first section is as follows: that the Baltimore and Susquehanna Railroad Company is authorized to use their steam engines on the rail track, from the Bolton depot to the depot of said company, situate on city block, for the transportation of coal, plaster, lime, limestone, iron, iron ore and other minerals and earths; provided, that the rate of travel of said engines on said track shall not exceed four miles per hour; and provided, further, that the steam power over the railway track hereby granted to be used by the Baltimore and Susquehanna Railroad Company to their depot on the city block, be used between the hours of nine at night and five in the morning; and that a man is required to walk in advance of the steam engine with a lighted lantern, in passing through the streets, from the Belvidere depot on North street to their depot on the city block.

Ibid, s. 5.

Damages—how to be recovered.

231. Any person or persons who may have suffered damages to their houses or other property, as the case may be, from the laying down or operating of said road by said company, may sue upon the said bond in the name of the Mayor and City of Baltimore; or should the Northern Central Railway Company omit, refuse or neglect to remove said track at the expiration of the two years hereinbefore stated, it shall be lawful for any person or persons who may conceive themselves to be aggrieved by such omission, refusal or neglect to remove the said track, to enter suit upon the said bond in the name of the Mayor and City Council of Baltimore.

Ibid, s. 6.

Streets to be placed in good condition after removal of the track.

232. The track hereby authorized to be laid down shall be taken up, and the streets on which the same shall have been constructed, where the same are paved or improved, shall be restored to the same condition in which they may be at the time of laying down the track aforesaid, at the expense of the said Northern Central Railway Company.

Ibid, s. 7.

Not to be released from obligations imposed by other ordinances.

233. Nothing herein contained shall be construed to release said company from the obligations imposed upon it by former ordinances in reference to the establishment ofthe grades of the streets upon which said temporary track shall be laid, nor to release the said company from the obligations imposed upon it by Ordinance No. 57, entitled an ordinance to aid in the completion of a continuous line of railway from Sunbury in Pennsylvania, to tide-water at Baltimore, passed at session of City Council in 1854, and No. 77, passed the same session and year, entitled supplement to an ordinance entitled an ordinance to aid in the completion of a continuous line of railway from Sunbury in Pennsylvania, to tide-water at Baltimore, passed June, 1854, but all of the obligations of the said company shall continue and remain as though this ordinance had never passed.

No. 59, s. 2, May 11, '63.

To lay two tracks on said avenue.

234. The president and directors of the Northern Central Railway Company are hereby authorized and empowered to lay a track along the east and another along the west side of

Central avenue, commencing at Orleans street on the north, and extending to and connecting by turn-outs, with the single track of their road on Eastern avenue.

235. Nothing in this ordinance shall be so construed as to annul in any particular the powers reserved to the Mayor and City Council of Baltimore in sec. 212. Ibid, s. 3. Not to annul power reserved.

236. The Canton extension of the railroad of the Northern Central Railway Company shall be constructed on the following described route, that is to say: Beginning at the North avenue, east of the present track, to some point on navigable water on the northeast branch of the Patapsco river, east of Jones' Falls; and in the location and construction of the same the said company shall be permitted, under the direction and with the consent of the said Mayor and City Commissioner, to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided, that no grade of any street already graded and paved shall be altered or interfered with, except under the direction of the Mayor and City Commissioner; and provided, that the whole may be under such salutary regulations as the city authorities may from time to time prescribe; provided, further, that the branch road as aforesaid, in its construction, shall be carried under the North avenue, Decker, Charles, St. Paul, North and Belvidere streets and York avenue, and all lands and alleys intervening between said North avenue and the streets as aforesaid, and by a tunnel commencing at York avenue; thence southeasterly to the northernmost corner of the burial ground of the Second Presbyterian Church; the centre line of said branch road at said corner to be thirty-three feet therefrom, measured at right angles to the direction of said branch road; thence continuing to its intersection with Biddle street; the tunnel terminating at a point west of Gay street, crossing Gay street at its present level as now graded and paved, and connecting said tunnel line as prolonged by a light No. 31, s. 4, May 18, '65. Route on Canton extension.

curve with Biddle street; thence easterly along the centre line of Biddle street to a point five hundred and seventy-three feet west of the central intersection of Biddle and Chesapeake streets; thence connecting Biddle and Chesapeake streets by a curve of five hundred and seventy-three feet radius to the right, said curve terminating at a point in the centre line of Chesapeake street, five hundred and seventy-three feet south of the central intersection of Chesapeake and Biddle streets; thence southerly along the centre line of Chesapeake street to its intersection with the aforesaid branch road, as located under the provisions of sec. 2, (sec. 215, *ante*,) of Ordinance No. 55, entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to extend their road to tide-water, (secs. 214–226, *ante*,) and thence by the aforesaid location to its terminus at tide-water, on the northwest branch of the Patapsco river, within the present corporate limits of the city of Baltimore; provided, that so far as changes of any of the grades of the said streets, lanes or alleys shall or may be rendered necessary by the execution and completion of the said Canton extension, the said Northern Central Railway Company shall, under the direction of the said Mayor and City Commissioner, make the said changes, and complete and finish the new grading and paving of the said streets, lanes and alleys in a reasonable time, and in a workmanlike manner.

To tide-water.

Changes

Grading and paving.

Ibid, s. 5.

Penalty.

237. The Northern Central Railway Company shall complete, fit for use, the Canton extension, upon the route and plan above mentioned, on or before July 1, 1868; but in case said Canton extension shall not be completed by that time, the said Northern Central Railway Company shall pay to the Mayor and City Council of Baltimore the sum of two thousand dollars monthly for two years after the expiration of the said three years, and three thousand dollars monthly thereafter, until the said extension is completed; the said payment so to be made to be regarded as liquidated damages, and not by way of penalty.

238. The Northern Central Railway Company is hereby expressly authorized to change their route to the Calvert street station in the city of Baltimore, and is authorized to make, construct and use the same, according to a second plan and profile now on file in the City Register's office, setting forth the routes and grades thereof, and authenticated by the signatures of the Register of said city and the president of the said Northern Central Railway Company. Ibid, s. 6. To change route. Plan and profile.

239. The said Northern Central Railway Company shall, and it is made a condition precedent to the grant mentioned in this ordinance,* that it will forever hold its chief offices, to wit: secretary, treasurer, superintendent, master of transportation, and master of machinery, in the city of Baltimore; that it will hold there its elections and the regular meetings of its directors; and also that said Northern Central Railway Company shall, within the limits of the city of Baltimore, or within two miles thereof, establish and forever maintain its principal workshops for all the purposes for which workshops are needed by the company, and be required to keep the bridges and streets in order on their line of road, within and two feet on the outer line of their track or tracks on either side, in thorough repair. Ibid, s. 8. Offices to be held in Baltimore. Bridges and streets to be kept in order.

240. The Northern Central Railway Company shall deposit in the office of the City Commissioner plats showing the location, with reference to the corners of the nearest streets, of the beginning and ending of each and every curve, as located within the limits of the city of Baltimore. Ibid, s. 9. To deposit plats.

241. The city reserves the right of domain to all streets occupied by the Northern Central Railway Company, whether laid out according to the plat of the commissioners appointed by the General Assembly in eighteen hundred and eighteen, Ibid, s. 10. Domain to streets.

*See the rest of this ordinance under Stocks, Loans and Finance, Art. XLVI, NORTHERN CENTRAL RAILWAY.

or laid out by the railway company in pursuance of this ordinance, or of Ordinance No. 55, entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to extend their road to tide-water, June 20, 1854, (secs. 214–226, *ante.*)

Ibid, s. 11.

242. If the said Northern Central Railway Company shall, on or before the first day of July next, in a general meeting of its stockholders, approve, assent and agree to the several provisions of this ordinance, and shall communicate said approval, assent and agreement, under its corporate seal and the signature of its president, to the Register of the City of Baltimore, to be recorded and preserved in his office, then this ordinance, and every provision and stipulation thereof, shall be binding upon the said Mayor and City Council and the said Northern Central Railway Company.

Assent to ordinance.

Not binding unless company agree.

No. 76, June 20, '66.

243. The Northern Central Railway Company is hereby authorized to lay a single track of railway, with tram rail, from the intersection of its track on Eastern avenue and Eden street, south on Eden street to Aliceanna street, and a track, with tram rail, on Aliceanna street, from its intersection with Bond street west to Albemarle street; provided, the track extending from Central avenue on Eastern avenue, running west to Exeter street, and thence on Exeter street to Aliceanna street, be removed; and provided, further, that the track on Eastern avenue, from Eden street to Bond street, and thence on Bond street to Aliceanna street, be also removed.

Track on Eastern avenue, &c.

Provisos.

Powers reserved.

244. Nothing in the above section shall be construed as to annul in any particular the powers reserved to the Mayor and City Council in sec. 212.

No. 38, May 5, '74.

245. The Northern Central Railroad Company is hereby required to place a red light upon each car passing along Monument street and Central avenue after dark, and said light shall be so displayed as to be seen by vehicles coming from

Red lights.

either north or south, east or west; and the said company is also required to place bells upon all horses drawing said cars; and any violation of this ordinance shall subject the offending party to a fine of fifty dollars, the same to be collected as all other city fines are collected, and to be paid into the city treasury. Bells on horses. Penalty.

NOTE.—Ordinance No. 77, September 28, 1868, recites: that it is desirable that railway tracks in the city should be so constructed as that they should cross or pass along the streets below the grade thereof wherever practicable; and that the Northern Central Railway Company desires to remove the tracks of its railway leading to Calvert Station, from their present location to the northeastern side of Jones' Falls, and desires so to construct its new tracks as that wherever they cross or pass along streets the said tracks shall be constructed below the grade of said streets wherever such method of construction is practicable; and that the owners of a majority of the feet of ground fronting and binding on the streets named in this ordinance have presented to the Mayor and City Council their petition, asking the grades of said streets may be changed between the points named in this ordinance; therefore it enacts: that the grade of Charles street, between Hoffman and Lanvale streets, and the grade of Eager street, between North and Buren streets, be raised and changed under the direction of the Mayor and City Commissioner, so as to enable the Northern Central Railway Company to construct its railway tracks under said streets, and all open cuts along Hoffman and other streets shall be tunneled by the said railway company; that the present track belonging to the said Northern Central Railway Company, extending from Cathedral street to Eager street, shall be removed by said company within three months after the new tracks are ready for operation, under a penalty of fifty dollars for each day said present track shall remain after the expiration of said three months; all expenses to be paid by company. This ordinance is construed in *N. C. R. W. Co.* v. *Mayor, &c.*, 46 Md. 425.

By the Act of 1878, c. 410, the Mayor and City Council are authorized and empowered to alter the grades of Madison, Buren and North streets so as to give the bed of Madison street sufficient elevation to enable the tracks of the Northern Central and Western Maryland Railroads to pass under the bed of Madison street.

By Ordinance No. 20, April 7, 1873, the Northern Central Railway Company was notified and required to open Dolphin street of a width of sixty feet in a straight line to Cathedral street, and to give for the purposes of a street a strip of ground along the east side of Foster alley, forty feet in depth, and extending from Dolphin to Preston streets, thereby making Foster alley, now twenty feet wide, a sixty feet street, and further to open Preston street,

PHILADELPHIA, WILMINGTON AND BALTIMORE RAILROAD.

Aug. 2, '37. 246. The Baltimore and Port Deposit Railroad Company* are authorized to continue and extend their track of railway

from Foster alley to Cathedral street, and to deed to the city of Baltimore the ground so to be given for the beds of said streets, in conformity with the Act of 1849, c. 532, sec. 3. (See p. 810, *ante.*)

By Ordinance No. 39, June 2, 1877, the City Commissioner was authorized and directed to construct a bridge over Jones' Falls and the tracks of the Northern Central Railway Company at Calvert street. (See Art. XXX, Jones' Falls.)

By Ordinance No. 102, June 3, 1876, the Northern Central Railway Company was authorized to construct, under the supervision of the City Commissioner, a bridge over all that part of Jones' Falls lying between Monument street and the railway bridge of the company, situated about two hundred and ten feet north of the northwest line of Madison street, the said bridge to be of such design, materials and workmanship as that it shall not, in the judgment of the Mayor and City Commissioner, reduce the present area of the water flow of said stream, or from obstructions to boating materials thereon, the height of the abutments and of the sub-structure of the said bridge to correspond to those of the bridge recently erected at Madison street and the bridge about to be erected at Monument street, and the said bridge shall be so constructed as that it will afford a sufficiently strong and convenient wagon-way for vehicles engaged in delivering and receiving freight from the cars and depots of the said company there situated, but in no case shall said wagon-way be used for railroad tracks and cars. It was further provided that the said bridge should be removed at any time after twelve months' notice by the Mayor and City Council of Baltimore, the expense of removal to be borne by the Northern Railway Company; and that the whole cost and expense of the construction of the bridge, as well as of its future maintenance, and of the re-construction and repair of the walls of the Falls along the line of the bridge, whenever the same may be necessary, be borne by the Northern Central Railway Company; this ordinance to take effect as soon as the railway company shall deliver to the Mayor an agreement, under its corporate seal, abandoning the use as a water-way of the mill-race known as Warfield's Race, and to fill up the same; and also releasing all claims for damages against the city which might arise in consequence of granting the permission hereby given, as well as all claims for damages growing out of acts of omission or commission on the part of the Mayor and City Council of Baltimore, in connection with the Warfield property or mill-race.

* By 1831, c. 288, s. 25, the directors of said Baltimore and Port Deposit Railroad Company were authorized to extend the said railroad to any point

along Fleet street, westwardly from its intersection with Caroline street to the intersection with President, and to build a bridge over Harford run, on Fleet street, under the direction of the City Commissioner; provided, the said company agree to remove the railway from Wilk and Caroline streets, and re-place the pavement in said streets; and the Mayor is authorized to give the assent of the city for the passage of and construction of said railroad track in front of and along any property belonging to the city.

Tracks laid along Fleet street, &c.

Proviso.

Assent of Mayor.

247. If at any time after the introduction of railways into the streets of the city by the president and directors of the Baltimore and Port Deposit Railroad Company, formerly so called but now known by the name of the Philadelphia, Wilmington and Baltimore Railroad Company,* it shall appear that the said railways, or any part thereof, shall constitute an obstruction or impediment to the ordinary use of any street

No. 70, June 16, '53.

Railroad company not to obstruct streets.

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or points within the said city of Baltimore which they may think proper, and to make and extend the said road from such point to the outer limits of the said city; and that the same powers, rights and privileges shall be, and are hereby, granted to the aforesaid company, within the limits of the city of Baltimore, in relation to and in connection with the said railroad within the said city, as are granted to them in relation to and in connection with the said Baltimore and Port Deposit Railroad Company in any other part of the State; and the said company shall within the said city be subject to the same obligations that are imposed upon them in other parts of the State; provided always, that the railroad to be constructed within the said city shall be so constructed and made as not to interfere with the free use and travelling on the streets of the said city; and provided, also, that the said railroad shall not pass through any of the streets, lanes or alleys of said city without the consent of the Mayor and City Council of Baltimore being first had and obtained.

* The Philadelphia, Wilmington and Baltimore Railroad Company was formed by the union of several railroad companies previously charted by Maryland, Delaware and Pennsylvania, two of which were the Baltimore and Port Deposit Railroad Company, whose road extended from Baltimore to the Susquehanna, lying altogether on the west side of the river, and the Delaware and Maryland Railroad Company, whose road extended from the Delaware line to the Susquehanna, and lying on the east side of the river. *Phil., Wilm. & Balt. R. R. Co.* v. *Md.*, 10 How. S. C. R. 376.

or streets of which the said Mayor and City Council shall be the sole judges, the directors aforesaid shall, on the requisition of the Mayor, either forthwith provide a remedy for the same, satisfactorily to the said Mayor and City Council; or, if they fail to find such remedy, they shall, within one month after receiving such requisition, proceed to remove such obstruction or impediment, and to replace the street or streets in the same condition in which they were before the railway was laid down; and should the said president and directors decline or neglect to obey the requisition of the Mayor, the Mayor, after having given one month's notice, shall cause the obstructions or impediments to be removed, and the original condition of the street or streets restored, at the expense of the said president and directors.

Remedy.

Duty of Mayor.

Notice.

No. 14, April 18, '62.

Canton Company to construct a track on Chester and Aliceanna streets.

248. The Canton Company is hereby authorized to construct a railway track on Chester and Aliceanna streets, between their warehouses, situate on the south side of Aliceanna street, east of Chester street, and the track of the Philadelphia, Wilmington and Baltimore Railroad Company on Boston street; provided, the written consent of the owners of a majority of the front feet of property on the streets along which said track is proposed to be laid be first obtained; the work to be done under the superintendence of the City Commissioner; the track laid under the authority hereof shall be constructed in conformity with the conditions of the ordinance in this article intended to prevent the obstruction of travel upon streets.*

Proviso.

Track—how constructed.

* Ord. No. 42, June 2, '62, enacted: that upon the railway tracks authorized to be constructed by the above ordinance, the Philadelphia, Wilmington & Baltimore Railroad Company are authorized, with the consent of the Canton Company, to use locomotive engines; subject, however, to the conditions of the ordinance regulating the speed of locomotives within the city of Baltimore. (See sec 14, p. 727, *ante.*)

NOTE.—In an action against a railroad company the defendant proved that a fire, for which damages were claimed, began on a lot owned by one H., immediately adjoining the railroad and covered with broom-sedge and

UNION RAILROAD.

249. The Union Railroad Company of Baltimore is hereby authorized and empowered, in the construction of its railroad, to lower the bed of Belair avenue, at the point where it will be crossed by the said railroad, not more, however, than five and one-half feet below the present surface of the avenue at said point, said railroad company to defray every expense attending such change of grade, such as grading, paving, re-setting railroad track, &c.; also any damage arising to the property therefrom, and to construct a bridge over the said avenue, the bottom of which shall be not less than fifteen feet above such new grade of said avenue, for the passage of locomotives and cars being used upon the said railroad; provided, the signatures of two-thirds of the owners of the property on Belair avenue adjoining the proposed change of grade be obtained.

No. 2, Dec. 1, '70.

To lower bed of Belair avenue.

Bridge.

Proviso.

250. The said company is hereby authorized and empowered, in the construction of its railroad, to occupy the beds of John and Wolfe streets, at their intersection, to such extent as may be necessary, and to construct its road upon the same, with such grade as the convenience of the said company may require; provided, however, that before the said company shall

Ibid, ss. 2, 3.

To occupy bed of John and Wolfe streets.

Proviso.

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dry grass; that the fire burned across this lot, about one hundred and fifty yards to the land of the plaintiffs, where it encountered a fence and dry grass, and, spreading from these, destroyed young timber, fences, and fence-rails on said land. Held:

1. That the fact that the fire was first communicated to the material on the land of the adjacent proprietor, H, did not effect the defendant's responsibility to the plaintiffs.

2. That the fire injured the plaintiffs' property in its natural and direct course, and by naturally and gradually spreading from the place where it began without any intervening force or power, and the injury was therefore its proximate effect. *Phila. Wilm. & Balt. R. R. Co.* v. *Constable*, 39 Md. 150. (See note of *Balt. & Potomac R. R. Co.* v. *Reaney*, 42 Md. 118, on p. 807 *ante*.)

make use of the same for the passage of its locomotives or
Wagon ways. cars, it shall provide convenient wagon ways for travel on both sides of its railway tracks, each not less than thirty-three feet in width, calculated from the nearest rail of the road of said
How changes made. company; the changes aforesaid shall be under the supervision of the City Commissioner, and in a manner to be approved by him.

No. 77, June 21, '73
Authorized to construct its railroad under Belvidere street
Proviso.

251. The Union Railroad Company of Baltimore is hereby authorized to construct its railroad under the Belvidere street or road, at a point northeast of the Belvidere bridge; provided, however, that the said company shall construct over the said railroad a bridge not less than twenty-five feet in width, with sides of sufficient height in the opinion of the City Commissioner, and that the grade of the said street or road shall not be made higher than that provided for by an ordinance of the Mayor and City Council of Baltimore, entitled an ordinance to change the grade of Belvidere street or road, at the northeast end of Belvidere bridge, [No. 75, June 21, 1873,] and that the inclines from each end of the bridge shall not be steeper than those provided for in said ordinance, and that the work shall be done to the satisfaction of the City Commissioner; provided, further, that nothing herein contained shall be construed to prevent the repeal of this ordinance at any time hereafter.

NOTE.—As to right of Union Railroad Company under legislative grant of power to cross Baltimore and Havre-de-Grace Turnpike, see *B. & H. T. Co.* v. *U. R. R. Co.*, 45 Md. 224.

Ord. No. 75, Sept. 26, '68, enacted: that the Union Railroad Company is authorized to raise the grade of Greenmount avenue at its intersection with Hoffman street, from four to six feet from what it now is, and Charles street at its intersection with the old Falls road, between Lanvale and Federal streets, to an elevation of from eight to eleven feet, all of which shall be done under the supervision of the City Commissioner, and be properly graded, paved and bridged; expenses to be paid by company.

WESTERN MARYLAND RAILROAD.

252. The Western Maryland Railroad Company and its assigns are hereby authorized and empowered to lay down and maintain a line of tram railway track or tracks, with necessary turn-outs and turn-tables, on Patterson avenue, Fremont, Cook and Sewell streets, from the depot of the said company, west of Fulton street, to Pennsylvania avenue, and to connect with the double track of the City Passenger Railway Company at Pennsylvania avenue, and with the tracks of the Citizens' Railway Company at Stricker and Gilmor streets, and to run cars by horse power upon the track or tracks so to be constructed; the said track or tracks shall be laid under the supervision of the City Commissioner, and in a manner which shall meet his approval. No. 95, Oct. 22, '73. Tram Railway. Ibid, s. 2. How laid.

NOTE.—The Circuit Court of Baltimore City has no jurisdiction to enjoin proceedings *in fieri* under the charter of West. Md. R. R. Co., for objections apparent upon their face or otherwise, the Superior Court having special and complete authority to adjudge and determine them. *West. Md. R. R. Co.* v. *Patterson*, 37 Md. 126.

BALTIMORE, CALVERTON AND POWHATAN RAILROAD.—The Baltimore, Calverton and Powhatan Railroad Company was incorporated by Act of 1870, c. 469, to construct a railroad from some convenient point in the city of Baltimore, at or near the terminus of the City Passenger Railway on Baltimore street, or north of the Frederick road, thence by the Calverton road, Baltimore turnpike and Liberty road, either or both, or such other route or routes as they may select, *via* the junction of the Baltimore and Liberty turnpike road and Windsor Mill road to Wetheredsville, Franklintown, Powhatan, or to any one or all of said places.

The Act of 1872, c. 285, authorizes the Baltimore, Calverton and Powhatan Railroad Company to acquire, by purchase or otherwise, all the corporate rights and franchises of the Hookstown and Pimlico branch, and the Randallstown branch of the Baltimore, Calverton and Powhatan Railroad Company, or either of them, so as to unite all the rights and franchises of the said Baltimore, Calverton and Powhatan Railroad Company, and the two branches above mentioned, into one road.

BALTIMORE, CATONSVILLE AND ELLICOTT'S MILLS PASSENGER RAILWAY.—The Baltimore, Catonsville and Ellicott's Mills Passenger Railway,

from the western limits of the city of Baltimore to the village of Catonsville, (and thence authorized to Ellicott City and Clarksville,) was constructed under 1860, c. 34, and 1865, c. 63. (See 1878, c. 39.)

The Act of 1874, c. 113, authorized this company to use steam instead of horse power for the transportation of passengers; provided, the Baltimore and Fredericktown Turnpike Road Company consent to the use of steam instead of horse power on said railway; and that the locomotives used be smokeless, fireless and noiseless, except ordinary noise and smoke from running of cars.

The acts of incorporation of these companies are construed, in *Peddicord v. Baltimore, Catonsville and Ellicott's Mills Passenger Railway Company*, 34 Md. 465. By Resolution No. 345, May 26, 1875, the City Commissioner was authorized to change the location of the track of this railroad from the side to the centre of Frederick avenue, and to lay down tram rail.

BALTIMORE AND DELTA RAILWAY.—The charter of the Baltimore and Swann Lake Passenger Railway Company, incorporated by Act of 1868, c. 314, was amended by Act of 1874, c. 272, and the name changed to the Baltimore, Hampden and Towsontown Railway Company. This company was consolidated with the Baltimore and Delta Railway Company (incorporated by Act of 1870, c. 476,) by Act of 1878, c. 195, to be known by the latter name.

BALTIMORE, HAMPDEN AND LAKE ROLAND RAILROAD.—The Baltimore, Hampden and Lake Roland Railroad Company was incorporated by Act of 1872, c. 284; the company is authorized to construct a railway, with one or two tracks and the necessary sidelings, for the transportation of travellers or freight by horse power, and have the exclusive use of any streets or county roads over which they may wish to lay their track, between Boundary avenue and Lake Roland; provided, said track or tracks are constructed in such a manner as not to interfere with the travel over said streets or roads.

BALTIMORE, HIGHLANDTOWN AND RIVERVIEW RAILROAD.—This company was incorporated by the Act of 1878, c. 298.

BALTIMORE AND PIKESVILLE RAILROAD.—The Act of 1870, c. 249, authorized the laying of a railroad by the Baltimore and Reisterstown Turnpike Company, between Baltimore city and Pikesville, in Baltimore county. The sixth section thereof authorizes the company to extend their railway to such points in the city of Baltimore and to connect with such of the railways in said city, or which may be constructed therein, as the Mayor and City Council of Baltimore shall permit, direct and ordain, and subject to such restrictions, terms and conditions as said Mayor and City Council may prescribe and impose, and as the Baltimore City Passenger Railway Company shall consent and agree to.

Article XL.—Ordinances.

CARROLLTON AVENUE RAILROAD.—The Carrollton Avenue Company, incorporated by the Act of 1860, c. 113, was authorized by Act of 1870, c. 47, to construct a passenger railway with one or more tracks along and upon the road and route upon which by the original act and this supplement it was authorized to construct a turnpike road; viz: from some point within the city limits, to run along or near the lands of Robert Fowler, deceased, and continue thence to some point on the Patapsco river, near Orange Grove Mill, with lateral branch to some point on the said river, near the Relay House Station on Baltimore and Ohio Railroad, and to extend the avenue through Howard county to a point on Columbia turnpike, at or near Pushpin bridge, on the Patuxent river. It further provides, that the Carrollton Avenue Company shall have the right, subject to such general regulations as the Mayor and City Council of Baltimore shall, from time to time, establish and ordain for the government of passenger railways within the limits of said city of Baltimore, of connecting with any other railways or roads which are now, or may be constructed.

ARTICLE XLI.

REGISTRATION OF BIRTHS AND DEATHS.

ORDINANCE.

1. Duty of Health Commissioner: books.
2. Duty of physician or coroner: certificate of death: exception: illegitimate children.
3. Duty of sexton, &c.: of undertaker: proviso.
4. Return of certificate of death to the Board of Health.
5. Penalty against physician or coroner, undertaker, &c.
6. Midwives: registry of births: duty of parents: exception.
7. Names of physicians, midwives, undertakers and sextons.
8. Registries of births and deaths accessible to public.
9. Form of books.
10. Blanks.

ORDINANCE.

No. 86, Oct. 6, '74.

Duty of Health Commissioner.

1. The Commissioner of Health shall provide suitable books in which he shall register, in the manner hereinafter directed, the returns made to him of the births and deaths which may occur within the city of Baltimore, together with the reported causes of death in each case.

Ibid, s. 2.

Duty of physician or coroner.

Certificate of death.

Exception.

Illegitimate children.

2. Whenever any person shall die in the said city, it shall be the duty of the physician who attended during his or her last sickness, or of the coroner, when the case comes under his notice, to furnish, within forty-eight hours after the death, to the undertaker or other person or persons superintending the burial, a certificate setting forth, as far as the same can be ascertained, the full name, sex, age and condition, (whether married or single,) of the person deceased, and the cause and date of death, except in cases of the births and deaths of illegitimate children.

3. No person having the charge, as sexton or otherwise, of any vault, burying ground or cemetery, within the said city, shall inter, or allow to be interred, or place, or allow to be placed, in any vault, burying ground, or cemetery, the dead body of any person; nor shall any undertaker or other person remove the dead body of any person who has died in the said city and has not been buried, to any place beyond the limits of the said city, without first procuring the certificate of the attending physician or of the coroner, or a written order from the Commissioner of Health. To said certificate the undertaker, or other person having charge of the body, shall, as far as can be ascertained, add the occupation of the deceased, the place of birth, the ward, street and number of the house in which the death occurred, the place and date of interment; and where the deceased is a minor, the full name of the parents. In case any person shall die without the attendance of a physician, or if the physician who did attend at the time of the death refuses or neglects to furnish a certificate as aforesaid, it shall be the duty of the undertaker, or of any other person acquainted with the facts, to report the same to the Commissioner of Health, who shall be authorized to give a certificate of death as aforesaid; provided, it be not a case requiring the attendance of the coroner.

Ibid, s. 3. Duty of sexton, &c. Of undertaker. Proviso.

4. Every sexton or other person having charge of any vault, burying ground, or cemetery, within the city of Baltimore, and every undertaker or other person who shall remove any dead body, which had not been buried from or out of the said city, shall return the certificate of death to the Board of Health before twelve o'clock, M., on the Saturday next succeeding the date of burial, or removal of the body out of the city.

Ibid, s. 4. Return of certificate of death to Board of Health.

5. In case a physician or coroner shall refuse or neglect to furnish such certificate as aforesaid, he shall forfeit and pay the sum of ten dollars for each offence; and every undertaker, sexton, or other person, removing the dead body of any person,

Ibid, s. 5. Penalty against physician, or coroner, undertaker, &c.

or having charge of any vault, burying ground, or cemetery, who refuses or neglects to perform any of the duties required by this ordinance, shall forfeit and pay for every such offence the sum of twenty dollars, which sum shall be recovered as other fines and forfeitures are recoverable.

Ibid, s. 6.

Midwives.

Registry of births.

6. Every person practising midwifery in the city of Baltimore, under whose charge or superintendence a birth shall hereinafter take place, shall keep a true and exact register of such birth, and shall enter the same on a blank schedule, to be furnished by the Commissioner of Health; this schedule shall contain a list of the births which have occurred under his or her care during the month, and shall set forth, as far as the same can be ascertained, the full name of each child, (if any name shall have been conferred,) its sex, color, the full name and occupation of its parents, the day and place of its birth, and the said schedule shall be delivered, duly signed by the practitioner in the form of a certificate, between the first and third day of each and every month, to the Board of Health. In case the birth of any child shall have occurred without the attendance of a physician, or of a practitioner of midwifery, or should no other person be in attendance upon the mother immediately thereafter, it shall then become the

Duty of parents.

duty of the parent or parents of such child to report its birth to the Board of Health in the manner and form, and within

Exception.

the period above required, except in cases of the births and deaths of illegitimate children.

Ibid, s. 7.

Names of physicians, midwives, undertakers and sextons.

7. Every practicing physician, and every person practicing midwifery in the city of Baltimore, and every undertaker and superintendent or sexton of any cemetery or burying ground in the said city, who shall neglect or refuse to leave his or her name and place of residence at the health office within sixty days after the Commissioner of Health shall have given notice of this ordinance, and who shall neglect or refuse to

perform any other of the duties required as aforesaid, shall forfeit and pay for each offence the sum of ten dollars.

8. The registry of births and deaths shall be kept in separate books, with general indexes to the respective records; and said registers shall at all times, be accessible to the public, under such restrictions and regulations as may be imposed by the Commissioner of Health. Ibid, s. 8. Registries of births and deaths, accessible to public.

9. In order to secure uniformity and dispatch in the registration herein provided for, the books shall contain on the margin of each page printed titles, with corresponding blanks for suitable entries for births and deaths, in the following order: Births—Full name of the child, sex, color; full name of the father; full name of the mother; day, month and year of the birth; street and number of the house where born; name of the physician or other person signing certificate; his residence, date of certificate; date of registration. Deaths—Full name of the deceased, color, sex, age, married or single, occupation, birth-place, date of death, cause of death, when a minor, the name of the father and mother, ward, street and number of house, date of burial, date of certificate, date of registration. Ibid, s. 9, Form of books.

10. The Commissioner of Health shall keep on hand at all times a supply of blanks for gratuitous distribution to all persons whose duty it shall be to make returns under this ordinance; the said blanks to be prepared in the form of books, and the margin shall correspond with the printed titles in the books of the Health Commissioner, as required by section 9 of this ordinance.* Ibid, s. 10. Blanks.

* There is a Public General Law, similar to this ordinance, for the registration of births, marriages and deaths, in the counties and the city of Baltimore, enacted by the Acts of 1865, c. 130, and 1866, c. 102. *Hardesty* v. *Taft*, 23 Md. 525.

ARTICLE XLII.

SABBATH.

STATUTES.

1. Observance of the Lord's day: penalty.
2. Selling, giving away, &c., liquors, cigars, &c.: penalty: license: milk or ice dealers and apothecaries.
3. Keeping open dancing saloons, opera houses, ten-pin alleys, barber shops, &c., on Sunday: penalty.

ORDINANCES.

1. Penalty for driving cattle, &c., through the streets on the Sabbath: exceptions.
2. Penalty for selling fruit, liquor, &c., on the Sabbath.
3. Penalty for sporting and gaming on the Sabbath.
4. Bands of music not to parade on the Sabbath: penalty.

STATUTES.

P. G. L., art. 30, sec. 178.

Observance of the Lord's day.

1. No person shall work or do any bodily labor on the Lord's day, commonly called Sunday; and no person, having children or servants, shall command, or wittingly or willingly suffer any of them to do any manner of work or labor on the Lord's day, (works of necessity and charity always excepted,) nor shall suffer or permit any children or servants to profane the Lord's day by gaming, fishing, fowling, hunting, or unlawful pastime or recreation; and every person transgressing this section, and being thereof convicted before a justice of the peace, shall forfeit five dollars, to be applied to the use of the county or city.*

Penalty.

*This section is the Act of 1723, c. 16, sec. 10. The original Acts for observance of the Sabbath were 1723, c. 16; 1834, c. 244; 1847, c. 193. For decisions on these Acts see *State* v. *Fearson*, 2 Md. 311; *Phil., Wilm. & Balto.*

Article XLII.—Statutes.

2. No person in this State shall sell, dispose of, barter, or if a dealer in any one or more of the articles of merchandise in this section mentioned, shall give away on the Sabbath day, commonly called Sunday, any tobacco, cigars, candy, soda or mineral waters, spirituous or fermented liquors, cordials, lager beer, wine, cider, or any other goods, wares or merchandise whatsoever; and any person violating any one of the provisions of this section shall be liable to indictment in any court in this State having criminal jurisdiction, and upon conviction thereof shall be fined a sum not less than twenty nor more than fifty dollars, in the discretion of the court, for the first offence; and if convicted a second time for a violation of this section, the person or persons so offending shall be fined a sum not less than fifty nor more than five hundred dollars, and be imprisoned for not less than ten nor more than thirty days, in the discretion of the court; and his, her, or their license, if any were issued, shall be declared null and void by the judge of said court; and it shall not be lawful for such person or persons to obtain another license for the period of twelve months from the time of such conviction; nor shall a license be obtained by any other person or persons to carry on said business on the premises or elsewhere, if the person so as aforesaid convicted has any interest whatever therein, or shall divide any profit whatever therefrom, and in case of being convicted more than twice for a violation of this section, such person or persons on each occasion shall be imprisoned for not less than thirty nor more than sixty days, and fined a sum not less than double that imposed on such person or persons on the last preceding conviction, and his, her, or their license, if any were issued, shall be declared null and void by the court, and no new license shall be issued to such person or persons for a period of two years from the time of such conviction, nor to

1866, c. 66. Selling, giving away, &c., liquors, cigars, &c. on Sunday.

Penalty.

License.

R. R. Co. v. *Phil. & H. S. T. Co.*, 23 How. 217; *Powhatan Steam Co.* v. *Appomatox R. R. Co.*, 24 How. 247; *Bode* v. *State*, 7 Gill, 324; *Capritz* v. *State*, 1 Md. 569; *Thomas* v. *Hunter*, 29 Md. 406.

any one else to carry on said business wherein he is in anywise interested, as before provided for the second violation of the provision of this section; one-half of all the fines to be imposed under this section shall be paid to the State, and the other half to the informer; this article is not to apply to milk or ice dealers in supplying their customers, or to apothecaries when putting up *bona fide* prescriptions.*

Milk or ice dealers and apothecaries.

1874, c. 71.

Keeping open dancing saloons, opera houses, ten-pin alleys, barber saloons, &c. on Sunday.

3. It shall not be lawful to keep open or use any dancing saloon, opera house, ten pin alley, barber saloon, or ball alley, within this State on the Sabbath day, commonly called Sunday, and any person or persons, or body politic or corporate, who shall violate any provisions of this section, or cause, or knowingly permit the same to be violated by any person or persons in his, her or its employ, shall be liable to indictment in any court of this State having criminal jurisdiction, and upon conviction thereof, shall be fined a sum not less than fifty dollars nor more than one hundred dollars, in the discretion of the court, for the first offence, and if convicted a second time for a violation of this section, the person or persons, or body politic or corporate, shall be fined a sum not less than one hundred, nor more than five hundred dollars, and if a natural person shall be imprisoned not less than ten, nor more than thirty days, in the discretion of the court; and in the case of any conviction or convictions under this section subsequent to the second, such person or persons, body politic or corporate, shall be fined on each occasion a sum at least double that imposed upon him, her or them, or it, on the last preceding conviction, and if a natural person shall be imprisoned not less than thirty nor more than sixty days, in the discretion of the court; all fines to be imposed under this section shall be paid to the State.

Penalties.

* The limitation of one month to prosecutions for Sabbath-breaking, as provided by sec. 11 of Art. 57 of the P. G. L., does not apply to the offence of selling liquor or lager beer on Sunday, made punishable by above section; such offence not being Sabbath-breaking within the meaning of above section. The offence of selling lager beer on Sunday comes under the limitation of one year, as provided by sec. 10 of said Art. 57. *State* v. *Popp*, 45 Md. 432.

Article XLII.—Ordinances.

ORDINANCES.

1. It shall not be lawful for any person or persons to drive any cattle, droves of horses, mules, sheep or hogs through any of the streets, lanes or alleys of the city, within the limits of direct taxation, on the Sabbath day, under a penalty of five dollars per head for each and every offence; provided, that nothing herein contained shall apply to horses and mules brought to the city on the Sabbath day, being taken to the nearest stables; and provided further, that it shall be lawful for all persons bringing live stock to the city by railroad to have the same conveyed to the cattle pens on the Sabbath day.

No. 33, s. 39, R. O.; No. 90, Sept. 26, '60.

Penalty for driving cattle, &c. through the streets on the Sabbath.

Provisos.

Exceptions.

2. Every person who shall within the city, on the Sabbath day, sell or offer to sell at any wharf or on board any boat, or in any market house, or carry through the streets for sale, any watermelons or other fruit, cakes, ice cream or other confectionery, or any kind of liquor or other article, shall for such offence pay a fine of five dollars.

No. 33, s. 53, R. O.

Penalty for selling fruit, liquor, &c. on the Sabbath.

3. Every person who shall fish, hunt, pitch quoits or money, fly a kite, play bandy or ball, or any other game or sport on the Sabbath day within the limits of the city, shall for each offence pay a fine of one dollar; and every ordinary or public garden keeper who shall suffer or allow in or upon his premises any kind of gaming or sport on the Sabbath day, shall, for every individual so permitted to offend, pay ten dollars.

Ibid, s. 54.

Penalty for sporting and gaming on the Sabbath.

4. It shall not be lawful for any band or number of musicians, excepting military companies when called out by the State or municipal authorities, to parade in any of the streets, lanes or alleys of the city on the Sabbath day, with instrumental music, under a penalty of twenty dollars for each member of said band so parading for each and every offence.*

Ibid, s. 59.

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*See further as to observance of the Sabbath, pp. 136, 366, 419, 629, 643, 723, 733, 763, *ante*.

ARTICLE XLIII.

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STATUTES.

1. The Mayor and City Council of the City of Baltimore shall have full power and authority to establish in said city a system of free public schools, under such ordinances, rules and regulations as they may deem fit and proper to enact and prescribe; they may delegate supervisory powers and control to a Board of School Commissioners; may prescribe rules for building school houses, and locating, establishing and closing schools, and may in general do every act that may be necessary or proper in the premises.

1872, c. 377. sub-c. xvi, s. 1. Mayor and Council to establish schools.

Powers.

Ibid, s. 2.

Powers of Commissioners of Public Schools.

2. The Board of Commissioners of Public Schools of Baltimore City, or by whatever name the body may be known that has supervisory powers and control over the public schools of Baltimore city, shall have power to examine, appoint and remove teachers, prescribe the qualifications, fix the salaries subject to the approval of the Mayor and City Council, and select text-books for the schools of said city; provided, such text-books shall contain nothing of a sectarian or partisan character. The Board of Commissioners of Public Schools of said city shall annually make a report to the State Board of Education of the condition of the schools under their charge, to include a statement of expenditures, the number of children taught, and such other statistical information as may be necessary to exhibit the operation of the schools.

Proviso.

Report to State Board of Education.

Ibid, s. 3.

Ordinances by Mayor and Council.

3. The Mayor and City Council of Baltimore shall have power and authority to make all ordinances for the protection of the school houses and property, and to punish any person who may disturb the sessions of said public schools.

Ibid, s. 4.

Taxes.

4. And the said Mayor and City Council are hereby authorized and empowered to levy and collect upon the assessable property in said city, as other taxes are levied and collected, such amount of taxes as may be necessary to defray all the expenses incurred for educational purposes by said Mayor and City Council.

1872, c. 377, sub-c. xix, s. 2.

State Treasurer to pay school fund to city.

5. The Treasurer, on the warrant of the Comptroller, shall pay to the Mayor and City Council the proportion of the free school fund to which said city is entitled.*

NOTE.—The Act of 1865, c. 160, (repealed by Act of 1868, c. 407, which was repealed by 1870, c. 311, which was repealed by the afore cited Act of 1872, c. 377,) relating to public schools, and the State Constitution of 1864 construed, so far as the city of Baltimore was concerned, in *School Commissioners, Baltimore City* v. *State Board of Education*, 26 Md., 505. The Act of 1874, c. 463, amends the Act of 1872, c. 377, in matters not especially affecting the city of Baltimore.

*The Act of 1878, c. 91, prescribes and defines the duties of the Comptroller of the Treasury, relative to the apportionment and distribution of the

ORPHANS' COURT.

6. The Orphans' Court of said city shall order and direct the funds arising from intestates' estates that may be administered upon in said court, and which remain undistributed for want of legal representatives of the intestates to claim the same, to be paid to the Board of Commissioners of Public Schools.*

P. L. L., art. 4, sec. 829.
Estates undistributed for want of representatives to go to schools.
Orphans' Court to order payment to Public School Commissioners.

7. The court shall not make such order until they shall be satisfied that the intestate left no legal representatives living at the time of his or her death, and they shall cause the ad-

Ibid, sec. 830.
Court to give notice before so ordering.

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revenue derived from the annual tax levied for the support of Free Public Schools, and confirms the apportionments and distributions thereof heretofore made by that officer.

By Act of 1878, c. 138, the regents of the University of Maryland were authorized to sell, &c., property on Mulberry street, belonging to the University, and apply the proceeds to the purposes of the University.

* Public General Laws, Art. 93, secs. 136, [amended by 1876, c. 295,] and 137, [amended by 1878, c. 316,] are as follows:

If there be no widow or relations of the intestate within the fifth degree, which shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the State, and shall be paid to the Board of County School Commissioners of the county wherein letters of administration shall be granted upon the estate of the deceased, for the use of the public schools of said county.

If any legal representative shall appear, after payment has been made, under the preceding section, the Board of County School Commissioners receiving such payment, shall pay the same to such representative, but no collateral more remote than brothers' and sisters' children shall claim under this section.

The mode of ascertaining the degree of kindred between two individuals, since the Act of 1798, c. 101, is to reckon by counting down from the common ancestor to the more remote of the two, and there is not a different mode of computing relationship, where the schools are to have the surplus, from that prescribed, where it is to be distributed among the kindred of the deceased. *C. H. School* v. *Greenwell*, 4 G. & J. 407. See *Thomas, adm'r* v. *Fred. Co. School*, 7. G. & J. 369. The dying without relations within the fifth degree may be established by circumstantial or presumptive evidence. *Thomas, adm'r.* v. *Fred. Co. School*, 7 G. & J. 369.

ministrator of such intestates to give notice, by advertisement to be inserted for such periods of time and in newspapers published in such places as they may deem necessary, that upon default of the appearance of any legal representative of the intestate, by a certain day to be fixed by the court, and named in said advertisement, the estate of said intestate will be paid to the Commissioners of Public Schools.

Ibid, sec. 831.

Release to be given to administrator.

8. They shall, upon passing an order directing such payment, require from the treasurer of the Board of Commissioners of Public Schools, or any other officer who may be appointed by the said Board of Commissioners, or the Mayor and City Council of said city, to receive such funds, a receipt and release to the administrator for the same.

Ibid, sec. 832.

What obligation release to contain; to be recorded.

9. The release shall contain an obligation that the said funds shall, by the Board of Commissioners of Public Schools, be applied to the use and support of the public schools of the city of Baltimore, and shall be recorded and preserved in said court as other records are.

Ibid, sec. 833.

If representatives appear, money to be refunded.

10. If the estate of an intestate shall be paid to the Board of Commissioners of Public Schools under this law, and any legal representatives of the intestate of no remoter degrees among collaterals than brothers' or sisters' children shall at any time appear and prove him, her or themselves to be such legal representatives, the Board of Commissioners of Public Schools who received such estate, or their successors, if the same shall be in their hands or shall have been applied to the use of the public schools, shall restore the same to such legal representative or representatives out of the school fund under their direction.

Ibid, sec. 834.

Rights of Charitable Marine Society.

11. Nothing contained in this law shall be construed to interfere with or affect the rights vested in the Charitable Marine Society of Baltimore.*

* See sec. 47, p. 208, *ante*.

JOHNS HOPKINS UNIVERSITY.

12. The Johns Hopkins University, a corporation duly incorporated by certificate, recorded in the office of the Clerk of the Circuit Court for Baltimore County, shall have power to establish branches of the said university in the city of Baltimore, to hold, or to purchase and hold, all property in said city, needed for the successful conducting of the branches of the said university in said city, and to keep and maintain a principal office in said city for the conduct of the business of the said university. 1876, c. 84. Branches of University in Baltimore. Property. Office.

13. The said The Johns Hopkins University shall have power to admit students of the said university, who shall merit the distinction to the office and profession of surgeon, or to the degree of doctor of medicine, or of doctor of laws, or of bachelor, or master of arts; to grant to students in such university, such certificates of proficiency and attainments in any special study, as the said university may see proper to confer; and to grant the honorary degrees of doctor of laws, doctor of medicine, and master of arts, or such other degrees as may be proper, to any person who may merit such distinction, whether such person be a student of such university or not. Ibid, s. 2. Degrees. Certificates.

ORDINANCES.

COMMISSIONERS OF PUBLIC SCHOOLS.

1. There shall be appointed by the two branches of the City Council, in convention assembled, at the times and in the manner prescribed in sections 2 and 3 hereof, twenty persons, to be called Commissioners of Public Schools, one commissioner to be selected from each of the several wards of the city; and said commissioners shall continue in office for the terms as prescribed in sections 2 and 3 hereof, provided that if any commissioner shall remove from the ward from which he was No. 74, s. 1, June 20, '65. How appointed. Proviso.

appointed before the expiration of his term of office, then his place in the board shall be declared vacant, and the board may declare vacant the place of any commissioner who shall absent himself from three successive stated meetings of the board, without showing satisfactory cause for his non-attendance, after having been duly notified of the same.

No. 164, s. 1, Oct. 30, '76.

Terms of office of the several Commissioners.

2. The Commissioners of Public Schools, who shall be appointed in the month of February, 1877, shall be appointed for one, two, three and four years, which several terms of service shall be determined by lot at their first meeting and immediately after their organization by the election of a President and Secretary as provided by sec. 5 hereof; the members severally appointed for the First, Second, Third and Fourth wards shall draw lots for their terms of service, which terms shall be one, two, three and four years respectively, as fixed by the lot then drawn; and the several members for each succeeding four wards, the wards being taken in numerical order, shall determine their terms of service in the same manner as aforesaid.

President and Secretary.

Ibid, s. 2.

Election of Commissioners by Council.

3. In the month of February in each succeeding year, the First and Second Branches of the City Council in convention assembled, shall elect School Commissioners in place of those only whose term of office shall at that time expire, and the commissioners elected, as prescribed by this section, shall continue in office for four years.

Ibid, s. 3.

Expelling member of School Board.

4. The First and Second Branches of the City Council, in convention assembled, shall have power to expel a member of the Board of Commissioners of Public Schools, either for persistent neglect of duty or for conduct unbecoming a School Commissioner. Should any vacancy occur in the board by removal, resignation, death or otherwise, the unexpired term shall be filled in the same manner as provided by the preceding sections hereof.

Vacancy, how to be filled.

5. Said commissioners shall meet within ten days after their election, and at their first meeting they shall proceed to the election of president from their own board, to be chosen by a majority of the whole body; also, a person to act as secretary, who shall serve for one year, unless sooner removed by the board, and who shall have charge of the rooms, books, papers and documents of the board, and shall perform such clerical duties as may be required of him by its members or committees; the board shall assign the duties to be performed by him, and shall fix his salary, subject to the approval of the two branches of the City Council. If a vacancy should occur in the office of secretary, from any cause whatever, it shall be the duty of the board to elect a person to fill said vacancy as soon as it can conveniently be done; and in all cases a majority of the commissioners shall constitute a quorum for the transaction of business. No. 44, s. 2, June 20, '66. President. Secretary. Salary of secretary. Quorum.

6. Whenever a vacancy or vacancies shall occur in the Board of Commissioners of Public Schools during the session of the City Council, it shall be the duty of the president of the board to inform the Mayor of such vacancy or vacancies, who shall communicate the same to the first and second branches of the City Council, who shall proceed in convention, according to their respective rules, to fill said vacancy or vacancies. If a vacancy or vacancies shall occur during the recess of the City Council, by death, resignation or otherwise, it shall be the duty of the board to fill the same as soon as may be convenient; the person or persons so elected to serve until the next session of the City Council. Ibid, s. 3. Vacancies.

7. There shall be appointed by the board a suitable person to be the Superintendent of Public Instruction for the City of Baltimore, who shall be a resident of the city of Baltimore, of literary and scientific acquirements, and of skill and experience in the art of teaching, and who shall serve for the term of four years, unless sooner removed by the board. It shall Ibid, s. 4. Superintendent of Public Instruction.

His duties. be the duty of the superintendent to devote his time and attention entirely to the general supervision of the public schools of the city, subject to such rules and regulations as the Board of School Commissioners may establish. It shall especially be the duty of the superintendent to visit every school under the charge of the Board of Commissioners of Public Schools as often as once in each quarterly session, or four times during the academic year; to examine into its respective studies, and to inquire into all matters relating to the government of the schools, such as its curriculum of studies, discipline and course of instruction pursued therein, the text books that are used,

Report. the condition of the school houses, and to make a monthly report of the matters thus specified to the Board of Commissioners of Public Schools.

No. 50, April 22, '72. Assistant Superintendent of Public Schools. Term of office.

8. There shall be appointed by the said board a suitable person to be the assistant superintendent of public schools, who shall be a resident of the city of Baltimore, of skill and experience in the art of teaching, and whose term of office shall be concurrent with that of the superintendent.

Ibid, s. 2. Duties.

9. It shall be the duty of such assistant superintendent of the public schools to aid the superintendent in the supervision of the public schools of the city; he shall visit the primary schools as often as his duties will permit, and make a report of such visits to the superintendent; he shall assist in the examination of the quarterly reports of teachers in the preparation of the questions for the semi-annual examination of the classes of the primary and grammar schools, and be subject to such rules and regulations as the Board of Commissioners of Public Schools may establish.

No. 74, s. 5, June 20, '66. Examination of applicants for positions as teachers.

10. In order to advance the interests of the schools committed to his charge, the superintendent, in conjunction with a committee of three members of the school board, shall, in the forms prescribed by the board, examine into and ascertain the

qualifications of applicants for the situation of teachers, and re-examine, if necessary, any of the teachers employed in the schools under the charge of the board; and, in order further to promote the cause of sound education, and to elevate the character and qualifications of the teachers, the superintendent shall, by all the means in his power, counsel and advise with the teachers in relation to their duties, the proper classification of studies, the best methods of imparting instruction, and, in general, as to the proper discipline and management of the schools under their charge.

Superintendent's duty as to teachers.

11. The salary of the superintendent shall be fixed by the Board of Commissioners of Public Schools, subject to the approval of the two branches of the City Council; and he shall make annually a report in writing to the Mayor and City Council of all matters of interest or importance in connection with the schools; and shall also, when requested, furnish to the Board of Commissioners of Public Schools of the city a written statement, showing the number of schools in the city, the number of pupils under instruction, and the teachers employed therein, with such additional information in respect to the matters above specified as may be deemed advisable and necessary.

Ibid, s. 6.

Salary of superintendent.

Report to Council.

12. The salary of the assistant superintendent shall be fixed by the Board of Commissioners of Public Schools, subject to the approval of the Mayor and City Council.

No. 50, April 22, '72.

Salary.

13. The Register is authorized to receive, through the secretary of the board, all moneys from the teachers, and all other funds due the school board, and pay out of the funds standing in the treasury of the city to the credit of the public schools, any orders that are provided for in the levy for school purposes, after having been examined by the committee on accounts and passed by the board, signed by the president and countersigned by the secretary of the Board of Commissioners of Public Schools.

No. 74, s. 7, June 20, '66.

Duty of City Register.

Ibid, s. 8.

Powers and duties of commissioners.

Teachers.

Books, &c.

By-laws and regulations.

Proviso.

Report to Council.

14. The said Board of Commissioners of Public Schools shall have charge of the public schools in operation in the city of Baltimore, and of all such as may be in operation during their continuance in office; and it shall be their duty to employ teachers and determine their salaries; to prescribe the courses of study and the books to be used; to make all such by-laws for their own government, and all such rules and regulations for the management of the schools as they may deem expedient, and to modify and repeal the same at their pleasure; provided, that such by-laws, rules and regulations, so made or modified, be not inconsistent with the laws of the State, or the ordinances of the city. And it shall further be the duty of said board, at such time as other city officers are required to report, to report to the Mayor and City Council a statement of its transactions, with an account of their receipts and expenditures during the year last past, and their resources for the year then commenced.

Ibid, s. 9.

Board to have charge of public school buildings.

Repairs.

Proviso.

15. The Commissioners of Public Schools shall have charge of all the buildings* used for school purposes, and they are hereby authorized to make all necessary repairs in the school houses of the city; provided, the same shall not exceed the sum of three hundred dollars.

No. 78, s. 1, Nov. 5, '69.

Rent of public school halls.

Proviso.

16. The said board is authorized and directed to rent out, except for political purposes, for such compensation as to them may seem just and reasonable, the main halls in the Eastern and Western Female High School buildings, for public purposes, at such times and under such regulations as to them may appear right and proper; provided, the same shall not be rented

*Resolutions No. 384, July 8, 1873, No. 425, October 29, 1873, and No. 445, November 3, 1873, relate to the erection of the Baltimore City College on Howard street, and the sale of the City College property on the corner of Holliday and Fayette streets. The Act of 1874, c. 469, provided for the purchase of suitable grounds, and for the erection thereon of suitable buildings for the State Normal School.

so as to interfere with or interrupt the regular exercises of the schools.

17. The revenue derived therefrom, as provided in the preceding section, shall be accounted for by the said board and paid over by them to the Register, who is directed to place the same to the credit of the public school fund. Ibid s. 2. Revenue to be paid to Register.

18. The said board shall not employ in building, repairing or improving, or in furnishing stationery or any other kind of supplies, any member of said board; nor shall any member of said board be interested, directly or indirectly, in any contract whatever for the use of the public schools. No. 74, s. 10, June 20, '66. Members of Board not to be interested in contracts, &c.

19. The salaries of the superintendent, assistant superintendent and secretary of the board, and of the teachers and all other persons permanently employed by the Commissioners of Public Schools, shall be paid monthly, on the last day of each month, by the City Register; and he is hereby authorized, in case of any deficiency in the collection of the school fund, or in anticipation of the levy for the same, to advance, from time to time, to said fund, such sums as shall be required for the payment of said salaries at the time when they shall be due. Ibid s. 11; No. 51, Apl. 15, '59. Salaries. Register.

20. There shall be no charge for tuition in any of the public schools, but it shall be the duty of the commissioners to furnish all the necessary books and stationery for the several schools, and in general whatever fuel or other supplies the schools may require—the same to be paid for from the public school fund; and each pupil shall pay, in advance, one dollar per quarter for the books used by them, which shall go to the school fund; provided, that nothing in this section shall be so construed as to prevent the board from furnishing the use of books to the children of parents in indigent circumstances; provided, further, that pupils may furnish their own books, if they so prefer. No. 74, s. 12, June 20, '66. No charge for tuition. Books and stationery. Provisos.

No. 40, s. 11, R. O.

Parents are to be citizens of Baltimore.

21. The public schools of Baltimore are designed exclusively for the education of those pupils whose parents, or in the case of orphans, whose guardians are citizens of Baltimore, or residents of Baltimore with a *bona fide* intention to become citizens.*

No. 53, June 9, '74.

Children of non-residents.

22. The Board of Commissioners of Public Schools are hereby directed, before admitting the children of non-resident parents or guardians into the public schools of the city of Baltimore, to charge such parents or guardians the following

Charges.

amounts, to wit: For admission to the Baltimore City College, per capita, twelve dollars and fifty cents per quarter; for admission to the female high schools, per capita, eight dollars per quarter; for admission to grammar schools, per capita, four dollars per quarter; for admission to primary schools, per capita,

How paid.

three dollars per quarter; the said amount to be paid invariably in advance, and to be paid by the School Commissioners to the Register of the City for account of the school fund.

No. 40, s. 12, R. O.

Books, how admitted and discontinued.

23. The Commissioners of Public Schools shall not admit any book or books into use in the public schools, or discontinue the use of the same after having been admitted, unless said admission or discontinuance be approved by a vote of a majority of the entire board in session assembled at a regular meeting of said board.

Ibid, s. 14.

Bequests, &c., regulated.

24. The said Commissioners of Public Schools are hereby authorized to receive all devises, bequests and donations which may be made for the benefit of said public schools, and all devises, bequests and donations received by said commissioners, by virtue either of this section or of any act or acts of the General Assembly of Maryland, shall be paid over by them to the Register of the City, who shall place the same to the

Conditions.

credit of the school fund; and if any condition or conditions

*By Resolution No. 50, March 2, 1874, the commissioners are required to enforce this section.

be prescribed in any such devise, bequest or donation, the same shall be applied under the direction of said commissioners, with the sanction of the Mayor and City Council, agreeably to the intention of the testator or donor; and if no condition be prescribed in any such devise, bequest or donation, it shall not be lawful for said commissioners to draw all or any part of the amount thereof out of the city treasury during the year in which it was received, unless the collections from the resources and levy of the school fund for said year should fall short of the estimated expenditures forming the basis of said levy; or unless it shall have been already allowed in the estimated resources of the fund for said year, otherwise the same shall be included in the estimate of the ensuing year.

Ibid, s. 15.

Register's duty with regard to the public school fund.

25. The Register of the City shall demand and receive, from time to time, from the Treasurer of Maryland, from the Orphans' Court of Baltimore City, from the Commissioners of Finance, and from the Collector of the City, all such sum or sums of money as may be in their hands for the support and benefit of the public schools of the city, and he shall place the same to the credit of the public school fund.

Ibid, s. 16.

Assessments for paving, &c., how paid.

26. All assessments for paving or repaving in front of any of the public schools, or lots of ground attached thereto, and also all assessments of benefits for opening or widening any street or streets, so far as the public schools may be interested, shall be paid by the Register out of any unappropriated money in the treasury.

Ibid, s. 18.

Annual appropriations not to be exceeded.

27. It shall not be lawful for said Board of Commissioners of Public Schools to exceed in their expenditures the amount annually appropriated therefor by the City Council; and it shal be their duty to apply the same exclusively to the several purposes, and as far as practicable, in the proportion specified in the statement of estimated expenses, on which said City Council shall have based the school fund levy for the year.

Ibid, s. 19.

Certificates, when to be conferred.

28. The Male Public High School of Baltimore shall be styled the Baltimore City College;* and whenever any of the pupils of said school shall have satisfactorily completed the prescribed term and course of instruction, the Commissioners of Public Schools shall have power to confer on them testimonials, in form as follows, viz: This certificate is given to ——— ———, a pupil of the Baltimore City College, in testimony that he has pursued and satisfactorily completed the studies of the —— course of —— years; and said testimonials shall be signed by the president of the board, by the Mayor of the City, with the seal of the city attached, by the committee on the Baltimore City College, and by the principal, vice-principal and professors of said college.

Ibid, s. 20.

To be paid for out of school fund.

Proviso.

29. Said Commissioners of Public Schools are authorized to cause said testimonials to be engraved on copper, or lithographed, with a suitable vignette, the expenses necessarily connected with the preparation of said testimonials to be paid from the school fund; provided, that no commissioner or teacher shall ever charge or receive any fee or compensation for so signing said testimonials.

Ibid, s. 21.

Certificates in female high schools.

30. Said Commissioners of Public Schools shall have power to confer testimonials on pupils of the Eastern and Western Female High Schools, in conformity with the requisitions and provisions of the preceding two sections.

Ibid, s. 22.

Certificates, when to be given to certain pupils.

31. Whenever any pupil shall leave any of the high schools without having completed the prescribed term and course of instruction, then, and in such cases, said commissioners shal have power to confer such testimonials on said pupils as said commissioners may deem to be proper and appropriate to the occasion.

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*By Ord. No. 84, Oct. 9, '66, the name of the Male Central High School was changed to that of Baltimore City College.

FLOATING SCHOOL.

32. The Commissioners of Public Schools are hereby authorized and empowered, whenever in their judgment they shall deem it expedient, to organize and put in operation a public school of such grade as to the said commissioners may seem advisable, on board of any ship or other vessel that may for the time being be used by the Board of Trade of Baltimore as a nautical school. Ibid, s. 23. To be organized.

33. The school so organized and put in operation shall be subject (so far as they are applicable) to all the rules and regulations governing the other public schools of Baltimore; and the Commissioners of Public Schools shall have full power and authority, from time to time, to adopt and enforce in and about and concerning the said school, all necessary and proper regulations calculated to insure the literary education of the pupils. Ibid, s. 24. How controlled.

34. All that part of the studies of the aforesaid school to which the preceding two sections shall be deemed to apply, and with which the Commissioners of Public Schools shall have any connection, shall be the literary branches, such as shall be taught in the public schools of the city; and the basis of the relations of the Commissioners of Public Schools to the said school shall be taken to be defined by the following memorandum, made between a committee of the Board of Trade and the Board of Commissioners of Public Schools:— Ibid, s. 25. Studies.

"It was agreed, that in the establishment of the proposed school, the School Commissioners should furnish teachers, and the same course of instruction, so far as would be applicable, as are now employed in our schools—with desks, seats and all necessary books and stationery, and should devote themselves to the same care and supervision that they now give to the public schools; and on the part of the Board of Trade, and the citizens gener- Agreement with Board of Trade as to ship, apparatus, &c.

ally whose assistance it will invoke, it was proposed that the vessel to be used for the purpose of the school should be provided with the person to take charge of the same, and all necessary rigging, tackle, &c.; also, whatever nautical apparatus might be required, and adequate teachers to instruct the boys in all that relates to seamanship."

Ibid, s. 26.

How to be designated.

35. The school herein provided for shall be designated and known as the Floating Public School of Baltimore, and the Commissioners of Public Schools shall have authority to present to the deserving pupils of the same, any diploma or other suitable reward of merit that may to the said commissioners appear just and proper.

Ibid, s. 27.

Permission to Board of Trade to select two commissioners.

36. The Board of Trade, if they deem it necessary, are hereby permitted, annually in the month of February in each and every year, to select from their own body, two persons, to be known as commissioners of the floating school, who shall have authority to participate with the Commissioners of the Public Schools in the management of the nautical department of said floating school.

Ibid, s. 28.

City's right to discontinue.

37. Nothing herein contained, nor any act of the Board of Commissioners of Public Schools in the premises, shall be taken or construed to divest the Mayor and City Council of the right to discontinue the said Floating Public School at their option.

SCHOOLS FOR COLORED CHILDREN.

No. 36, s. 1, May 5, '68.

Organized.

38. It is hereby made the duty of the Board of Commissioners of Public Schools of the City of Baltimore to organize separate schools for colored children,* and to establish as many schools for the education of the colored children of Baltimore city as may in the judgment of said board be necessary.

* Separate schools for the education of colored children were authorized to be established by the Board of School Commissioners, under Ordinance No. 45, July 10, 1867. See Acts of 1872, c. 377, sub-c. XVIII, 1874, c. 463, and 1878, c. 91.

Article XLIII.—Ordinances.

39. The schools to be established in accordance with the provisions of this ordinance shall be subject to such rules and regulations as may be prescribed by the said board in its discretion. Ibid, s. 2. Rules and regulations.

40. All taxes paid by colored persons in the city of Baltimore for educational purposes, shall be placed to the credit of the schools for colored children in the accounts of the City Register.* Ibid, s. 3. Taxes paid by colored persons.

LIBRARIES.

41. There shall be established at the Baltimore City College, and at each of the two Female High Schools, a library for their use, without charge, under such regulations as may be adopted by the Board of Commissioners of Public Schools. No. 40, s. 1, May 15, '63. Libraries to be established.

42. The selection of the books, which shall be only of an instructive and moral character, shall be made by the said commissioners, or a committee appointed by them for the purpose, and no book deemed by them to be injurious to the morals of the pupils, or of a sectarian character, whether obtained by purchase or donation, shall be admitted in said libraries; and all books purchased under any future ordinance or resolution of the City Council or otherwise, for this purpose, shall be subject to the restrictions herein contained. Ibid, s. 2. Selection of books.

PEABODY PRIZES.

43. The Commissioners of Public Schools of the City of Baltimore are hereby authorized to accept and receive the premiums given by the Trustees of the Peabody Institute to the Baltimore City College and the Female High No. 24, May 26, '58; No. 84, Oct. 9, '66. Commissioners authorized to receive Peabody premiums.

* 1872, c. 377, sub-c. XVIII, s. 4, is as follows: The total amount of taxes paid for school purposes by the colored people of any county, or in the city of Baltimore, together with any donations that may be made for the purpose, shall be devoted to the maintenance of the schools for colored children.

To distribute the same.

Schools, as specified in Mr. Peabody's letter to his Trustees; and to have the same distributed from time to time in such a manner as they shall deem most conducive to the benefit of the schools and the objects of the donor.*

* Mr. Peabody, in his first letter to his trustees, dated Baltimore, Feb. 12, 1857, (as set forth in the Act of 1858, c. 209, incorporating the Peabody Institute,) says: "I desire that the trustees, in order to encourage and reward merit, should adopt a regulation by which a number of the graduates of the public high schools of the city, not exceeding fifty of each sex in each year, [who shall have obtained by their proficiency in their studies and their good behavior certificates of merit from the commissioners or superintending authorities of the schools to which they may be attached,] may, by virtue of said certificates, be entitled as an honorary mark of distinction to free admission to the lectures [at Peabody Institute] for one term or season after obtaining the certificates. I also desire, that for the same purpose of encouraging merit, the trustees shall make suitable provision for an annual grant of twelve hundred dollars; of which five hundred shall be distributed every year in money prizes, graduated according to merit, of sums of not less than fifty dollars nor more than one hundred for each prize, to be given to such graduates of the public male high school now existing or which may hereafter be established, as shall in each year, upon examination and certificate of the school commissioners or other persons having the chief superintendence of the same, be adjudged most worthy from their fidelity to their studies, their attainments, their moral deportment, their personal habits of cleanliness, and propriety of manners; the sum of two hundred dollars to be appropriated to the purchase, in every year, of gold medals of two degrees, of which ten shall be of the value of ten dollars each, and twenty of the value of five dollars each, to be annually distributed to the most meritorious of the graduating classes of the public female high schools; these prizes to be adjudged for the same merit, and under the like regulations, as the prizes to be given to the graduates of the male high school; the remaining five hundred dollars to be in like manner distributed in money prizes, as provided above for the graduates of the male high school in the same amounts respectively, to the yearly graduates in the school of design attached to the Mechanics' Institute of this city. To render this annual distribution of prizes effective to the end I have in view, I desire that the trustees shall digest, propose and adopt all such rules and provisions, and procure such correspondent regulations on the part of the public institutions referred to, as they may deem necessary to accomplish the object."

ARTICLE XLIV.

SEWERS.

STATUTES.

1. Mayor, &c., to pave and keep in repair.
2. Penalty for obstructing.
3. Constructing, enlarging, &c., sewers: powers of Mayor and Council.
4. Benefits assessed: a lien.
5. Passage of ordinance: notice to be given.
6. Commissioners: notice to be given of object of ordinance.
7. Tax: sinking fund.

ORDINANCES.

1. Commissioners for Opening Streets and City Commissioner, board.
2. Oath of commissioners.
3. Oath to be recorded and certified to.
4. Clerk: proceedings to be recorded: City Solicitor: City Surveyor: compensation: oath of clerk, &c.
5. Benefits derived: injuries sustained: assignment to Register or Collector.
6. Constructing, opening, &c., sewers: notice: meeting of commissioners: damages: award: assessment of ground.
7. What part of house or lot taken, &c.: five per cent. stock: notice: public auction: bond of purchaser: when commissioners to re-sell.
8. Statement of damages: description: notice: commissioners to review: to make corrections: Register to notify.
9. Right of appeal to Baltimore City Court: *subpœna duces tecum* to Register: record of proceedings of board: examination of witnesses: jury: decisions to be entered on record of proceedings: evidence: costs.
10. Duty of Collector.
11. When Collector to sell property:
12. Under what conditions property sold: when Collector to re-sell.
13. Deed from Collector: purchase money.
14. Assessments, liens: consent in writing: damages paid or invested.
15. Persons not claiming title may pay amount assessed: certificate.

16. When commissioners interested, temporary appointment by Mayor.
17. Time limited: proviso: report to Mayor and Council.
18. When work to be closed.
19. Unexpired term of years in lot.
20. Obstructions: suit for expenses.
21. Per diem to commissioners and clerks.
22. Papers and books to be deposited with Register.
23. Survey of route of sewer.
24. Advertisement for proposals.
25. Contractors to give bond.
26. Penalty for obstructing sewers.
27. Sewers not to be tapped or opened: penalty.
28. Private sewers: permission to construct: penalty.
29. Payment: penalty.

STATUTES.

P. L. L., Art. 4, sec. 835. Mayor, &c., to have and keep in repair.

1. The Mayor and City Council have full power to pave and keep in repair all necessary drains and sewers, to pass all regulations necessary for the preservation of the same, and to authorize any person by them appointed for that purpose to enter upon the lots, grounds, and possessions of any person or body politic, through which the common sewers run, or ought to run, to regulate, make or repair the same.

Ibid, sec. 836. Penalty for obstructing.

2. If any person shall wilfully stop up or obstruct the passage of the waters of any of the common sewers, he shall forfeit and pay the sum of one hundred dollars.

1868, c. 181, s. 1. Constructing, enlarging, &c., sewers. Powers of Mayor and Council.

3. The Mayor and City Council of Baltimore shall have full power to provide for constructing, opening, enlarging or straightening any sewer through any street, lane or alley, or through any private property, upon giving thirty days' notice in writing to the owners or agents of said private property within the bounds of the city, when in their opinion the convenience or welfare of the city may require it, to provide for ascertaining whether any and what amount of actual damage will accrue thereby, and what amount of actual benefit will thereby accrue to the owner or possessor of any ground or improvements within or adjoining to the city, being governed as far as practicable by the number of superficial feet drained, and to provide for assessing and levying, either generally on the whole assessable

property of the said city, or by a loan for the special purpose for constructing, opening, enlarging or straightening any sewer, the sum necessary to pay the expense or cost, or specially on the property of persons actually benefitted, the whole or any part of the damages and expenses which they shall ascertain will be incurred in constructing, opening, enlarging or straightening any sewer in any street, lane or alley, or through any private property in said city, to provide for granting appeals to the court or courts having jurisdiction thereof in Baltimore city, from the decision of any commissioners or other persons appointed in virtue of any ordinance to ascertain the damage which will be incurred or the benefits which will accrue to the owners or possessors of any ground or improvements for constructing, opening, enlarging or straightening in any street, lane or alley, or through any private property, any sewer which in their opinion the public welfare or convenience may require, and for securing to every such owner or possessor the right on application within a reasonable time, to have decided by a jury trial, whether any damage and what amount of damage has been caused, or whether any benefit, and what amount of benefit has accrued to them; and to provide for collecting and paying over the amount of compensation adjudged to each person to receive the same, or investing in stock of said corporation bearing interest of five *per centum* per annum for the use of any person who because of infancy, absence from the city, or other cause, may be prevented from receiving it before any sewer shall be constructed, opened, enlarged or straightened in any street, lane or alley, or through any private property, and to enact and pass all ordinances from time to time which shall be deemed necessary and proper to exercise the power and effect the objects herein specified.

Ibid, s. 2. Benefits assessed, a lien.

4. The amount of benefits assessed on any property for constructing, opening, enlarging or straightening any sewer in any street, lane or alley, or through any private property construct-

ed, opened, enlarged or straightened by virtue of any ordinance passed by the Mayor and City Council of Baltimore, shall be a lien on the property and recoverable as city taxes are.

Ibid, s. 3.

Passage of ordinance.
Notice to be given.

5. Before the Mayor and City Council of Baltimore shall pass any ordinance under section three, notice shall be given of an application for the passage of such an ordinance in at least two of the daily newspapers of said city, twice a week for sixty days.

Ibid, s. 4.

Commissioners.

Notice to be given of object of ordinance.

6. Before any commissioners appointed by any ordinance of said corporation under the preceding sections hereof shall proceed to the performance of their duty, they shall give daily notice in at least two newspapers in the city of Baltimore of the object of the ordinance under which they propose to act, at least thirty days before the time of the first meeting to execute the same.

Ibid, s. 5.

Tax.

Sinking fund.

7. Should the commissioners appointed by the Mayor and City Council of Baltimore levy any part of the expense and damage incurred in the construction, opening, enlarging or straightening any sewer in the city, the said Mayor and City Council may levy a tax on the assessable property of the city for the amount of such assessment, or they may raise the necessary amount by a loan, for the payment of which they may create a sinking fund to meet the liabilities incurred, and may also levy on the assessable property of the city of Baltimore from time to time such sums as may be necessary to provide therefor, and for the principal and interest of the liabilities incurred, and may pass all ordinances necessary to carry out the provisions of the same.

ORDINANCES.

No. 55, s. 1, May 7, '68.

Commissioners for Opening Streets and City Commissioner, board.

1. The Commissioners for Opening Streets, together with the City Commissioner, are hereby constituted a board to carry into effect the provisions of this ordinance.

2. In each and every case, before the commissioners shall proceed to act as a board in the exercise of the powers confided to them by this or any future ordinance, they shall severally take and subscribe the following oath or affirmation before a justice of the peace: "I. A. B., do swear, or solemnly, sincerely and truly declare and affirm, that I will to the best of my judgment, knowledge and ability, faithfully, impartially and diligently execute the duties of a commissioner for the construction of sewers in the city of Baltimore, according to the ordinance to provide for exercising certain powers vested in this corporation in relation to the construction of sewers in the city of Baltimore." Ibid, s. 2. Oath of commissioners.

3. The said oath or affirmation shall be recorded in a book to be provided by the said commissioners for the recording of their proceedings, and the justice in whose presence the said oath or affirmaton shall be made and subscribed, shall certify thereto under his hand in the same book. Ibid, s. 3. Oath to be recorded and certified to.

4. The clerk to the Commissioners for Opening Streets shall keep a full and true record of all their proceedings in a book provided as aforesaid, under the direction and supervision of the City Solicitor, and in such form as he may prescribe; and the said clerk shall record all orders made by the said commissioners in regard to the performance of their duties, and make true copies of all notices by them directed to be published, and the certificate of the publication thereof; and shall perform such other necessary duties as the said commissioners shall require; and the said commissioners shall also have the power to obtain the services of the City Surveyor, and such other assistants and agents as they may deem necessary, in the exercise of their powers and allow to the clerk, and each of the persons so employed by them, such compensation as may be fixed by ordinance, and if not so fixed, as the said commissioners may deem reasonable, and assess the said Ibid, s. 4. Clerk. Proceedings to be recorded. City Solicitor. Duties of clerk. City Surveyor. Compensation.

compensation and all other necessary charges; and the clerk and other persons to be so employed, shall severally take and subscribe an oath or affirmation similar in substance to that required to be taken and subscribed by the commissioners, which shall be in like manner entered in the record of the proceedings of the said commissioners.

Oath of clerk, &c.

Ibid, s. 5; No. 114, June 21, '75.

5. When the said commissioners shall assess a sum of money to be paid by any person or persons for benefits derived by such person or persons, by constructing, opening, enlarging or straightening any sewer, and shall assess a sum of money to be paid to the same persons for injury sustained by constructing, opening, enlarging or straightening any sewer, it shall and may be lawful, upon a certificate and abstract of title from the Examiner of Titles, for the Register or Collector to receive from such person or persons an assignment for the sum or sums so assessed as damages as aforesaid.

Benefits derived.

Injuries sustained.

Assignments to Register or Collector.

Ibid, s. 6.

6. Whenever the Mayor and City Council of Baltimore shall hereafter by ordinance direct the Commissioners for Opening Streets and Sewers to construct, open, enlarge or straighten any sewer within the bounds of this city, the said commissioners shall give at least thirty days' notice in at least two of the daily newspapers of the city, and also thirty days' notice, in writing, to the owners or agents of any private property through which any sewer may be intended to pass, of the object of the ordinance under which they are about to act, and of the day, hour and place of their first meeting under the said ordinance; and the said commissioners shall meet at the time and place mentioned in the notice given by them, and proceed to exercise the power and perform the duty assigned to and required of them, under and by virtue of this ordinance, and ascertain whether any and what amount in value of damage will thereby be caused to the owner of any right or interest claimed in any ground or improvements

Constructing, opening, &c., sewers.

Notice.

Meeting of commissioners.

Damages.

within or adjacent to the said city, over and above the amount in value of benefit which will thereby accrue to such owner, for which, taking into consideration all advantages and disadvantages, such owner ought to be compensated; and in addition thereto, shall award to the occupant or occupants of any lot of ground, or of any improvement that may be removed, such damages, if any, as the commissioners, or a majority of them, may believe such party or parties have sustained by such removal; and the said commissioners, after having ascertained the whole amount of damages as aforesaid, and after having added thereto an estimate made by them of the probable amount of expenses which will be incurred in the performance of the duties required of them as aforesaid, and also the expense incurred by the Register under the provisions of this ordinance, shall proceed to assess all the ground and improvements within and adjacent to the city, the owners of which, as such, the said commissioners shall decide and deem to be directly benefitted by accomplishing the object authorized in the ordinance aforesaid, being governed as far as practicable by the number of superficial feet drained; and should the direct benefits assessed as aforesaid not be equal to the damage and expenses incurred, the balance of said expenses and damages shall be paid by the City Register, and be taken out of the general levy—subject, nevertheless, to all such restrictions exempting certain descriptions of property from assessment, as are contained in any law of the State, or in this ordinance, or in any other ordinance of the city.

Award.

Assessment of ground.

7. In every case where it shall be necessary in order to effect the object proposed that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner or owners thereof shall claim to be compensated for the whole, the said commissioners shall ascertain the full value thereof, and if the whole lot and improvement were necessary to be taken and used for such proposed object, and the whole

Ibid, s. 7.

When part of house or lot taken, &c.

amount of such valuation, when finally decided on, shall be paid or tendered to the owner or owners thereof, or vested in city five per cent. stock for his, her, or their use, before any part thereof shall be destroyed, removed, or used, unless such owner or owners shall assent thereto in writing, as provided in the fourteenth section of this ordinance; and the said commissioners, after giving ten days' notice in two of the daily newspapers of the city, of the time and place, manner and terms of sale, shall sell the materials of any house which it shall be necessary to remove in whole or in part, and the residue of any lot of which a part shall be taken and used as necessary to effect the object confided to the commissioners, and for which the owners shall claim to be fully compensated, at public auction, to the highest bidder for cash, to be paid on the day when full possession shall be given of the property or materials so sold, and the said commissioners, or a majority of them, on receiving the price or sum of money so bid shall by a good and sufficient deed, to be executed and acknowledged by them in the form and manner required by law for conveying the title of lands in this State, convey any ground by them so sold to the purchaser thereof; and such sale shall be made before the commissioners shall proceed to assess the amount of damages and expenses to be assessed as directed by this ordinance, and the said commissioners are duly empowered to take and receive a bond of the purchaser of the property or materials aforesaid, with a penalty to the Mayor and City Council of Baltimore, that the price for which the same was sold shall be duly paid at such time as they, the said commissioners, are prepared to deliver possession of said property and materials, and that the said purchaser shall remove within sixty days thereafter such materials so sold, and all rubbish or other obstructions occasioned thereby; and in the event of the purchasers failing forthwith to comply with the terms of said sale, the commissioners shall re-sell the said property or materials at the risk of the former purchaser or purchasers, giving not

Five per cent. stock

Notice.

Public auction.

Bond of purchaser.

When commissioners to resell.

less than five days' notice of said sale in two of the daily newspapers of the city aforesaid.

8. As soon as the commissioners aforesaid shall have completed the valuation of damages ascertained by them, as directed by the sixth section of this ordinance, they shall cause a statement thereof to be made out and placed in the office of the City Register for the inspection of all persons desiring information of its contents, and such statement, together with an explanatory map or maps, shall contain a correct description of each separate lot or parcel of ground deemed to have sustained damages, its length and breadth, the name of any street, square, lane or alley on which it bounds; the names of all persons who shall claim any estate or interest in it, and the amount of damages as valued by the commissioners; and if there be any house or other improvement on it necessary to be removed in whole or part, a description of the size and such other particulars as the commissioners shall deem proper, and in like manner a description of each parcel of ground deemed by the commissioners to be benefitted, the name or names of such person or persons as shall claim any estate or interest therein and the amount assessed thereon for benefits; and the commissioners shall cause a notice to be published four successive days, in three daily newspapers of the city, stating the extent of the ground covered by the assessment, and that such statement and map or maps have been so deposited with the Register for examination, and that the commissioners will meet at the office of the Commissioners for Opening Streets and Sewers on a day in such notice to be named, which shall be within ten days' after the first publication of such notice, to review any of the several matters set forth in the said statement, to which any person claiming to be interested therein shall, on that day so appointed, make objection; and the commissioners shall meet at the time and place so appointed, and consider all such representations and testimony on oath or affirmation,

Ibid, s. 8.

Statement of damages.

Description.

Notice.

Commissioners to review.

verbal or in writing, in relation to any matter in said statement which shall be offered to them on behalf of any person claiming to be interested therein; and the said commissioners shall

To make corrections.

make all such corrections and alterations in the valuations, assessments and estimates, and all other matters contained in the said statements and explanatory map or maps aforesaid, as in their judgment shall appear to them, or a majority of them, to be just and proper; and they may adjourn from day to day, if necessary, to give all parties claiming a review an opportunity to be heard, not exceeding in the whole ten days; and after closing such review the commissioners shall make all such corrections in their statement and explanatory map or maps as they shall deem proper, and cause such statement and map or maps so corrected and certified under the hands and seals of said commissioners and their clerk, to be deposited in the office of the Register as one of the records of the city;

Register to notify.

and it shall be the duty of the Register within five days after said proceedings shall have been deposited in his office, to notify all persons interested by an advertisement to be inserted once a week for four successive weeks in three of the daily newspapers of the city, that the said assessment and maps have been so placed in his office, and that the parties interested therein are entitled to appeal therefrom by petition in writing to the Baltimore City Court.

Ibid, s. 9.

9. Any person or persons, or corporations, who may be dis-

Right of appeal to City Court.

satisfied with the assessment of damages or benefits as hereinbefore provided, may, within thirty days after the return of corrected statement and map or maps to the Register, as provided in the eighth section of this ordinance, and the first publication of the notice thereof by the Register, appeal therefrom, by petition in writing, to the Baltimore City Court, praying the said court to review the same, and on any such appeal the court may and shall appoint a day for hearing said appeal, which shall not be less than five nor more than thirty days

after the expiration of the thirty days limited for taking appeals as aforesaid, and shall direct the clerk of the said court, to issue a *subpœna duces tecum* to the Register of the City, requiring him to produce and deliver to said court the record of the proceedings of the Board of Commissioners in the case, and all maps, plats, documents and papers, connected with such record; and the said Baltimore City Court shall have full power to hear and fully examine the subject and decide on the said appeal, and for that purpose is hereby authorized and empowered to adjourn from time to time, and may cause all such appeals to be consolidated, or may hear and decide them separately, and may require the said commissioners, their clerks, surveyor or other agents and servants, or any of them, and all such other persons as the court shall deem necessary to attend, and examine them on oath or affirmation, and may permit and require all such explanations, amendments and additions to be made to, and of the said record of the proceedings as the said court shall deem requisite; and the persons appealing to the Baltimore City Court as aforesaid, shall be secured in the right of a jury trial, and the said court shall direct the Sheriff of Baltimore City to summon twelve or more persons qualified to be jurors, and shall empannel any twelve disinterested persons so summoned or attending the court, to try any question of facts, and if necessary, to view any property in the city or adjacent thereto, to ascertain and decide on the amount of damages or benefits under the direction of the court; and the said court shall not reject or set aside the record of the proceedings of the said commissioners for any defect or omission in either form or substance, but shall amend or supply all such defects and omissions, and increase or reduce the amount of damages and benefits assessed, and alter, modify and correct the said return of proceedings in all or any of its parts, as the said court shall deem just and proper, and shall cause the proceedings and decisions on said returns and appeals to be entered in the book containing the record of the proceedings of

Subpœna duces tecum to Register.

Record of proceedings of Board.

Examination of witnesses.

Jury.

Decisions to be entered in record of proceedings.

the commissioners, certified by the clerk, under the seal of the court, and the book to be transmitted to the Register of the City, which shall be final and conclusive in every respect, unless an appeal be taken to the Court of Appeals, and such records, book or copy of the proceedings therein, or any part of such proceedings, whether in court or out of court, certified by the Register of the City, under the corporate seal of the city, shall be evidence in any court in this State; and the judge of the Baltimore City Court shall have full power, in his discretion, to add the reasonable costs of any appeal, to be taxed by him, or any part thereof, to the damages to be collected for constructing, opening, enlarging or straightening any sewer, or to require such cost, or any part thereof, to be paid by all, or by either of the appellants, as the circumstances of each appeal in his opinion shall justify.

Evidence.

Ibid, s. 10.

Duty of Collector.

10. If no appeal shall have been prayed within ten days after the time hereinbefore limited therefor, or after the return of the decision upon any appeal shall have been made to the Register, the said Register shall transfer the said commissioners' return to the Collector, who shall proceed forthwith to notify the parties assessed for benefits, by means of bills specifying the several sums so assessed, and warning them that if the same be not paid within six months from the date of such transfer of said commissioners' return, he will proceed to sell the specific piece or parts of property on which such unpaid sum or sums of money shall have been assessed, in the manner, and after having given the notice directed by the eleventh section of this ordinance.

Ibid, s. 11.

When Collector to sell property.

11. If the sums assessed upon the property benefitted shall not be paid within the time above limited, the Collector is hereby authorized and directed to sell the property, or any part thereof, on which such assessment has been laid, giving not less than thirty days' nor more than sixty days' notice of said sale, in two of the daily newspapers published in the city

Notice.

of Baltimore; said notice to be published within ten days after the expiration of the time limited in the tenth section for the payments of said benefits, and the moneys so collected by the Collector shall be paid over by him to the Mayor and City Council of Baltimore, as other moneys are directed to be paid over, and by them to the persons entitled to receive the same.

Ibid, s. 12.

12. In all cases in which the City Collector shall sell any property on account of the non-payment of assessments made for the constructing, opening, enlarging or straightening of any sewer, it shall be his duty to sell said property to the extent and subject to the same conditions which are provided by ordinance for the sale of real estate in the city of Baltimore, charged with the payment of other taxes imposed by this corporation; and in the event of the purchaser or purchasers failing forthwith to comply with the terms of said sale, the Collector shall re-sell the same at the risk of the former purchaser, giving not less than ten days' notice in two of the daily newspapers of the city aforesaid; and after collecting the benefit assessments he shall forthwith return the said commissioners' proceedings to the City Comptroller.

Under what conditions property sold.

When Collector to re-sell.

Ibid, s. 13.

13. The Collector on receiving the full amount of the purchase money on such sale shall execute a deed of conveyance in favor of the purchaser or purchasers, or their assigns or assignees, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property; and after deducting the costs of sales, advertising and other necessary expenses, he shall pay the balance of such purchase money to the Mayor and City Council of Baltimore, who shall pay over the said balance, after deducting the amount assessed on said property, to the person or persons entitled thereto, on demand, without interest.

Deed from Collector.

Purchase money.

Ibid, s. 14.

14. All sums of money assessed by the commissioners aforesaid, upon property deemed by them to be benefitted, shall

Assessments, liens.

be and continue liens on each several piece of property so assessed to the amount of its particular assessment, until the same shall be paid to the city; but no sewer shall be constructed, opened, enlarged or straightened on or under the ground of any person or persons, or corporations adjudged by the commissioners to be entitled to damages for said opening and so forth, without the consent in writing of the person or corporation so entitled, until such damages shall be paid, or the amount thereof invested in the city five per cent. stock, for the use of each person or corporation entitled to any part of the compensation for such damages to the amount of his, her or their respective right and interest therein, of which investment the Register's certificate under the corporate seal of the city shall be competent proof.

Consent in writing.

Damages paid or invested.

Ibid, s. 15.

15. Any person or persons not claiming title to any lot or piece of property upon which any sums shall be assessed as aforesaid, may pay the amount of the sum so assessed within the time limited to the Register of the City, and obtain his certificate of having paid such sum, without claiming title to the property, and such payments shall vest in the person or persons paying, his, her or their heirs, the lien on such lot or property mentioned in the fourteenth section of this ordinance.

Persons not claiming title may pay the amount assessed.

Certificate.

Ibid, s. 16.

16. If it should so happen that any one or more of said commissioners should be interested in any particular case, the Mayor shall make a temporary appointment of a commissioner or commissioners to act in the place and stead of such interested commissioner or commissioners, who shall take the oath or affirmation, as the case may be, and in all respects conduct himself as the commissioners who are annually appointed.

When commissioners interested.

Temporary appointment by Mayor.

Ibid, s. 17.

17. In case the said commissioners shall commence any proceedings by virtue of this or any future ordinance, they shall be allowed not exceeding ninety days to complete the same; provided, should said commissioners ascertain it to be

Time limited.

Proviso.

impracticable so to complete the said proceedings they shall make to the Mayor or City Council a full and explicit report of the cause or causes of such inability, together with all such other matters connected therewith as the Mayor or City Council may from time to time require, and shall suspend all further proceedings until otherwise directed. Report to Mayor and Council.

18. The said Commissioners for Opening Streets and Sewers shall proceed to close all their work, notwithstanding they may not be re-appointed, within six months from and after the expiration of the time for which they were appointed by virtue of the first section of this ordinance. Ibid, s. 18, When work to be closed.

19. Whenever any lot or part of a lot, or parcel of ground, may be taken for the purpose of constructing, opening, enlarging or straightening any sewer, and damages assessed therefor, and there shall be an outstanding unexpired term of years therein, the said commissioners shall discriminate in their proceedings between the value of fee simple or ground rent interest and the leasehold interest. Ibid, s. 19. Unexpired term of years in lot.

20. Whenever any obstruction shall have remained in the way of any sewer so to be opened, enlarged or straightened, for the space of sixty days after the proceedings of the said commissioners shall have been returned to the Register of the City, it shall be the duty of said commissioners to cause the same to be removed, and to draw on the Register for the expenses so incurred, which shall be paid by him; and the Mayor shall forthwith cause a suit for the recovery of said expenses, to be instituted against the person or persons by whose default the said obstruction has been suffered to remain, and the same, when recovered, shall be paid to the Register for the use of the city. Ibid, s. 20. Obstructions. Suit for expenses.

21. In each case of constructing, enlarging or straightening any sewer, under the provisions of this ordinance, the said commissioners shall, for each and every day in which they Ibid, s. 21. Per diem to commissioners and clerks.

and their clerk shall be actually engaged in the performance of their duties, assess as part of the expenses of their proceedings, a per diem as to each of said commissioners and their clerks, of four dollars, to be collected as other expenses are, and to be paid to the Register for the use of the city.

Ibid, s. 22.

Papers and books to be deposited with Register.

22. The Commissioners for Opening Streets and Sewers, so soon as they shall have completed their work on each sewer, shall deposit all papers and books relating thereto in the office of the City Register.

Ibid, s. 23.

Survey of route of sewer.

23. When the Mayor and City Council shall pass an ordinance for the opening, constructing, enlarging or straightening of any sewer within the limits of the city, the City Commissioner is hereby authorized and required to have surveyed the route of said sewer, and to determine the size the same shall be, and to take charge of and superintend the work of such opening, constructing, enlarging or straightening.

Ibid, s. 24.

Advertisement for proposals.

24. When it shall have been determined to open, construct, enlarge or straighten any sewer, under the provisions of this ordinance, and when the assessments and survey aforesaid shall have been made, the said City Commissioner shall advertise for thirty days in at least two of the daily newspapers of the city for proposals for the opening, constructing, etc., of such sewer, according to plans and specifications to be prepared by said City Commissioner; and the said City Commissioner shall award the contract for such opening, constructing, etc., to the lowest responsible bidder.

Ibid, s. 25.

Contractors to give bond.

25. Before any contract shall be executed under the provisions of the preceding section, the contractor or contractors shall enter into bonds with good and sufficient security, to be approved by the Mayor and Comptroller, in double the amount of the contract price, conditioned for the faithful and efficient performance of the work contracted for.

26. If any person shall wilfully stop or obstruct the passage of the water of any sewer, made or which may hereafter be made, he, she or they so offending shall forfeit and pay the sum of one hundred dollars for each and every such offence. No. 18, s. 36, R. O. Penalty for obstructing sewers.

27. If any person or persons, owner or owners, occupier or occupiers, of any lot within the city of Baltimore shall tap or open, or cause to be tapped or opened, any of the public sewers in the city, without first obtaining the permission of the City Commissioner and the approval of the Mayor, said person or persons, owner or owners, occupier or occupiers, shall forfeit and pay the sum of twenty dollars for each and every such offence; and it shall be the duty of the City Commissioner to cause a notice to be served upon such person or persons, owner or owners, occupier or occupiers, directing any of said sewers to be closed when they have been tapped or opened, in the manner prescribed by said notice, and if such person or persons, owner or owners, occupier or occupiers, shall refuse or neglect to comply therewith, he, she or they, so refusing or neglecting, shall forfeit and pay the further sum of five dollars for each and every day he, she or they shall continue to refuse or neglect to comply therewith, and shall moreover pay the expenses incurred in case such sewer shall be closed under the direction of the City Commissioner, which said commissioner is hereby authorized to have done in case of such neglect or refusal. Ibid, s. 37. Sewers not to be tapped or opened. Penalty. Duty of City Commissioner.

28. It shall not be lawful for any person or persons to construct within the limits of direct taxation a private sewer, under the streets, lanes or alleys that are paved, without having had and obtained the written permission of the City Commissioner, approved by the Mayor, under a penalty of twenty dollars, and ten dollars for each and every day the same shall remain, and every application for such permission to erect such sewer shall be in writing, signed by the person or persons making the same, and shall name the length desired. No. 52, April 22, '64. Private sewers. Permission to construct. Penalty.

Ibid, s. 2.

Payment.

Penalty.

29. After obtaining permission to construct or make such sewer, and previous to the commencement thereof, the person or persons so applying shall therewith pay to the Register of the City the sum of twenty cents for each lineal foot of ground mentioned as required for such sewer, under a penalty of twenty dollars for each and every commencement of such sewer without the payment of the sum herein required.*

*The Canton Company, incorporated by Act of 1828, c. 159, and continued by Act of 1867, c. 91, until February 1, 1887, and thereafter until repealed at discretion of the Legislature, was authorized by Ordinance No. 12, March 17, 1836, to construct sewers and reservoirs under conditions therein set forth.

ARTICLE XLV.

SQUARES, SPRINGS AND MONUMENTS.

ORDINANCES.

MONUMENTS.

1. Penalty for defacing monuments.
2. Keeper of Washington Monument: and keeper of City Spring, on Calvert street.

COMMISSIONERS AND KEEPERS OF SQUARES AND SPRINGS.

3. Commissioners to public squares: powers and duties.
4. Powers of Commissioners of Squares.
5. Rules for springs and squares.
6. Statement of receipts and expenditures.
7. Jurisdiction of commissioners over contiguous pavements.

ASHLAND SQUARE.

8. Keeper: salary.

BAKER CIRCLE.

9. Commissioner.

BATTERY SQUARE.

10. Commissioners: their duties.

BROADWAY SQUARES.

11. Commissioners: duties.
12. Keeper: salary.

EASTERN CITY SPRING.

13. Commissioners: duties.

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14. Additional commissioners.
15. Preamble.
16. Deed.
17. Name: iron railing: grading and paving of streets.
18. Houses on squares.
19. Deeds of beds of streets.
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PUBLIC WALK.
48. On Oliver street.
PROSPECT SQUARE.
49. Boundaries: name: railing.
UNION SQUARE.
50. Preamble.
51. Deed: conditions: fountain: streets.
52. Name: fountain.

ORDINANCES.

MONUMENTS.

No. 60, R. O.

Penalty for defacing monuments.

1. If any person shall injure or deface the Washington or Battle monuments, their ornamental figures or sculpture, or the enclosure or railing around either of them, such person shall, for every such offence, forfeit and pay a sum not exceeding twenty dollars, and shall, moreover, be liable to pay all expenses in repairing the said injury or injuries.*

* The corner stone of the Washington monument was laid July 4, 1815, and the statue of Washington placed on the summit 28th Nov., 1829. Washington monument was erected by the State, under the Acts of 1809, c. 113; 1815, c. 102; 1816, c. 77; 1818, c. 212; 1826, c. 165, and 1829, c. 165—the keeper was formerly appointed by commissioners under the Act of 1809. The foundation stone of the Battle monument was laid Sept. 12, 1815, under Act of 1815, c. 102, in memory of those who fell in defence of the city the year before.

There is also a monument on Broadway, erected in 1865, to the memory of Thomas Wildey, who founded in the city of Baltimore, on April 26, 1816, the first society of the Independent Order of Odd Fellows on this continent.

The corner-stone of the monument in Ashland square to Daniel Wells, aged 19 years, and Henry G. McComas, aged 18 years, killed at the battle of North Point, 12th September, 1814, was laid in 1850; there is also a monument on the field at North Point, erected in 1839, to commemorate the battle of September 12, 1814.

2. There shall be annually appointed, as other city officers are appointed, one keeper of the Washington Monument; and one keeper of the City Spring* on Calvert street, the latter to receive as compensation the sum of three hundred dollars per annum.

No. 40, s. 4, Apr. 1, '76.
Keeper of Washington Monument and keeper of City Spring on Calvert street.

COMMISSIONERS AND KEEPERS OF SQUARES AND SPRINGS.

3. The Mayor shall have power to appoint at his discretion, and removable at his pleasure, three commissioners for each of the public squares of the city, unless otherwise hereinafter specially provided, to be selected from among the residents in the vicinity of the respective squares, and to serve without compensation. The said commissioners shall have general supervision of the squares for which they are respectively appointed; they shall see that the keeper attends faithfully to his duties; that the grounds are kept in good condition, and that order and propriety of deportment are maintained therein; and in case of any dereliction of duty on the part of the keeper, they shall report the same to the Mayor. All appropriations for the preservation and adornment of the squares under their charges, shall be expended under their direction, and paid by the Register on vouchers verified by them.

No. 13, Mar. 5, '66.
Commissioners of Public Squares.
Powers and duties.

4. The Commissioners of Squares are authorized, except in cases otherwise hereinafter specially provided, to employ suitable persons to take charge of and keep in proper order the squares under their respective control, and to allow to such persons such compensation as in the judgment of the commissioners, with the approbation of the Mayor, shall be deemed proper.

No. 40, s. 5, Apr. 1, '76.
Powers of commissioners of squares.

* By Resolution No. 123, April 21, '77, the Water Board was directed to make such improvements and alterations in the Calvert Street City Spring as might be necessary to substitute the water from the City Water Works, for the water flowing from the fountain of said spring; which was declared by Resolution No. 85, March 29, 1877, unhealthy and unfit for drinking or cooking purposes.

Ibid, s. 6.

Rules for springs and squares.

5. The said commissioners are authorized, with the approbation of the Mayor, to make rules and regulations for the protection of the springs and squares, and the government of the persons who shall frequent the same; and any person offending against such rules and regulations shall be liable to a penalty not exceeding twenty dollars for each offence.

Penalty.

Ibid, s. 7.

Statement of receipts and expenditures.

6. The Commissioners of Squares shall furnish to the Mayor twice in each year a statement in detail of the receipts and expenditures in their respective squares.

No. 113, Oct. 24, '74.

Jurisdiction of commissioners over pavements.

7. The Commissioners of Squares within the limits of the city are authorized to extend their jurisdiction over the pavements surrounding the respective squares under their care, and to improve them in any proper manner that will not interfere with their proper use as footways.

ASHLAND SQUARE.

No. 107, Oct. 24, '74.

Keeper.

8. There shall be annually appointed, as other city officers are appointed, a keeper of Ashland Square, on Gay street, at the intersection of Monument and Aisquith streets, whose duty shall be to keep said square in proper order, and keep the Monument clean, and he shall receive for such services an annual salary of fifty dollars.

Salary.

BAKER CIRCLE.

No. 126, Nov. 5, '74.

Commissioner.

9. The Mayor is authorized to appoint in the usual manner a citizen of proper character and discretion as a commissioner, who shall have authority to protect and care for the public circle at the intersection of Baker street and Fulton avenue, who shall serve without compensation.*

* By Resolution No. 241, Sept. 14, '69, and Ordinance No. 108, June 7, 1875, the city accepted from the executors of the late William Baker, a deed in fee of a circle of ground at the intersection of Fulton and Baker streets, of two hundred and forty feet in diameter, and in consideration thereof the

BATTERY SQUARE.

10. Ordinance No. 82, Sept. 19, 1854, recited that application had been made for the condemnation of a piece or parcel of ground for a public square, bounded on the north by Randall street, on the east by Covington street, on the south by Heath street, and on the west by Johnson street, and authorized and required the Commissioners for Opening Streets to condemn the afore described piece or parcel of ground, to be used forever thereafter as a public square, to be called the Battery. (See sections 7 to 11, Article XXXVII, pp 687–688, *ante*, Riverside Park, in which is included the ground formerly known as Battery Square.) By Ordinance No. 98, Sept. 23, 1872, the Mayor was authorized to appoint Commissioners for Battery Square; who are now superseded by the Park Commissioners. (See sec. 10, p. 688, *ante*.)

BROADWAY SQUARES.

11. The Mayor shall annually appoint three suitable persons to act as commissioners for the Broadway Squares, whose duties shall be such as are provided in sections 3 to 7 of this article, and who shall serve without pay. No. 80, June 17, '72. Commissioners' duties.

12. There shall be annually appointed, as other city officers are appointed, a keeper of the public squares on Broadway, between Belair avenue and Baltimore street, whose duties shall be similar to those of other keepers of public squares, and who shall receive an annual salary of three hundred dollars. No. 32, Apr. 3, '72. Keeper. Salary.

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said Mayor and Council agreed to lay out within said circle another circle of one hundred and twenty feet in diameter, to be bounded by a fifty feet street, with a fountain in the centre.

EASTERN CITY SPRING.

No. 76, June 11, '72.

Commissioners.

13. The Mayor shall annually appoint three commissioners for the Eastern City Spring, as other city officers are appointed, to be selected from the residents in the vicinity of said spring, and who shall serve without compensation. It shall be the duty of said commissioners to supervise the management of said Eastern City Spring; to see that the keeper thereof attends faithfully to his duties, and in the event of any appropriations for the use of said spring, the same shall be expended under the direction and control of said commissioners.

Duties.

EUTAW SQUARES.

Res. 94, Mar. 25, '78.

Additional commissioners.

14. The Mayor is authorized to appoint two additional commissioners for Eutaw Square, as other Commissioners of Squares are appointed.

No. 18, Mar. 19, '53.

Preamble.

15. Ordinance No. 18, March 19, 1853, enacted the following: Whereas, Henry Tiffany has offered to convey to the Mayor and City Council of Baltimore, for public squares, and as such by this corporation to be forever kept, all that piece of ground within the limits of the city, now in the bed of Eutaw street, and extending from Dolphin street to the north line of said Henry Tiffany's property; therefore,

Ibid, s. 1.

Deed.

16. The Mayor is hereby authorized to accept from Henry Tiffany a deed in fee of the square of ground lying in the bed of Eutaw street, and between Dolphin street and the north line of said Henry Tiffany's property; said deed to be approved in title and form by the City Counselor.

Ibid, s 2.

Name.

17. The said square shall be called Eutaw Square, and the said piece of ground shall be forever kept as public squares; and as soon as said deed shall have been executed and delivered, the Mayor is authorized and required to cause a suitable iron

railing, of the height of not less than six feet, resting upon a dressed granite base, to be erected around said squares; provided, that all the necessary grading and paving of the streets around said squares, and the necessary grading of said squares, shall be made at the sole cost of the owners of the ground binding upon said squares, and under the supervision of the City Commissioner. Iron railing. Grading and paving of streets.

18. The iron railing* to be erected around said squares as hereinbefore provided, shall not be so erected until said Henry Tiffany shall cause to be built upon each side of the square not less than seven houses of not less than twenty-five feet front and three stories high; and as soon as said number of houses are erected on either square, the Mayor is hereby authorized and required to have erected around said square or squares, on which are built and completed the required number of houses, a suitable iron railing, as provided in section 17. Ibid, s. 3. Houses on squares.

19. The said Henry Tiffany shall give to the Mayor and City Council a good and sufficient deed of all the beds of the streets, alleys and squares, from Townsend street north to the line of his property, on the same terms as are provided for in the preceding section; and should the streets, alleys and squares north of said Tiffany's property fail to be opened in eighteen months from March 1, 1853, then the said deed shall be null and void, so far as it refers to the property north of Townsend street. Ibid, s. 4. Deed of beds of streets.

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* By Ordinance No. 35, July 8, 1856, an iron railing was authorized to be erected around Eutaw Square, similar to the railing around Mount Vernon Place, under the supervision of the City Commissioner.

Resolution No. 132, May 10, 1870, provided for erecting the iron railings, &c., around two squares on Eutaw Place.

All the railings were removed under Resolutions No. 28, June 8, 1876, and Resolution No. 95, March 25, '78.

Ibid, s. 5. Closing streets.

20. Ordinance No. 76, July 15, 1853, enacted the following: The Commissioners for Opening Streets are hereby authorized and required to close Gibson (now Eutaw) street, and Morris and Jordan alleys, as laid down upon the plat of the city as returned by the extension commissioners under the Act of Assembly of December session, 1817, from the north side of Henry Tiffany's property to Laurens street, and to condemn and open and continue said Gibson (now Eutaw) street, and said Morris and Jordan alleys, from the north line of said Henry Tiffany's property to Laurens street, agreeably to a plat filed in the Register's office; provided, that before said commissioners proceed to exercise the duties required of them by this ordinance, the said applicants, or some of them, shall execute and deliver, or cause to be executed and delivered, clear of expense, to the Mayor and City Council of Baltimore, a good and sufficient deed, in fee simple, for a strip or parcel of ground extending from the north line of said Henry Tiffany's property to Laurens street, as aforesaid, of the width of about sixty-nine feet in the centre of said contemplated opening in Eutaw street, agreeably to said plat so filed in the Register's office—to be kept open forever hereafter as public squares, to be called Eutaw Square.*

Width of Eutaw Square.

Plat

FEDERAL HILL.

No. 152, Oct. 25, '75. Boundaries.

21. Ordinance No. 152, October 25, 1875, enacted the following: The Commissioners for Opening Streets are authorized and directed to condemn the vacant ground lying between Johnson, Hughes, Covington and Warren streets, known as Federal Hill, and the Observatory buildings located thereon, for the purpose of a public square or park.†

* Eutaw Place or Square was extended from Laurens street to North avenue under Ordinance No. 90, May 23, 1876.

† The Act of 1878, c. 143, repeals the Act of 1876, c. 20, and provides that all acts done, or proceedings had or begun before its passage, for the con-

FRANKLIN SQUARE.

22. Ordinance No. 47, April 23, 1839, enacted the following: Whereas, in consideration of the sum of ten thousand dollars, payable in account of paving as hereinafter specified, and subject to the terms and conditions hereinafter mentioned, James Canby and Samuel Canby have offered to convey to the Mayor and City Council of Baltimore for a public square, and as such by this corporation to be laid out, embellished, and forever kept, all that piece of ground within the limits of the city of Baltimore, bounded by Fayette and Lexington, and Carey and Calhoun streets; and whereas, said offer has been accepted by this corporation; therefore,

No. 47, Apr. 23, '39. Preamble. Public square.

23. This corporation hereby, in consideration that said James Canby and Samuel Canby shall convey to said corporation the piece of ground aforesaid for the intent and uses aforesaid, binds itself to said James and Samuel to satisfy and allow to said James and Samuel, their heirs or assigns, in paving and work as hereinafter particularized, the sum of ten thousand dollars; subject, however, to the terms and conditions following, that is to say:*

Ibid, s. 1. Deed.

demnation of land or ground for a public square or park, under any ordinance of the Mayor and City Council of Baltimore, authorized by the law in force before the passage of the Act of 1876, c. 20, are saved and excepted from the effect of said act, and hereby declared valid; and especially the acts done and proceedings had and begun by the Commissioners for Opening Streets under the above ordinance; and the said Mayor and City Council are empowered and directed forthwith to proceed to acquire by condemnation any land or ground for a public square or park, in all cases wherein proceedings that were had or begun before the passage of this present act, and especially proceedings had and begun under the ordinance mentioned, and to conduct all such proceedings to final completion as if the Act of 1876, c. 20, had never been enacted.

* So much of sec. 23 hereof as bound the corporation to satisfy and allow to said James and Samuel Canby, their heirs or assigns, in paving and work as thereinafter particularized, the sum of ten thousand dollars, and also the

Terms and condition.

1st. The said James and Samuel, their heirs or assigns, shall, by a good and effectual deed, to be approved as to the title and form by the Counselor of the City, convey to this corporation, for the sole intent and purpose, and on the trust that the same be forever kept and improved and embellished as a public square, the piece of ground aforesaid, including the portion of Vine street and the portion of Woodyear alley projected and running through said piece of ground; the said James and Samuel, their heirs or assigns, in said deed directing and assenting that said portions of Vine street and Woodyear alley shall be forever closed.

Description.

2d. To the end that Lexington street, so far as it bounds the square aforesaid, Fayette street in its whole length from Gilmor street to Republican street, [now Carrollton avenue,] Carey street from Lexington street to Baltimore street, and Calhoun street from Lexington street to Baltimore street, shall be severally widened fourteen feet; the deed aforesaid shall convey, cede and assure to the corporation, for the streets and highways as aforesaid respectively, and so to be forever used, seven feet in width of the ground along and bounding the north side and the southern side of Lexington street, between Carey street and Calhoun street, seven feet in width of the ground along and bounding the northern side of Fayette street, between Gilmor street and Republican street, and like seven feet in width of the same length of Fayette street of the ground bounded by the southern side of Fayette street, seven feet in width of the ground along and bounded by the eastern side, and the same width of ground along and bounded by the western side of Carey street, for the distance between Lexington street and Baltimore street, and seven feet in width

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24th, 25th, 26th and 30th sections hereof were repealed by Ordinance No. 32, April 13, '44; said repeal, however, not to affect any other part of the Ordinance No. 47, April 23, 1839, which are declared to be in force.

of the ground along and bounded by the eastern side of Calhoun street, and the same width of the ground along and bounded by the western side of Calhoun street, for the distance between Lexington street and Baltimore street.

3d. That the said additions to said streets respectively, of said pieces of ground of seven feet in width, shall be forever kept as foot pavements of said streets respectively, and shall be so conveyed by said deed; and that by said deed the said streets shall be ceded to this corporation, for the streets and highways respectively. Footways.

4th. That the buildings to be erected on the eastern side of Carey street, and on the western side of Calhoun street, between Lexington street and Fayette street respectively, and on the northern side of Lexington street, between Carey street and Calhoun street, and on the southern side of Fayette street, between Carey street and Calhoun street, shall be erected on a line distant from those streets respectively not less than fifteen feet. Buildings to be erected.

24. So soon as by the terms of any sale or sales, lease, leases, or contract or contracts of lease, and other circumstances, that the Mayor shall be satisfied that the erection is insured of at least four dwelling houses of brick, each of at least twenty-four feet front and three stories high, on each of the pieces of ground of said James Canby and Samuel Canby, opposite to each side of the square aforesaid, and fronting on Fayette, Carey, Lexington and Calhoun streets respectively, the said Mayor shall cause to be forthwith graduated and paved the portion of streets bounding each side of the said square, one-half the cost thereof to be at the expense of the said James and Samuel Canby, their heirs or assigns, and to be deducted from the purchase money aforesaid; and also Lexington and Fayette streets, from Republican to Carey streets, should the amount of purchase money not be ex- Ibid, s. 3. Provision for paving.

pended by the aforesaid grading and paving, and immediately after such grading shall have been made, cause to be graduated and paved, such other streets on the property of the said James and Samuel Canby, lying between Gilmor and Republican streets, as will amount to the balance, if any, of the consideration to be given for the public square.

Ibid, s. 4.

Charge for paving.

25. So far as the charge of said graduation and paving shall extend and be claimable of said James and Samuel Canby, their heirs or assigns, as owners of ground which might be chargeable therewith, the same shall be allowed to said James and Samuel, their heirs and assigns, in account of the purchase money aforesaid, of ten thousand dollars.

Ibid, s 5

Time limited for improving.

Ordinance may be repealed.

26. If within two years from the date of this ordinance there shall not have been erected on the grounds bounding said square, at least sixteen dwelling houses of brick, each of at least twenty-four feet front and three stories high, then this ordinance may, at any time within six months from the expiration of said two years, be by this corporation declared and ordered to be null and void, and thereupon shall so become; and then and in that event, any graduation and paving as aforesaid that shall have been made shall be paid and be enforced as charges generally for paving may be enforced; and the deed aforsaid of said James Canby and Samuel Canby shall have reference to the provisions of this section, so as to declare the resulting liability aforesaid for such paving; and on this ordinance being annulled as aforesaid, this corporation shall re-convey and re-lease to said James and Samuel, their heirs or assigns, the ground aforesaid that shall have been conveyed by them to the corporation, excepting only the pieces of ground of seven feet in width to be ceded as aforesaid, and which it is hereby declared shall in any event forever remain parts of the streets respectively aforesaid, which they shall be meant to widen; the annulling of this ordinance in other respects nowithstanding.

27. The said square shall be called Franklin Square, and said piece of ground shall be forever kept as a public square; and as such be always kept by this corporation in good order, and suitably improved and embellished, and the Mayor is authorized to have the ground of said square properly levelled and graduated, in reference to the streets leading thereto, according to their grades as now established, or as he may have the same established, as he is hereby authorized to do. Ibid, s. 6. To be called Franklin Square.

28. So soon as said deed from said James and Samuel Canby shall have been executed and delivered, the portions aforesaid of Vine street and Woodyear alley, extending through the ground of said square, shall be and remain forever closed, and never liable to be opened as parts of said street and alley respectively. Ibid, s. 7. Woodyear alley and Vine street closed.

29. The deed to be executed as aforesaid shall have reference to each and every provision of this ordinance, in general terms or specially, so that each provision hereof shall appear to be adopted as part of the contract between the corporation and said James and Samuel Canby, for and in respect of the acquisition and convenience of said ground as a public square aforesaid. Ibid, s. 8. Contract.

30. If at any time hereafter, on the application of said James and Samuel Canby, or either of them, or the heirs or assigns of them, or any of them, to the Mayor, submitting for his consideration any sale or sales, lease or leases, or contract or contracts therefor, within the terms and for the purposes of section 24 of this ordinance, the Mayor shall certify to the parties so submitting his being satisfied, as provided by said section 24, in reference to the object there mentioned; and if within six months after such favorable certificate of the Mayor, the acts required of this corporation by section 27 shall not have been performed by said corporation, then this ordinance shall be null and void, and likewise the deed Ibid, s. 9. Terms of sale of property to be submitted to the Mayor.

to be executed as aforesaid by said James and Samuel Canby, and the ground thereby conveyed to the corporation shall by it be re-conveyed and returned to said James and Samuel, their heirs and assigns; and the said James and Samuel, their executors, administrators and assigns, shall then be bound to repay to said corporation all sums of money that shall have been expended by it, or for which it shall have become liable, in relation to said square, under section 27.

Ibid, s. 10.

Certain streets closed.

31. Woodyear alley, from Fayette street to Park land, and from Lexington street north to the outline of the land of James and Samuel Canby, and Vine street, from Carey street to Stockton alley, and from Calhoun street to Norris alley, shall be and forever remain closed, so as to allow a uniform and unbroken front opposite each front of the public square.

No. 32, Apr. 13, '44.

Preamble.

32. Ordinance No. 32, April 13, 1844, enacted the following: Whereas, Franklin Square has been laid out under the provisions of the ordinance to which this is a supplement; and whereas, from lapse of time and other causes it has become impracticable fully to carry out the provisions of the original ordinance, and it has therefore been agreed by and between James and Samuel Canby on the one part, and the Mayor and City Council of Baltimore on the other, to substitute the terms and conditions hereinafter set forth for those in the said original ordinance, so far as the same are inconsistent with or supplied by the provisions of this supplement.

Ibid, s. 1.

Performance of contract.

33. As soon as the Mayor of the City of Baltimore shall be satisfied that James and Samuel Canby have at their own expense well and sufficiently paved the whole of the streets left open around Franklin Square, including the corners thereof, and that four three-story houses of brick, not less than twenty-three feet front and forty feet deep, have been erected either on Lexington or Fayette streets, between Republican street and Franklin Square, or on Calhoun or Carey

streets, between Baltimore street and Franklin Square; and the said James and Samuel Canby shall have executed and delivered to the Mayor the deed hereinafter provided for, it shall and may be lawful for the said Mayor to direct the Register of the City to pay over to the said James and Samuel Canby the sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all eight, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the Mayor to direct the Register of the City to pay over to the said James and Samuel Canby another sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all twelve, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the Mayor to direct the Register of the City to pay over to the said James and Samuel Canby a third sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all sixteen, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the said Mayor to direct the Register to pay over to the said James and Samuel Canby a fourth sum of two thousand five hundred dollars—making in all the gross sum of ten thousand dollars; and it shall be the duty of the Register, whenever directed by the Mayor so to do, to pay over to the said James and Samuel Canby the said several sums of money.

34. Before any part of said sums of money shall be paid to the said James and Samuel Canby, they shall execute, acknowledge and deliver a deed to the Mayor and City Council of Baltimore, in a form to be approved by the Counselor of

Ibid, s. 2.

Deed.

the City of Baltimore, whereby they shall convey Franklin Square aforesaid to the Mayor and City Council of Baltimore, by a good and sufficient title in fee simple, freed from all incumbrances, and also to the ten thousand dollars in paving, stipulated for in the ordinance to which this is a supplement, and to all claims of expenses or damages for opening the streets bounding or leading to the said square on which houses are to be erected according to the provisions of this supplement, or for paving in front of the said square, and shall signify their full assent and consent to this supplement, and every provision therein contained, and to the ordinance to which this is a supplement, except so far as it is repealed or modified by this supplement.

Ibid, s. 3; No. 29, June 7, '69. Description of buildings.

35. No house of a less front than twenty four feet, and depth not less than forty feet, or less than three stories high, shall ever be erected in any of the streets binding Franklin Square, opposite to any of the four sides of said square; provided, that the said provision shall not apply to the north side of Lexington street opposite said square. No house shall be erected on the said north side of Lexington street, opposite Franklin square, with a front of less than twenty-one feet six inches, or depth of less than forty feet, or less than three stories high.*

Houses on north side of Lexington street.

* Ordinance No. 17, April 18, 1861, recited that the front of ground lying on the north side of Lexington street, between Carey street and Calhoun street, opposite to Franklin Square, is 334 feet, which, if improved with houses of 24 feet front, would leave a vacant lot of 22 feet, which could not be improved under the provisions of the ordinance to which this is a supplement; therefore it enacted that the owners of the ground on the north side of Lexington street, between Carey and Calhoun streets, are hereby permitted to improve the said ground with houses of a front not less than 23 feet 10 inches each; provided, that before making the said improvement, the written consent thereto shall be given by James Canby and Samuel Canby, their heirs and assigns, and of all persons claiming under them, or either of them, and that said written consent shall be approved by the City Counselor, and filed with the Register of the City, the consent hereby

HARLEM SQUARE.*

36. There shall be annually appointed, as other city officers are appointed, a keeper for Harlem Square, who shall possess some knowledge of gardening. The compensation of the keeper of said square shall be three hundred and fifty dollars per annum, payable monthly. No. 65, May 30, '72. Keeper. Compensation.

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given being so given only to the extent the Mayor and City Council may lawfully give without interfering with their rights in Franklin Square.

The railways around Franklin Square were removed under Resolutions No. 360, Oct. 3, 1874, and No. 22, Jan. 2, 1875, and No. 387, June 30, 1875.

* By Ordinance No. 21, March 4, 1876, the name Harlem Square was changed to Harlem Park.

By Ordinance No. 9, Feb. 29, 1868, the Mayor was authorized to accept from the estate of the late Dr. Thomas Edmondson, a deed in fee of a square of ground in the city of Baltimore, bounded on the west by Gilmor street, on the east by Calhoun street, on the south by Thompson street, and on the north by Adams street, the location of Adams street being changed as hereinafter provided, between Gilmor and Carey streets; and when the square should be accepted as aforesaid, it shall be and is hereby declared to be a public square forever, to be known as Harlem Square, and as such subject to the ordinances and regulations of the Mayor and City Council of Baltimore.

In order that the above mentioned square may be properly proportioned, and made capable of the most judicious improvement, the location of Adams street, as the same is laid down in Poppleton's plat of the city of Baltimore, is hereby changed through the property belonging to the estate of the late Dr. Thomas Edmondson, between Gilmor street and Carey street, so that the south line of Adams street shall be four hundred and fifty feet nine inches from the northern side of Thompson street.

In order that the area included within the boundaries of the said square may be preserved entire in the most advantageous manner for the use of the public, Stricker street, between Thompson street and Adams street, according to the changed location of the later, is hereby declared to be closed, so that the bed thereof may be included within the square aforesaid.

And by Ordinance No. 20, April 4, 1868, the Mayor was authorized to accept from the estate of the late Dr. Thomas Edmondson, a deed in fee of the beds of the following streets, lying within the limits of the property owned by the said estate within the limits of said city, that is to say: Thompson street, from Dorsey's lane to the eastern boundary of said Edmondson's

JACKSON SQUARE.

No. 109, June 9, '75. Commissioners.

37. The Mayor is authorized to appoint in the usual manner, three citizens, of proper character and discretion, as Commissioners for Jackson Square, who shall have authority to protect and care for said Jackson Square, and who shall serve without compensation.

No. 96, May 20, '75. Keeper. Salary.

38. There shall be annually appointed, as other city officers are appointed, a keeper of Jackson Square, bounded by Jackson Square avenue and Fayette street and east Broadway, whose duty it shall be to keep said square in proper order, and he shall receive for such services an annual salary of three hundred and fifty dollars.

JOHNSTON SQUARE.*

No. 38, May 3, '78. Boundaries.

39. By Ordinance No. 38, May 3, 1878, the Comptroller is directed and empowered to purchase the lot of ground bounded by McKim, Valley, Biddle and Chase streets, to be used as a public square.

LAFAYETTE SQUARE.

No. 78, May 19, '72. Salary.

40. The salary of the keeper of Lafayette Square is hereby fixed at the sum of three hundred and fifty dollars per annum.†

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property, near Carey street; Adams street, from Dorsey's lane and according to its changed location to said last named boundary; Lanvale street, from Dorsey's lane to said last named boundary; Carey street, from Franklin street to the northern boundary of said Edmondson's property, between Lanvale and Townsend streets; Calhoun street, between the limits last aforesaid; Stricker street, between Franklin and Thompson streets, and between Adams street, according to its changed location, and the northern boundary of the Edmondson property aforesaid; and Mount street, between the land belonging to the heirs of the late John I. Donaldson and the last named northern boundary; and also all the beds of all the alleys laid down within the limits of the Edmondson property aforesaid, upon a map thereof, filed with the Register of the City.

* Called Johnston Square by Ordinance No. 77, June 28, 1878.

† By Ordinance No. 34, April 28, 1857, the Commissioners of Finance were duly authorized to purchase from Aaron Hoffman and others, the square of

MADISON SQUARE.

41. By Ordinance No. 27, April 6, 1853, the Commissioners of Finance were duly authorized to purchase from Archibald Stirling the square of ground bounded by Chase, Caroline, Eager and Eden streets, for the sum of thirty thousand dollars.

No. 27, s. 1, Apr. 6, '53. Location of square.

42. The square of ground in section 41 hereof directed to be purchased, is from this time forth and ever afterwards hereby condemned and appropriated for a public square.

Ibid, s. 3. Condemned for public use.

MOUNT VERNON PLACE.

43. It shall not be lawful for any person to erect or set up any portico, steps, or any other ornamental structure whatever, on Mount Vernon Place, a greater distance into the place than nine feet, measuring from the building line thereof.*

No. 59, R. O. Porticoes, steps, &c., regulated.

ground bounded by Townsend, Lanvale, Republican [now Carrollton avenue.] and Oregon streets, for a public square, called Lafayette Square.

The Commissioners of Finance were directed by said ordinance to accept said square of ground, with the agreement to expend fifteen thousand dollars, or so much thereof as might be necessary, to grade the square, and grade and pave all the streets which bind on said square, and also the streets adjacent to the square; the grading and paving to be done under the supervision of the City Commissioner.

The square of ground described in the first section hereof, and directed to be purchased, is from and ever after the approval of this ordinance condemned and appropriated for a public square.

When there should be six houses of not less than twenty feet front each, built on that part of each of the streets fronting on Lafayette Square, then the Mayor was authorized to have said Lafayette Square railed in with a good and substantial fence, and also to have the necessary grading done.

The iron railings around Lafayette Square were removed under Resolution No. 256, May 8, 1873.

* The above ordinance recited the Act of 1833, c. 180, which provided: that the Mayor and City Council of Baltimore are hereby empowered to

SQUARES AROUND WASHINGTON MONUMENT.

No. 135, s. 1, Oct. 10, '76.

Commissioners.

Powers.

Rules.

44. The Mayor shall annually appoint, subject to confirmation by the City Council, three commissioners, who shall serve without pay, and who shall have all necessary power to design, adopt and carry out any measures they may deem advisable for the improvement of the public squares around Washington Monument, and to establish such rules and regulations as may in their judgment be necessary for the proper preservation of said squares.*

PARK PLACE.

No. 100, May 31, '75.

Commissioners.

45. The Mayor is hereby authorized to appoint in the usual manner, annually, three citizens of proper character and discretion, as commissioners, who shall have authority to protect and care for the public square in the northern section of the city, known as Park Place, and who shall serve without compensation.†

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pass ordinances regulating the limits within which it shall be lawful to erect steps, porticoes or porches, or other architectural ornaments to houses fronting on Mount Vernon or Washington Place, in the city of Baltimore.

* By this ordinance the commissioners were authorized to cause the iron railings enclosing said squares, and the brick sidewalks around the same to be removed, and the several squares to be extended in area to the kerbstone; and to take such measures to lay off walks through said squares, and make such other adornments and improvements in and about the same as they might deem advisable; and the City Commissioner and the Inspector of Buildings were directed to render such assistance to the commissioners as they might from time to time require of them.

† By Ordinance No. 66, July 23, 1860, the Commissioners for Opening Streets were directed to close Grundy street (now Park avenue,) between McMechen and Laurens streets, and Foster alley, from McMechen to Wilson street, and Jenkins alley, from McMechen to Laurens street, provided, that before the said commissioners proceeded to exercise the duties hereby required of them, the applicants to close said street, or some of them, should execute and deliver clear of expense, or cause to be executed and delivered clear of expense, to the Mayor and City Council a deed in fee, for the following pieces or parcels of ground, viz: All that strip or parcel

PERKINS' SPRING SQUARE.

46. The Mayor shall appoint, at his discretion, and removable at his pleasure, three commissioners for Perkins' Spring Square, located at the junction of George street and Chatsworth street, [now Myrtle avenue] to be selected from among the residents of the vicinity of said square, who shall serve without compensation. Said commissioners shall have all the powers conferred by and perform all the duties required of commissioners of squares under sections 3 to 7 of this article.

No. 14, April 3, '73 Commissioners.

Powers and duties.

47. There shall be appointed annually, as other city officers are appointed, a keeper for Perkins' Spring Square, who shall receive as compensation the sum of three hundred and fifty dollars per annum, monthly.*

No. 20, Feb. 15, '75. Keeper.

PUBLIC WALK ON OLIVER STREET.

48. The centre part of Oliver street, to the width of thirty feet, between Dolphin street and North avenue, is hereby reserved, to be maintained by the city for an almeda or public walk, leaving a public way or street bed on each side of said almeda of thirty-five feet in width, and a foot way on each

No. 56, June 29, '77. Centre part of Oliver street reserved for an almeda or public walk.

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of ground as laid down on an accompanying plat, (made a part of the ordinance,) between McMechen and Laurens streets, one hundred and fifty feet wide, to be called Park Place, and to be kept and preserved as a public square forever; and two several pieces and parcels of land, eighteen feet wide, and distant from each side of said park one hundred and thirty feet—the one to be called Jenkins alley, running from McMechen to Laurens street; the other to be called Foster alley, and running from McMechen to Wilson street, as laid down on the said plat.

* By Ordinance No. 300, October 1, 1872, the City Comptroller was authorized to lease for public use that portion of the Perkins' Spring property located within the following bounds, not leased: on the west by Ogston street, on the south by George street, and on the northeast by Myrtle avenue, at a rate not to exceed four dollars and a-half per front foot for the building lots contained within said bounds, and with the right reserved to purchase at six per cent. capitalized at the convenience of the city.

Proviso. side of said public way of twelve and a half feet; provided, that said improvement shall be made when eight houses of not less than eighteen feet front shall have been erected on each square.

PROSPECT SQUARE.

No. 27, Feb. 28, '59; No. 85, May 20, '59. 49. By Ordinance No. 27, Feb. 28, 1859, the City Commissioner was authorized to lay out a square of ground, octagon

Boundaries. form, twenty-two feet in diameter, at the intersection of Har-

Name. ford avenue, Britton and Ensor streets, to be known as Prospect Square, and to have the same enclosed with a suitable iron railing.

UNION SQUARE.

No. 22, April 9, '47. 50. Ordinance No. 22, April 9, 1847, enacted *inter alia*

Preamble. the following: Whereas, the proprietors of a piece of ground bounded by Gilmor and Stricker streets, and Hollins and Lombard streets, have offered to convey the same to the Mayor and City Council of Baltimore, for a public square, in consideration of and subject to the terms and conditions hereinafter mentioned; and whereas, said offer has been accepted by this corporation; therefore,

Ibid, s. 1. 51. So soon as said proprietors shall by a deed, to be ap-

Deed. proved by the City Counselor, convey to this corporation, for the sole intent and purpose, and on the trust that the same be forever kept and improved and embellished as a public square, the piece of ground aforesaid, together with all their right, title and interest in and to the waters proceeding from the springs which have their sources in said piece of ground; it

Conditions. being understood and conditioned, however, that said waters shall be collected and discharged in the first instance, without

Fountain. limitation, from an ornamental fountain, to be erected within the square, and thence conducted off, under the beds of the streets; and shall further, for the purpose of enlarging to eighty feet the width of the following named streets leading to

the square, namely: Hollins and Lombard streets, between Calhoun and Gilmor streets, and Stricker and Gilmor streets, between Baltimore and Pratt streets, convey, cede and assure to this corporation, in addition to the beds of said streets as laid down on the city plat, seven feet on each side of the same, to be added to and forever kept as a part of the foot pavements of said streets respectively; the Mayor is authorized to have the same enclosed with a suitable iron railing, and to have the ground of said square properly levelled and graduated in reference to the streets leading thereto, according to their grades as established, or as hereafter may be established, and to have the said ground planted with trees and shrubs. Streets. Iron railing.

52. The said square shall be called Union Square, and the said piece of ground shall be forever kept as a public square, and as such be always kept by this corporation in good order, and suitably improved and embellished; and the Mayor is hereby authorized and required, in conjunction with the City Commissioner, to cause an ornamental structure of a suitable character, considered with reference to the general style of the improvements herein provided for, to be erected over the fountain from which the waters of the spring shall be discharged.* Ibid, s. 2. Name. Fountain.

* By Ordinance No. 38, April 18, 1849, the Mayor and Register were authorized to sell the right to all surplus water arising from the public fountain in Union Square, to the president and directors of the Baltimore and Ohio Railroad Company.

ARTICLE XLVI.

STOCKS, LOANS AND FINANCE.

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1. Corporation may issue certificates of stock: amount.
2. Levy.
3. Corporation may increase public debt, issue bonds, &c.: to create sinking fund: levy.
4. Investments by Commissioners of Finance of sinking fund in ground rents payable by Mayor and City Council: merger.

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2. Amounts: fractional parts.
3. Duty of Register: City Counselor.
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5. Renewal of certificates: to be advertised.
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10. Pledge for redemption.
11. Interest to be included in appropriation bill.
12. City debt, how to be discharged.
13. Certain moneys to be invested in city stocks, or deposited in bank: sinking fund: report to Council.
14. Commissioners to lease city property pledged for redemption of public debt: provisos.
15. Nature of debt of corporation: real estate, &c., set apart for payment of public debt and interest.
16. Commissioners of Finance to open books of account: report to Council: duties of Deputy Register.

SINKING FUNDS AND FUNDING FLOATING DEBTS.

17. Investments by Commissioners of Finance.
18. Certificates of what loans cancelled.
19. Consolidation of city stock.
20. Accounts for sinking funds.
21. Consolidation: exchange of stock: sinking fund.
22. Issue of city stock.
23. $1,700,000 funded.

Article XLVI.—Statutes.

24. $300,000 funded.
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STOCKS.

29. Almshouse.
30. City Hall.
31. Court-house and Division.
32. Defence and Bounty.
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37. Water and Gunpowder River.

LOANS, ENDORSEMENTS, &C.

38. Baltimore and Ohio Railroad.
39. Northern Central Railway, &c.
40. Northwestern Virginia Railroad.
41. Pittsburg & Connellsville Railroad.
42. Union Railroad.
43. Virginia Valley Railroad.
44. Western Maryland Railroad.
45. Hillen Station.

SUBSCRIPTIONS AUTHORIZED BY ACTS OF ASSEMBLY.

Maryland and Delaware Ship Canal.
Baltimore, Chesapeake and Delaware Bay Railroad.

STATUTES.

1. The Mayor and City Council may, for the purpose of promoting or effecting any great or permanent improvement, issue stock in certificates of an amount not less than one hundred dollars each, transferable only in person or by letter of attorney, in books to be kept for that purpose in the office of the Register of the City; or may borrow money on the credit of the corporation; provided, the amount of stock so created and issued, or money borrowed, shall at no one time exceed one million of dollars, exclusive of all debts created under special Acts of Assembly for the purposes in the said acts specified.* P. L. L., art. 4, sec. 866. Corporation may issue certificates of stock. Amount.

2. They may levy upon the assessable property within the city, and collect by tax any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be obtained, by said corporation according to law. Ibid, sec. 867. Levy.

* See Const., Art. 11, sec. 7, p. 6, *ante*.

1861, c. 75.

Corporation may increase public debt, issue bonds, &c.

3. The Mayor and City Council of Baltimore are hereby authorized and empowered to increase, in case they shall deem it necessary so to do, the public debt of said city, to the extent of not more than one million five hundred thousand dollars beyond the amount above authorized; and to issue for said increased debt the bonds or notes or other evidences of debt of said city. The Mayor and City Council of Baltimore shall create a sinking fund to meet the liabilities to be incurred under this law, and may also levy upon the assessable property of the city of Baltimore, from time to time, such sum or sums as may be necessary to provide therefor, and for the payment of the principal and interest of the liabilities to be incurred under this section, and may pass all ordinances necessary to carry out the purposes of the same.

To create sinking fund.

May levy.

1876, c. 167.

Investments by Commissioners of Finance of sinking fund in ground rents payable by Mayor and City Council.

4. Whenever the Commissioners of Finance of the City of Baltimore shall be authorized by the Mayor and City Council of Baltimore to invest moneys belonging to the sinking fund of said city, in annuities or ground rents, reserved out of the lands leased to the Mayor and City Council of Baltimore, and payable by the said corporation, the said commissioners may purchase such rents or annuities and the reversions of such lands, and the conveyances thereof taken may be made to the Mayor and City Council of Baltimore, in trust for the benefit and purposes of the said sinking fund, and in every such case such conveyance shall not work a merger of the lease or term, but, until otherwise provided by law, the rent or rents shall continue to be payable by the Mayor and City Council of Baltimore as if such purchase had not been made, but shall be received and applied by the Commissioners of Finance as the income of other investments of the sinking fund may be applied.

Merger.

ORDINANCES.

CERTIFICATES OF STOCK.

1. Certificates of city stock shall be issued in the following form, viz: —— per cent. stock of the city of Baltimore, No. ——, —— dollars, —— Baltimore. This is to certify, that the corporation of the city of Baltimore is indebted to ——, in the sum ——, redeemable ——, and until so redeemed, bearing interest at the rate of —— per centum per annum, payable —— yearly on the first days of —— —— and ——. This certificate is only transferable at the Mayor's office, in person or by attorney, and the delivery of the certificate to the transferee. In testimony whereof, and in virtue of an ordinance of the city of Baltimore, I, the Mayor, have hereto set my hand and affixed the seal of the corporation, this —— day of ——, 18—, —— ——, Mayor. Countersigned and recorded by —— ——, Register. No. 6, s. 3, R. O. City certificates. Form.

2. All certificates of stock shall be issued in sums of one hundred dollars and equal multiples thereof, and they shall only be transferable at the Mayor's office, in the presence of the Mayor or Register, by the proprietor or proprietors thereof, or his, her, or their legal representatives. In case of the presentation for transfer of certificates of stock calling for fractional parts of one hundred dollars, the Commissioners of Finance may purchase the said fractional parts for the use of the sinking funds; or if the holder or holders prefer, they may upon his, her or their paying the difference to the Commissioners of Finance, issue a certificate or certificates in the manner and form as herein provided. Ibid, s. 4; No. 42, June 17, '67. Amounts. Fractional parts.

3. Before the Register shall issue any certificate of stock, he shall receive the money for which the same may be issued, and shall proceed to apply the said money to the purposes for which the issue of certificates was authorized, unless otherwise No. 6, s. 5, R. O. Duty of Register.

provided for by any special ordinance, in which case it shall be the duty of the Register to obtain the written opinion of the City Counselor. City Counselor to that effect previous to issuing any certificate of stock required by such special ordinance.

Ibid, s. 6.

Stock lists.

4. It shall be the duty of the Register to open and keep regular and correct loan books for the registry and transfer of city stock, and under the direction of the Commissioners of Finance, to make up lists of its proprietors in time for the punctual payment of the interest, and to pay and take receipts therefor, and for these purposes the transfer books shall be closed twenty days previous to each day on which the interest is made payable.

Transfer books, when closed.

Ibid, s. 7.

Renewal of certificates

To be advertized.

5. In all cases of application for renewal of certificates of the stock debt of the city of Baltimore, where said certificates may have been lost or destroyed, the person making such application shall give at least sixty days' notice by publication once a week, in two of the daily newspapers published in the city of Baltimore, describing such certificate or certificates, and at the same time declaring his or her intention to make such application.

Ibid, s. 8.

Applicant to make oath before Mayor.

6. The Register shall, before he issues such duplicate certificate or certificates, require the person making such application to make oath before the Mayor of the City of Baltimore, that such certificate or certificates were lost or destroyed; the circumstances, if any, under which said certificate or certificates were lost or destroyed, and shall also be satisfied that he or she is the owner, agent or representative of the owner of said certificate or certificates.

Ibid, s. 9.

Identity of applicant.

7. If the Register shall not, from the evidence before him as contained in section six of this ordinance, be satisfied of the identity of the person, or from the circumstances that such certificates are actually lost or destroyed, then he shall require the person making such application to enter into a bond, with

security to be approved by him, in double the amount of such certificate, or at the option of said person to refer the subject, together with the evidence in his possession, to the next session of the City Council.

DEPARTMENT OF FINANCE.

8. There shall be annually elected, by a convention of both branches of the City Council, two persons of experience and integrity, to be known as Commissioners of Finance, who in conjunction with the Mayor shall constitute the Department of Finance. No. 6, s. 1, R. O; No. 26, Mar. 27, '72. How constituted.

9. In case of vacancy by death or resignation, it shall be the duty of the Mayor to supply such vacancy, and the person or persons thus appointed by the Mayor shall remain in office until an election by a convention as aforesaid shall have taken place. Ibid, s. 2. Vacancy filled by the Mayor.

10. The faith of the corporation and its corporate property are hereby pledged for the redemption of its stock and payment of interest thereon, at such times as may be specified in the ordinances authorizing the same. No. 6, s. 10, R. O. Pledge for redemption of stock.

11. Such sum as may be necessary for the payment of the interest on the public debt shall be included in the appropriation bill of each and every year. Ibid, s 12. Interest to be included in appropriation bill.

12. All such payments as may be necessary to enable the said commissioners to discharge or reimburse any demands against the city on account of the principal or interest of the debt, which shall be actually due in conformity to the engagements of the city, shall be made at such times in each year as will enable the commissioners faithfully and punctually to comply with such engagements. Ibid, s. 13 City debt, how to be discharged.

13. The Commissioners of Finance shall invest in city stock all moneys in their hands, or to their credit in bank, received for the sale or rent of city property, pledged for the Ibid, s. 14.

Certain moneys to be invested in city stocks or deposited in bank.

redemption of the public debt; and shall also invest all moneys that may hereafter be received from the above mentioned sources, as well as all interest accruing thereon from time to time, and have the transfers made in the name of the Commissioners of Finance, and also have stamped on the face of each and every certificate by them purchased the words

Sinking Fund.

"Sinking fund not to be re-issued," and report to the City

Report to Council.

Council in the first week of its annual session the amount purchased, and the dates and prices at which they were purchased, and exhibit their books and the certificates of stock by them purchased during the preceding year, to the committee appointed on their accounts, which committee shall endorse all certificates of stock, if correct, and report to the City Council.

Ibid, s. 17.

14. The Department of Finance shall, whenever in their

Commissioners to lease city property pledged for redemption of public debt.

opinion it is consistent with the interest of the city, lease any part or parcel of the public property belonging to the city, which is now or may hereafter be pledged for the redemption of the public debt, and apply the proceeds of such leases exclusively

Provisos.

towards the object of the sinking fund; provided, that in no case shall any lease be made without the approbation and consent of the Mayor, who is hereby authorized to execute the necessary conveyances to the lessees; provided, also, that the same shall be offered at public aution, after ten days' notice previously given in two or more of the daily papers of the time and place of such sale, and leased to the highest bidder for ninety-nine years renewable forever, or for a shorter period, should such bids, in the opinion of said board, be for the interest of the city to accept; and provided, further, that one-fourth of the principal that would accrue at six per cent. upon the bids agreed upon, be first paid in cash, or satisfactorily secured, and the balance, three-fourths, be placed on lease for the time and agreeably to conditions named in said advertisement or promulgated at the place of sale; and provided

further, that nothing in this section shall be construed to relate to the public wharves of the city. Wharves.

15. The greater portion of the existing debt of the corporation was created for and represents investments in real estate, and in the stocks, bonds and other obligations of internal improvement companies, yielding a large income; and it is proper that such investments and the income derived therefrom, shall be set apart and applied to the payment of the interest and the redemption of the debt so created, as the same may become due and payable; and that by reason of the amount, nature and purpose of the debt, it is expedient and desirable and promotive of public convenience and security, that all transactions proceeding from or connected with the funded obligations of the corporation and the interest thereupon, be kept separate and apart from the ordinary and current receipts and expenditures of the city government; and for the purpose of accomplishing more effectually the several objects herein set forth, the following two sections are enacted: All the real estate from which income is derived, and all the stocks, bonds, and obligations of any improvement company now held or claimed as the property of the corporation, or as due to it, as well as all taxes which may hereafter be levied and collected for this purpose, are appropriated and set apart, to be held by the Commissioners of Finance exclusively for the payment as aforesaid of the public debt of the corporation, and the interest thereupon as the same, or any part thereof, may become due and payable. No. 26, March 27, '72. Nature of debt of corporation. Real estate, &c., set apart for payment of public debt and interest.

16. The Commissioners of Finance are hereby directed and required to open books of account in the name of the corporation, in which books they shall cause to be succinctly and accurately set forth and described all the property herein referred to, the receipts from or on account thereof, and the payments thereupon, and annually they shall report the same to the Council. Ibid. s. 2. Commissioners of Finance to open books of account. Report to Council.

Duties of Deputy Register.

The Deputy Register, with such clerical assistance as may be necessary, shall under the direction of the Commissioners of Finance, keep the books, accounts and records of the office, and perform such other duties as may be required.

SINKING FUNDS AND FUNDING FLOATING DEBTS.

No. 58, June 4, '68.
Investments by Commissioners of Finance.

17. The Commissioners of Finance, in connection with the City Register, are hereby authorized and empowered to invest for the various sinking funds, in the guarantees as well as the stock of the city.

No 42, June 17, '67.
Certificates of what loans cancelled.

18. The Commissioners of Finance are hereby authorized and directed to cancel all certificates of the following loans which may be presented to the Register for transfer, viz: Almshouse loan, floating debt and defence loan, jail stock, Susquehanna canal loan, and Baltimore and Susquehanna railroad loan; and to issue in lieu thereof to the respective holders of the same, certificates of the six per cent. stock of the city of Baltimore, redeemable after July 1st, 1890; the interest to be payable quarterly on the first days of January, April, July and October in each and every year.

No. 29, Apr. 27, '61.
Consolidation of city stock.

19. The Commissioners of Finance are hereby authorized and empowered to consolidate the several certificates of city stock held by them, for any and every sinking fund under their care, and annually hereafter to consolidate all certificates of city stock as aforesaid, when examined and approved by the committee on accounts of the Commissioners of Finance.

No. 88, Oct. 15, '66.
Accounts for sinking funds.

20. The Register, as clerk to the Commissioners of Finance, is hereby directed and required to open accounts upon the books of the Commissioners of Finance for all sinking funds, except the Five Million Loan, wherein shall be entered full and detailed accounts of each sinking fund, the amount, how invested, the acts of the commissioners in relation thereto, and

all other facts necessary to a full and succinct history of each fund; to hold or invest the same, or the interest accruing from time to time, as said Commissioners of Finance may direct.

21. The Commissioners of Finance are hereby authorized and empowered to consolidate the city six per cent. bonds, in such way and manner as they may deem best, keeping in view the rights and privileges of the holders thereof; and they are further empowered to issue one million, or so much thereof as may be necessary, of five per cent. city bonds, interest payable quarterly, and redeemable in 1885, and exchange the same with the holders of the old five per cent. bonds, dollar for dollar, and to issue six per cent. bonds not exceeding one million of dollars in amount, to provide for any deficiency in the means of meeting existing appropriations; and for the purpose of increasing the sinking fund to an amount required by this increased issue, a tax of five cents on each hundred dollars of assessable property, shall be levied in the year 1873, and annually thereafter, until said bonds are paid or provided for.

No. 92, Oct. 22, '64. Consolidation. Exchange of stock. Sinking fund.

22. The Commissioners of Finance are hereby authorized and directed to issue city bonds, redeemable in twenty years, bearing interest at the rate of six *per centum per annum*, payable quarterly, not to exceed two hundred thousand dollars, and dispose of the same at their discretion, and hand the proceeds to the Register, who shall apply the same to the payment of the floating debt.

No. 17, Apr. 19, '62. Issue of city stock. Floating debt.

23. The Register is authorized to fund seventeen hundred thousand dollars of the floating debt of the city of Baltimore in stock of the said city, payable at the pleasure of the Mayor and City Council after July 1st, 1890, and bearing interest at the rate of six *per centum per annum*, payable quarter yearly on the first days of January, April, July and October in each year, until redeemed.

No. 1, Feb. 7, '68. $1,700,000 funded.

No. 3. Nov. 13, '69. $300,000 funded.

24. The City Register is authorized to fund three hundred thousand dollars of the floating or unfunded debts or obligations of the city of Baltimore existing at the time of the adoption of the Constitution of Maryland, [1867,] the same to be funded in stock of the said city, payable at the pleasure of the Mayor and City Council of Baltimore, after July 1st, 1890, and bearing interest at the rate of six per cent. per annum, payable quarterly on the first days of January, April, July and October in each year, until redeemed.

No. 14, January 31, 1870. $800,000 funded.

25. The City Register is authorized to fund eight hundred thousand dollars of the floating debt of the city of Baltimore, which shall be existing at the time this ordinance shall go into effect, in bonds of the city of Baltimore, payable at the pleasure of the city of Baltimore after July 1st, 1900, and bearing interest at the rate of six per cent. per annum, payable quarterly on the first days of January, April, July and October in each year, until redeemed.*

No. 19, Feb. 28, '72. Consolidation of sinking funds.

26. The Commissioners of Finance are authorized to add to and consolidate with the general sinking fund any of the funds held by them for the redemption of the public debt, or any part thereof, which within their judgment are not required to be kept distinct and separate.

No. 6, s. 1, Feb. 12, '74. $2,000,000 funded.

27. The Register of the City, upon notice from the Commissioners of Finance, and from time to time, is hereby authorized and directed to issue the bonds of the city to an amount not exceeding two millions of dollars, and the said bonds shall be sold or disposed of by the said Commissioners

* This Ordinance contains the usual provisions for its submission to the voters and its authorization by Act of Assembly; and in accordance therewith, by the Act of 1870, c. 143, the Mayor and City Council were authorized to fund the floating debt to the amount mentioned in section 25 above, and to issue the bonds of the city for the amount of the debt so funded, payable at the times and at the rates therein mentioned. This ordinance was duly submitted to the voters and approved April 21, 1870.

of Finance, and the proceeds therefrom applied to the payment of the loan of seven hundred thousand dollars, authorized by ordinance approved December 23, 1872, No. 3, being an ordinance to provide for the speedy introduction of an additional supply of water into the city of Baltimore; [see Art. LIII, Water,] and the loan of two hundred thousand dollars, authorized by ordinance approved May 30, 1872, No. 66, being an ordinance to provide for the speedy improvement of the ship channel leading into the Patapsco river, and from its mouth to Fort McHenry; [see p. 334, *ante*] and of the loan of two hundred thousand dollars, authorized by ordinance approved March 25, 1873, No. 13, being an ordinance making a further appropriation for the ship channel leading into the Patapsco river, and from its mouth to Fort McHenry; [see p. 337, *ante*] and of the loan of two hundred thousand dollars, authorized by ordinance approved April 24, 1873, No. 44, being an ordinance to authorize the Water Board to borrow such sums of money as may be needed to complete the high service supply; [see Art. LIII, Water,] and further, to the payment of all such other floating debt of the city of Baltimore as may have existed on the 31st day of October, 1873, and remains unpaid.

How proceeds from sale applied.

28. The said bonds shall be issued in sums of not less than one hundred dollars each, redeemable at the pleasure of the Mayor and City Council of Baltimore after February 1st, 1894, bearing interest at the rate of six per cent. per annum, payable semi-annually on the 1st day of July and the 1st day of January, and on condition that the city of Baltimore shall pay all State tax for which the holders of said bonds may thereon be legally liable, and the said bonds, or such part thereof as the said commissioners may deem it best so to issue, shall by their direction be issued as registered bonds, transferable, as other city bonds, or the same or such part thereof as the said commissioners may deem it best so to issue, shall by

Ibid s. 2.

Bonds.

State taxes.

their direction be issued, with coupons attached, transferable by delivery, and with interest and principal payable in gold, or to make them principal and interest payable in London in sterling money.*

STOCKS.

ALMSHOUSE.

29. This stock was authorized by Ordinances No. 40, s. 8, May 20, '62; No. 25, March 26, '64, to an amount not exceeding $100,000; by Ordinance No. 35, June 7, '65, an

* Submitted to voters and approved April 21, 1874.

By the Act of 1874, c. 185, the Mayor and City Council of Baltimore were authorized to fund the loans provided for by an ordinance approved December 23, 1872, (No. 3); by an ordinance approved May 30, 1872, (No. 66); also by an ordinance approved March 25, 1873, (No. 13); also by an ordinance approved April 24, 1873, (No. 24); and also to fund such other floating debt of the city of Baltimore as may have existed on October 31, 1873, and remained unpaid, and for that purpose to issue the bonds of the city to an amount not exceeding the sum of two million dollars, as provided for in an ordinance of the said Mayor and City Council, entitled an ordinance to provide for funding the floating debt of the city as authorized or existing on October 31, 1873, approved February 12, 1874, (No. 6); and according to the terms, conditions and provisions of said ordinance.

By the Act of 1878, c. 328, the Mayor and City Council of Baltimore are authorized to Fund the Floating Debt of said city to an amount not exceeding one million five hundred thousand dollars, and to issue the bonds of the city for the amount so funded, payable at such time, and bearing such rate of interest, not exceeding six per centum per annum, as the said Mayor and City Council shall provide by ordinance to be adopted at the present session of the City Council, provided, that the said bonds shall not be issued unless the ordinance which the Mayor and City Council is hereby authorized to enact shall be approved by the votes of a majority of the legal voters of the said city cast at the time and places to be appointed by said ordinance, in the provision for submitting the same to the legal voters of the city, as required by section seven, article eleven of the Constitution; provided, however, that said bonds shall not be sold at less than par. An ordinance to carry out the provisions of this act to fund the floating debt existing on the 31st Dec., 1877, was passed Oct. 8, 1878; approved by voters Oct. 23, 1878.

By Ord. No. 91, Oct. 4, 1878, the Commissioners of Finance are authorized and directed to cancel or destroy all the bonds and certificates of the loan known as the Patterson Park Extension Loan, issued under Ord. No. 116, June 23, 1871, and also all the bonds and certificates of the loan known as the Funding Loan, 1894, issued under Ord. No. 6, Feb. 12, 1874.

issue was authorized to an amount not exceeding $300,000, bearing interest at six per cent. per annum, payable quarterly, and to become due on July 1, 1890; and by ordinance No. 3, Feb. 16, '66, another issue of $50,000, at same rate of interest and to become due on same date was authorized.*

CITY HALL.

30. This stock was authorized by Ordinance No. 62, June 24, '68, to an amount not exceeding $1,000,000, redeemable in fifteen years, bearing interest at six per cent. per annum, payable quarterly.†

By Ordinance No. 37, April 15, '70, another issue of this stock was authorized to an amount not exceeding $1,000,000, redeemable in thirty years, and bearing the same rate of interest, payable quarterly.‡

* See note, p. 74, *ante*, for the ordinances under which Bayview Asylum was built.

† 1868, c. 391, authorized the Mayor and City Council of Baltimore to issue the bonds of the said city to an amount not exceeding the sum of one million of dollars, the proceeds from the sale of said bonds to be used in the construction of a city hall in the city of Baltimore; provided, that before the issue of said bonds the said loan be authorized by an ordinance of the Mayor and City Council of Baltimore, and approved by a majority of the votes of the legal voters of the said city, cast at such time and places as may be fixed by said ordinance as prescribed in the seventh section of article eleven of the Constitution. This ordinance was submitted to the vote of the citizens and adopted.

‡ This ordinance contains the usual provisions for submission to the approval of voters and authorization by Act of Assembly.

By Act of 1870, c. 303, the Mayor and City Council of Baltimore were authorized to issue bonds to an amount not exceeding the sum of one million of dollars, in addition to the one million of dollars which it was authorized to issue by the Act of Assembly of 1868, c. 391, the proceeds of the sales of said bonds thereby authorized to be issued to be used in the construction of the city hall, being erected in said city of Baltimore, which bonds so to be issued, together with interest thereon, to be made payable at such times as shall be determined by the said Mayor and City

By Ordinance No. 15, Feb. 8, '72, another issue was authorized, to an amount not exceeding $500,000, redeemable in thirty years, at the same rate of interest, payable quarterly.*

Council of Baltimore, which was further thereby authorized to make such provision for the ultimate redemption of the principal of said bonds, and for the payment of the interest thereon, as to it shall seem best; and it further provided that before any of the bonds mentioned be issued, the ordinance of the Mayor and City Council of Baltimore authorizing the same be submitted to and approved by the legal voters of the said city, in accordance with the provisions of the seventh section of article eleven of the Constitution: and that all Acts or parts of Acts of Assembly inconsistent herewith, and especially the Act of 1866, c. 1, were repealed. This ordinance was duly submitted and approved. This Act of 1866, c. 1, is construed in *State ex-relat.* v. *Kirkley et. al.*, 29 Md. 85, as follows:

Ordinance No. 58, of the Mayor and City Council of Baltimore, approved September 25, '65, entitled an ordinance to provide for the building of a new city hall was, by its own provision, wholly inoperative until its ninth section was confirmed and ratified by the General Assembly. On January, 29th, 1866, the General Assembly passed an act entitled an act authorizing the Mayor, &c., to build a new city hall, in which there was neither, in the title nor the body of the law, any reference to Ordinance No. 58, and an entire absence of any words of confirmation or ratification, but the provisions of the law in every material respect differed from those of the ninth section of the ordinance. At the January session of the City Council in 1867, certain persons were nominated by the Mayor and confirmed by the Council as commissioners to constitute the building committee of the new city hall. They accepted the appointment, and entered upon their duties accordingly, with the Mayor as president of the committee. Held: 1. That the Act of Assembly was not a confirmation and ratification of the ninth section of the ordinance, but an independent grant of power, to be exercised by future conformable legislation on the part of the city corporation. 2. That the ninth section of the ordinance, not having been ratified by the General Assembly, as required by the eleventh section, the appointment of commissioners by the Mayor to constitute the building committee of the new city hall was unauthorized and nugatory, and conferred upon the appointees no authority whatever. 3. That mandamus was the proper remedy to restrain the commissioners, who had assumed to act without lawful authority, in discharge of the duties of their supposed office.

Ordinance No. 73, August 5, 1868, passed by virtue of the Act of 1866, c. 1, authorized an issue of bonds to an amount of $600,000.

* Ordinance duly approved by the voters.

By Act of 1872, c. 37, the Mayor and City Council of Baltimore were authorized and empowered to issue the bonds of said city to the amount of

COURT HOUSE AND DIVISION.

31. The stock for repairing the Court House was authorized under the Act passed at December session of the General Assembly of 1834, by Ordinances No. 19, April 14, 1835, No. 33, May 12, '60, and No. 10, March 3, '63, to an amount not exceeding $80,000, irredeemable before July 1, 1860, at five per cent. per annum, payable quarterly.*

DEFENCE AND BOUNTY.

32. The ordinances which authorized these stocks are as follows:

No. 22, April 20th, 1861, authorized an issue of city bonds, redeemable in twenty years, bearing interest at the rate of

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five hundred thousand dollars, for the purpose of providing funds for the building of the city hall; and the above ordinance was thereby ratified and confirmed.

* By the Act of 1876, c. 240, the Mayor and City Council of Baltimore are authorized to issue bonds to an amount not exceeding seven hundred and fifty thousand dollars, for the purpose of providing means for the extension and improving, and erection of a new Court House in the city of Baltimore, in pursuance of such plan as may hereafter be provided by ordinance, the said bonds to be for the sum of one hundred dollars each, payable at such time and in such manner, and on such terms and conditions as may be prescribed by ordinance, and to be issued from time to time as the same may be required in the course of the work of said improvement and erection; provided that none of said bonds shall be issued until such ordinance as the Mayor and City Council may or shall pass in the premises, shall have been approved by a majority of the legal voters of the city; and provided that the said bonds shall be redeemable in not less than thirty years after their date and be transferable as other city bonds.

The Division Stock was authorized by Ordinance No. 117, Oct. 5, 1853, under the Act of 1853, c. 253, whereby the Mayor and City Council of Baltimore were authorized and required to issue certificates of stock bearing five per cent. interest and payable at the pleasure of the corporation within thirty years from the passage of the act, to the amount of $68,500, to discharge the indebtedness of the corporation as agreed on, at the time of the division of the property of Baltimore city and county.

six per cent. per annum, payable quarterly, to the amount of $80,000.* By ordinance No. 56, sec. 6, August 11, '62, another issue of $30,000 was authorized, interest at the rate of six per cent. per annum, payable half yearly, and redeemable in thirty years. By ordinance No. 52, sec. 7, August 9, '62, another issue to an amount of $350,000 was authorized, interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years. By ordinance No. 60, sec. 7, August 18, '62, and No. 66, September 27, '62, another issue to an amount of $350,000 was authorized, interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years. By ordinance No. 61, May 4, '64, another issue of $100,000 was authorized at same rate, and principal and interest payable at same time. By ordinance No. 62, sec. 7, Sept 9, '62,† another issue of $350,000 was authorized, interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years. By ordinance No. 50, sec. 7, June 18, '63,‡ another issue of $400,000 was authorized, interest at the rate of six per centum per annum, interest payable half yearly, and re-

* 1861, c. 1, authorized the Mayor and City Council to raise and appropriate at their discretion, and in the modes and at the times which they may judge best, all moneys whatever, which they may deem necessary and proper for the defence and protection of the city, and provide for the payment of the same by taxation or otherwise, as they may deem most advisable.

1861, c. 2, confirmed and ratified the ordinance of the Mayor and City Council appropriating $500,000 for the defence of the city, approved April 20, 1861, No. 22. See *Mayor, &c.* v. *Poultney*, 25 Md. 19. This ordinance was repealed by No. 19, April 24, '62.

† This ordinance was repealed by ord. No. 66, Sept. 27, 1862.

‡ This ordinance and the supplements thereto were confirmed by act of 1864, c. 151. The act of 1864, c. 132, authorized the Mayor and City Council to raise and appropriate an amount of money not to exceed $300,000 in any one year, for the relief of the families of those who enlisted or were drafted into the military service of the United States as a part of the quota of the city of Baltimore.

deemable in thirty years. By ordinance No. 8, sec. 6, Feb. 16, '64,* another issue of $600,000 was authorized, interest at the rate of six per cent. per annum, interest payable half yearly and redeemable at the pleasure of the Mayor and City Council, at any time after July 1, 1893.

By ordinance No. 63, section 3, May 10, 1864, another issue was authorized to an amount not exceeding $400,000, interest at rate of six per cent. per annum, payable half yearly, and redeemable in thirty years.

By ordinance No. 76, June 6th, 1864, another issue was authorized of $100,000, at same rate, and principal and interest payable at same time as the last mentioned.

By ordinance No. 1, section 7, January 17th, 1865, another issue of $750,000, interest at the rate of six per cent. per annum, payable half yearly, and redeemable at the pleasure of the Mayor and City Council of Baltimore after September 1, 1893, was authorized.

HARBOR.

33. The Act of 1876, c. 176, authorizing the issue of stock for cleansing, &c. the Harbor, is on p. 332, &c., *ante*. And for ordinance authorizing issue of stock for constructing Ice Boat, under Act of 1867, c. 248, see p. 330, *ante*, and p. 340, *ante*.

JAIL.

34. This stock is authorized by ordinances No. 42, s. 1, May 23, 1854, No. 20, April 20, 1858, and No. 28, s. 9, May 31, 1858, under the Act of 1858, c. 294,† whereby an

* This ordinance was construed in *Clark* v. *Mayor, &c.*, 29 Md. 277.

† 1858, c. 294, authorized the Mayor and City Council of Baltimore to issue bonds or inscribed stock of the said city, to an amount not exceeding two hundred and fifty thousand dollars, for the purpose of paying the indebtedness and completing the new jail for said city, said bonds or stock to

issue of $52,645.72, was authorized, interest at six per cent. per annum, payable half yearly.

JONES' FALLS.

35. Stock for improvement of, see Article XXX, Jones' Falls, sub-title Stock.

PARK.

36. By ordinance No. 18, April 7, 1858, the Commissioners of Finance were authorized to receive from the Register the one-fifth (now twelve per centum) of the gross revenue of the Passenger Railway Company, as provided for in the ordinance approved March 28, 1859, (p. 730, *ante*,) and invest the same from time to time in Baltimore city six per cent. stock, as well as the accruing interest, as a park fund, said fund not to be devoted to any other purpose than the one originally designed, and to be subject only to the Mayor and City Council.

By ordinance No. 80, section 1, May 26, 1866. the Register was authorized, in accounting with the Public Park Commission, to pay to them the revenue derived from the passenger railways without other deduction than the interest on the bonds issued for the purchase of said parks and the sinking fund; and the Register was authorized to pay to the public park commission, in such sums as might from time to time be required, $50,000, of which sum $10,000 shall be

bear interest at the rate of six per cent. per annum, payable on the first day of January and July, and be redeemed in fifteen years from date of issue; the Mayor and City Council to establish a sinking fund for the redemption of said bonds or stock, by levying an annual tax of two cents on every hundred dollars of assessable property within the limits of said city, until said bonds or stock hereby authorized to be issued shall be redeemed. The jail was built under ordinances No. 72, approved May 23. '54; No. 20, April 20, '58; No. 28, May 31, '58; No. 13, Feb. 4, '59; No. 17, Feb. 18, '59; No. 7, March 28, '61. See *Mayor, &c.* v. *Reynolds*, 20 Md. 1.

for the use exclusively of Patterson Park, and the remainder for Druid Hill Park.

By ordinance No. 37, section 1, May 2, 1863, whenever the park commission shall certify to the Register, under their respective hands, that they require a sum of money for an object connected with the said parks, said object to be at the same time designated, an issue of stock is authorized, redeemable on January 1, 1895, interest at the annual rate of six per centum, payable quarterly, and designated as park improvement stock, for an amount sufficient to meet such requisition after retaining one-tenth of the par value for the purposes of a sinking fund; provided that the whole amount of bonds, so issued, shall not exceed the sum of $150,000 for Druid Hill Park, and $20,000 for Patterson Park.

By ordinance No. 75½, June 8, 1870, after deducting from the revenue derived from the city passenger railways the interest on the issue of park stock, under the ordinance to provide for a public park or parks, and the sinking fund therein provided for, and the further sum of $10,000 annually for the maintenance of the parks, the surplus of said revenue, and the rent of the pavilion, and the net receipts from any passenger railway which may be laid within Druid Hill Park shall be applied as far as necessary to reimburse the city the interest upon the bonds hereby authorized to be issued; provided that not less than one-fifth of the sum reserved in this section for the annual maintenance of the parks, and of the excess of annual receipts from the city passenger railway over the amount necessary to provide for the interest on the bonds issued under the provisions of this ordinance, shall be expended in the improvement and preservation of Patterson Park.*

* See further as to stock under Parks, Art. XXXVII, Statutes, Park, section 8, and under sub-title, Patterson Park, and note p. 914, *ante*.

By ordinance No. 37, s. 3, May 2, '63, it is provided that one tenth of the par value of said bonds retained by the Register, as hereinbefore directed, shall be invested by the Commissioners of Finance in the bonds of the City of Baltimore, or in bonds for which the city is liable by endorsement, as a sinking fund for the redemption of the bonds issued under its provisions, and the proceeds of all sales or rents of any land south of Newington lane, which may be sold or leased by the Park Commission, shall be paid to the Register of the City, to be invested by the Commissioners of Finance in the sinking fund herein provided for, until the said fund shall in the opinion of the said commissioners, be adequate to the redemption of the bonds hereby authorized, at their maturity, and the Register shall be the trustee thereof.

By ordinance No. 52, June 28, '65, another issue was authorized for Druid Hill Park of $27,000.

WATER AND GUNPOWDER RIVER.

37. For Water Stock of 1916 and Gunpowder River Stock of 1894, and note as to Water Stock of 1875, redeemed under the Act of 1876, c. 237, and ordinance No. 65, June 30, 1877, see Stock, under Water, Article LIII.

LOANS, ENDORSEMENTS, GUARANTIES, &c.

BALTIMORE AND OHIO RAILROAD.

No. 37, s. 1, April 26, '36. Subscription to the stock of the Baltimore and Ohio Railroad Company.

38. Whenever the president and directors of the Baltimore and Ohio Railroad Company, at any time previous to the first day of October, 1836, shall have shown to the satisfaction of the Mayor and Presidents of the First and Second Branches of the City Council, that it is in the power of said company to comply with the condition on which the city of Baltimore has lately proposed to make a subscripton of three millions of dol-

lars to the stock of said company;* and the said Mayor and Presidents shall have filed with the Register a certificate thereof, under their signatures, in the words following, viz: We do hereby certify, that in our opinion there no longer exists any legal obstacles which can prevent the Baltimore and Ohio Railroad Company from completing their railroad in an unbroken line, from the city of Baltimore to the western waters; and the said president and directors shall by authentic act have signified to the Mayor, whether it is their intention to receive a subscription on the part of the city for all, and if not for all, for what proportion of the said three millions of dollars the said subscription for all of the said three millions, or for such part as the said president and directors may elect to receive a subscription for, to be paid in instalments of not more than one million of dollars in any one year, that then the Mayor is hereby authorized and directed to subscribe in the name of the Mayor and City Council of Baltimore to the capital stock of the Baltimore and Ohio Railroad Company the said three millions of dollars, or such part thereof as the said president and directors may have elected to take.

Certificates of the Mayor and Presidents to be returned to the Register.

The Commissioners of Finance are hereby authorized and directed to borrow on the credit of the city of Baltimore, the sum of money necessary to meet the payments of the instalments aforesaid, for which purpose a city stock shall be created not

Ibid, s. 2.

Six per cent. city stock created, redeemable in 1890.

* Under the act of 1826, c. 123, the city had subscribed for five thousand shares of this stock. Res. No. 40, March 17, '36, authorized and directed the Mayor to subscribe to the capital stock of the Baltimore and Ohio Railroad Company, the sum of three millions of dollars, in the name of the Mayor and City Council of Baltimore; provided, that the whole sum shall be exclusively applied to the prosecution of the work in an unbroken line from Harper's Ferry, or such point near that place as shall be selected, from which the extension shall be made. This subscription was authorized by the act of 1835, c. 127. See *B. and O. R. R. Co.* v. *State*, 36 Md, 579 and 45 Md. 596, for the construction of the various acts authorizing subscriptions by the State and City to the stock of Balto. and Ohio R. R. Co. See the Acts of 1878, c. 155 and c. 238.

exceeding three millions of dollars, bearing an interest of six per cent. payable quarterly, and irredeemable before the first day of July, in the year 1890.

Ibid, s. 3. Tax for payment of interest.

There shall annually hereafter be levied upon the assessable property within the limits of the city of Baltimore, a sum of money which, with the profits of the said railroad, shall be sufficient to pay the interest upon the debt hereby authorized.

Ibid, s. 4. Directors appointed.

At the first meeting of the City Council after the annual election of the president and directors of the Baltimore and Ohio Railroad Company, which shall succeed the said subscription by the Mayor, there shall be appointed by the joint ballot of both branches of the City Council, in convention assembled, one director in said company for every five thousand shares which may have been so subscribed. And there shall annually thereafter in the month of January in each and every year be appointed by a convention as aforesaid, the same number of directors, who shall continue in office until a new appointment be made.*

Ibid, s. 5. Vacancies.

In case of death or resignation of the said directors, or either of them, in the recess of the Council, the Mayor is hereby authorized to appoint a director or directors, as the case may be, who shall serve until a new appointment be made.

No. 25, Feb. 28, '38. City railroad directors to represent city stock.

The directors on the part of the city for the time being, in the Baltimore and Ohio Railroad, are hereby authorized and directed, to represent the interests and vote the stock of the

* By ord. No. 59, Sept. 13, '67, seventy-five hundred shares of the capital stock of the Baltimore and Ohio Railroad Company, held by the Mayor and City Council of Baltimore, were placed at the disposal of the Commissioners of Finance, to be used at their discretion, by sale or hypothecation, for the purpose of providing for any deficiency in the revenues of the city to meet its liabilities during that year; not more than twenty-five hundred shares of said stock to be sold. Res. No. 61, April 1, '64, authorized the sale of 5,500 shares. Ord. No. 15, April 28, '65, authorized the sale of 5,000 shares. *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md. 52.

city of Baltimore, at all general meetings* of the stockholders of said railroad company which may hereafter be held.

The Register and Commissioners of Finance are hereby empowered and directed to vote the shares held by the city, whenever a vote is taken by shares by the Baltimore and Ohio Railroad Company, whatsoever way they may deem it to the interest of the city.† Res. No. 147, May 20, '53. Dividend stock.

Whenever the Baltimore and Ohio Railroad Company, by their officers legally authorized to act on their behalf in such matters, shall signify in writing, sealed with their corporate seal, their acceptance of the terms and provisions of this ordinance, and shall, at the same time, deposit with the Register of the City a mortgage (to be previously approved by the City Counselor,) wherein said company shall pledge all their real and personal estate, road or roads, the tolls and revenues, as security to the Mayor and City Council of Baltimore, for the payment, as hereinafter provided, of the principal and of the interest of the loan hereby made, it shall be the duty of the Commissioners of Finance of the City of Baltimore, and they are hereby authorized to issue certificates of stock of the Mayor and City Council of Baltimore, with coupons or otherwise, in their discretion, to the amount of five million of dollars, redeemable on the first day of January, 1890; the interest payable quarterly on the first days of January, April, July and October in each year; the said commissioners likewise to No. 5, s. 1. Dec. 27, '53. Stock issued to aid the Balto. & Ohio railroad. Mortgage. Issue of $5,000,000.

* 1858, c. 313, provided that the directors of the Baltimore and Ohio Railroad Company shall be chosen annually on the third Monday of November in every year, in the city of Baltimore; and that the general meeting of the stockholders of said company to be held annually, shall be held at the time and place herein appointed for the election of the said directors.

† This resolution recites that heretofore the stock held by the city in the Baltimore and Ohio Railroad, known as "dividend stock," has been unrepresented in the selection of stockholders' directors; and also, that circumstances may arise to make it necessary and proper to vote said stock for the acceptance or rejection of amendments to the charter of said road, &c.

Sterling bonds currency.

use their discretion, whether to issue five per cent. sterling bonds, payable in London, or six per cent currency, payable in the city of Baltimore, and shall proceed to sell the said bonds or certificates on the best terms which they can obtain therefor, not less than par, and in such sums as may be required by said railroad company, and pay over the proceeds thereof to the Register of the City; and it is hereby understood and provided, that if the Commissioners of Finance shall, at any time, elect to issue five per cent. sterling bonds, as aforesaid, the cost of exchange, commission to agent in London, and all other expenses incidental to such payment shall be chargeable to and paid by the president and directors of the Baltimore and Ohio Railroad Company aforesaid; and it is hereby further provided, that any and all expenses incident to the issue of any of the bonds, whether currency or sterling, as aforesaid, shall in like manner be chargeable to and paid by the said railroad company.

Bonds to be sold at not less than par.

How expenses to be paid.

Ibid, s. 2.

Register to pay over proceeds.

The City Register is hereby authorized to pay to the Baltimore and Ohio Railroad Company the amount of money he may receive from time to time from the Commissioners of Finance, on account of the sale of said certificates, reserving ten per cent. thereof to be used as a sinking fund to pay the principal of said loan at maturity.

Ibid, s. 3.

Sinking fund.

The said reservation of ten per cent., amounting to five hundred thousand dollars, shall, by the Register of the City of Baltimore, with the quarterly interest thereon, be invested in the public debt of the city of Baltimore, and so from time to time, until the maturity of the bonds, when so much thereof as may be necessary shall be applied to the payment of the principal sum of said bonds, and to release the said company from all responsibility for the mortgage herein created, in so far as said sinking fund may be capable of paying the same; and said mortgage as mentioned to be given by the said Baltimore and Ohio Railroad Company, in section first of this

ordinance shall be recorded under direction of the City Register, and at the expense of the said company, in the proper offices of record, where such instruments are recorded, in all counties, districts, cities or towns, whether in the State of Maryland or out of it, wherein said company have any real or personal estate, road or roads, tolls or revenues, as mentioned in the first section of this ordinance. Mortgage to be recorded.

If at the maturity of said bonds the said sinking fund shall have accumulated to an amount exceeding the principal sum of the loan authorized in this ordinance of five millions of dollars, the said excess shall be paid into the City Treasnry for the use of the city, and be applied to extinguishing the internal improvement debt. Ibid, s. 4. Surplus of sinking fund, how appropriated.

The premium (if any) that may be received on account of the sale of the said certificates or bonds shall be converted into a sinking fund and invested in the public debt of the city of Baltimore, and so from time to time, with the interest quarterly accruing, to be applied to the payment of the original internal improvement debt of the city. Ibid, s. 5. Premium, how appropriated.

The acceptance of this ordinance by the said company, and the mortgage required to be given by said company, shall be construed and understood as obligating the said company to pay to the said Register the principal sum of five million dollars, issued under the provisions of this ordinance, less the amount of the sinking fund, and its accumulations, mentioned in the third section of this ordinance, at least one month before the day on which the certificates or bonds hereby directed to be issued shall become redeemable, and shall also pay to the said Register interest at the rate of six per cent. per annum, on the whole amount of said certificates or bonds so issued, quarterly and in advance, at least ten days previous to the first day of the several months aforesaid on currency bonds, and thirty days previous to aforesaid first day on sterling bonds, Ibid, s. 6. Principal, how paid at maturity. Interest, how to be provided and when.

which said payments shall commence to be made in advance of the first payments of interest, which shall be required to be made by the Mayor and City Council of Baltimore on said certificates or bonds, and shall continue to be made as aforesaid until the repayment by the said company to the Mayor and City Council of Baltimore, of the principal sums of money which shall or may be issued as aforesaid.

Ibid, s. 7

Duty of Register.

The said Register shall procure a stamp, with the words "safety fund stock—not to be re-issued," legibly cut thereon, and shall cause the same to be fairly impressed across the face of each certificate of Baltimore city stock invested as aforesaid, and cause an entry of the said certificates to be made in the books of his office from time to time, as the same may come into his possession, and shall make an exhibit of the said entries and certificates to the committee annually appointed to examine the books and accounts of his office, which committee shall make such examination a part of their report to the City Council, stating the amount of said certificates, and general condition of said safety fund,

Ibid, s. 8.

Register may borrow money.

In order to meet the present exigencies of the Baltimore and Ohio Railroad Company, when the Legislature of Maryland shall have confirmed this ordinance, the Register is hereby authorized to borrow upon the faith of the Mayor and City Council of Baltimore the sum of one million of dollars, redeemable at pleasure, bearing interest at the rate of six per cent. per annum, payable quarterly, and pay the same to the said company. And upon his receiving the amount of sales of the certificates as provided for in this ordinance, he shall repay the city, with the interest accrued thereon, from said amount of sales, in lieu of paying them over to said company.*

*1854, c. 34, confirmed the above ordinance and conferred full power upon the Mayor and City Council and upon the Commissioners of Finance and the Register of the City to carry into effect all the provisions of the said ordinance, in the same manner, to all intents and purposes, as if the said

In the performance of the duties imposed upon the Register of the said city by the third section of the ordinance to which this is a supplement, (Ord. No. 5, Dec. 27, 1853,) the said Register shall, within thirty days after the receipt by him of any interest on account of the sinking fund provided for in the said ordinance, invest the same as therein directed in the public debt of the city aforesaid.

No. 47, s. 1, Sep. 23, '58. Register to invest interest on account of sinking fund.

It shall not be lawful for the said Register to use any portion of said interest so received by him for any other purpose than the purchase of the public debt aforesaid, during the period that said interest may remain in his possession.

Ibid, s. 2. Register not to use interest except for public debt.

To prevent as far as practicable, even the accidental employment of any portion of said interest otherwise than as here directed, the said Register is hereby required to deposit the same in a separate bank book, to be opened by him on account of the said sinking fund alone.

Ibid, s. 3. Interest money to be deposited in separate book.

The said Register is hereby directed to furnish quarterly, on the first days of February, May, August and November, in each and every year, to the Commissioners of Finance of the City of Baltimore, and to the Baltimore and Ohio Railroad Company, a statement of the investments made by him on account of said fund, so that the said commissioners and the said company may be advised of the operation of the said sinking fund, in the extinction of the debt of said company of five millions of dollars aforesaid.

Ibid, s. 4. Register to furnish statement of investments.

Mayor and City Council had been previously to the passage of said ordinance, authorized and empowered by an Act of the General Assembly to enact an ordinance in the precise terms of the above ordinance, and to provide for carrying the same into effect. And further provided, that nothing in this act or in the said ordinance containe d, shall be taken or construed to impair or lessen in any manner the liens or securities which the State of Maryland has in the revenue of the said Baltimore and Ohio Railroad Company, for loans heretofore made by the said State to the said company or for the interest now due or that may become due thereon, to the said State. The above ordinance repealed ordinance approved Dec. 14, 1853.

Article XLVI.—Ordinances.

No. 71, s. 1, May 4, '59.
Register to demand three hundred dollars annually from B. & O. R. R. Co.

The Register is hereby authorized and required to demand from the Baltimore and Ohio Railroad Company the sum of three hundred dollars annually, from and after the first day of January, 1855, and hereafter to collect semi-annually, from said company, the sum of one hundred and fifty dollars as compensation for services rendered in the transfer department, until by the operation of the sinking fund said loan shall be absorbed.

Ibid, s. 2.
To be paid into city treasury.

The sum received from said railroad company shall be paid into the city treasury to reimburse the city for expenses incident to the aforesaid issues and transfers.*

No. 88, Oct. 15, '66.
Railroad notes.

Whereas, by ordinance of the Mayor and City Council, a sinking fund was created for the redemption of the Baltimore and Ohio Railroad notes; and whereas, for some years past there have been but few, if any, of said notes presented for redemption, and it is very probable that no more will be presented for that purpose, therefore,

To cancel certificates of stock.

The Commissioners of Finance, in conjunction with the City Register, are hereby, authorized and directed to meet together and to cancel the certificates of stock constituting the said sinking fund, and the Register is hereby authorized and directed to pay any of the aforesaid notes that may hereafter be presented, and to charge the same to direct tax.†

* This ordinance recites that the numerous issues and transfers of the five million loan devolve a great amount of labor on the transfer department, and frequently require the employment of extra services; and that section 1 of Ordinance No. 5, May, 4, 1853, provides that any and all expenses incident to the issue of any of the bonds of the five million loan, whether currency or sterling as aforesaid, shall in like manner be chargeable and paid by the Baltimore and Ohio Railroad Company.

† 1841, c. 304, authorized the Mayor and City Council, for the purpose of retiring the stock orders of the Baltimore and Ohio Railroad Company, to issue certificates of stock of a less denomination than one hundred dollars, bearing an interest of six per cent. per annum, said certificates of stock to be received by the city corporation at any time when presented in payment of taxes and debt due said corporation; no certificate of stock thus issued to be of a less denomination than ten dollars.

NORTHERN CENTRAL RAILWAY.

No. 31, s. 1, May 18, '65. Compromise and settlement —Northern Central Railway.

39. The Northern Central Railway Company shall, on or before the first day of July, 1865, pay and deliver to the Mayor and City Council of Baltimore, in full compromise and settlement of all claims and demands of the city against the company, the sum of twenty-six thousand dollars in cash and three hundred coupon bonds for one thousand dollars each, made by the said railway company, with interest at six per cent. per annum, payable quarterly, from and after the first day of January, 1865; the principal payable at the end of twenty years from the said first day of January, 1865, redeemable, nevertheless, in whole or in part within the said period, upon thirty days' notice to the holders thereof. The said bonds to be secured by a mortgage upon said railway.

Amount.

Ibid, s. 2. Release of all claims to N. C. R. W. Co., B. & S. R. R Co. and Y. and M. L. R. R. Co.

Upon the receipt of said cash and bonds, and the payment of the bonds, the Mayor of said city shall execute and deliver to the said railway company, and to the Baltimore and Susquehanna Railroad Company, and the York and Maryland Line Railroad Company, a release of all claims and demands of every nature and description whatsoever, except such liabilities as may remain by virtue thereof; and shall further enter satisfaction on all and every mortgage or other instrument of writing by which any claim of the city of Baltimore is evidenced or secured, and from all claims as stockholders of the said company, except so far as relates to the stock hereinafter mentioned, and except also the bonds of the York and Cumberland Railroad Company for five hundred thousand dollars, guaranteed by the city of Baltimore under ordinance No. 44, approved June 17, 1852, and ordinance No. 76, approved July 22, 1852.

Exceptions.

Y. & C. R. R. Co.

Ibid, s. 3. Shares of N. C. R. R. Co.

The title and ownership of the Mayor and City Council of Baltimore to four thousand shares of the capital stock of the said Northern Central Railway Company, and to all dividends that may hereafter be declared thereon, is hereby ratified and confirmed.*

No. 44, s. 1, June 17, '52. Guarantee of bonds of Y. & C. R. R. Co.

Whenever the Register of the City shall be satisfied by the exhibition of the list of subscriptions, verified by the oath or affirmation of the president or chief officer of the Susquehanna Railroad Company, that the sum of two hundred and fifty thousand dollars has been *bona fide* subscribed to the capital stock of said company, for the purpose of constructing a railroad from the borough of Sunbury, in Northumberland county, to the town of Bridgeport, in Cumberland county, in the State of Pennsylvania, there to connect with the York and Cumberland Railroad, (the said subscription of two hundred and fifty thousand dollars to be independent of the subscription to be made as hereinafter stated, by the York and Cumberland Railroad Company,) and upon the presentation to the said Register, either at one time or from time to time, after the bonds or certificates of loan of the said York and Cumberland Railroad Company, with a certificate of the president and treasurer of said Susquehanna Railroad Company, of the amounts and dates of the installments as called in, of the capital stock of said company, for a sum not exceeding in the aggregate five hundred thousand dollars, sub-divided as it may suit the convenience of the said York and Cumberland Railroad Company, payable on the first day of January, in the year 1877, with interest at the rate of six per cent. per annum, payable half yearly—in the meanwhile the principal and interest being secured by a pledge of the property of the

Pledge of property.

* By Res. No. 132, July 1, '65, the Commissioners of Finance were authorized and directed to sell the city's entire interest in the Northern Central Railway Company for not less than eight hundred thousand dollars.

said York and Cumberland Railroad Company, and of the stock to be subscribed, as hereinafter directed by said company, to the capital stock of the said Susquehanna Railroad Company, then the said Register shall endorse, either in writing or by causing the same to be printed or engraved upon the said bonds or certificates of loan of the said York and Cumberland Railroad Company aforesaid—the guarantee of the Mayor and City Council of Baltimore, to be signed by the Mayor of the said city for the time being, with the corporate seal of said city thereto affixed, in the following words: For value received the Mayor and City Council of Baltimore do hereby guarantee the payment of the within bond, (or certificate of loan,) for $————————, with the interest thereon, according to its tenor, under the authority of an Act of the General Assembly of Maryland, passed at January session, 1852,* entitled an act giving certain powers to the Mayor and City Council of Baltimore in regard to the York and Cumberland Railroad Company, and in pur-

Form of guarantee.

*1852, c. 141, authorized the Mayor and City Council of Baltimore to give such aid towards the construction of the Susquehanna Railroad, from Bridgeport towards Sunbury and Williamsport, on the Susquehanna river, as they might deem expedient, either by lending to the said Susquehanna Railroad Company, or to the York and Cumberland Railroad Company, the stock or bonds of the said city, on condition that the said railroad companies paid the interest on such stock or bonds until the time when the said Susquehanna Railroad should be completed and opened from its southern terminus to Williamsport, or by a guaranty of the bonds of the said Susquehanna or York and Cumberland Railroad Company, for the purpose aforesaid; and the said Mayor and City Council were authorized to receive from said York and Cumberland or Susquehanna Railroad Company, such security as might seem most advisable, to idemnify the corporation of Baltimore against any loss, either of the interest or principal of the liability which might be incurred by said corporation for the construction of said Susquehanna Railroad; the amount of said guaranty or loan not to exceed the sum of five hundred thousand dollars.

1854, c. 260, entitled an act to provide for the sale of the interest of the State of Maryland in the Baltimore and Susquehanna Railroad Company, and for the completion of the Northern Central Railway, from tide-water in

suance of an ordinance of the said Mayor and City Council passed on the 17th day of June, in the year 1852, entitled an ordinance to guarantee the bonds of the York and Cumberland Railroad Company. In testimony whereof,————, Mayor of the said City, hath hereto subscribed his name and caused the corporate seal of the Mayor and City Council of Baltimore to be hereto affixed, on this ——— day of——— in the year eighteen hundred and fifty——

[SEAL.] ——— ———, *Mayor.*

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the city of Baltimore, to Sunbury, in the State of Pennsylvania, and for vesting certain powers to that end in the Mayor and City Council of Baltimore, enacts:

4. That the Mayor and City Council are hereby authorized and empowered to transfer all the interest of the said Mayor and City Council, whether in the form of bond, mortgage, stock or other interest in the Baltimore and Susquehanna Railroad Company, to the York and Cumberland Railroad Company, whenever the said York and Cumberland Railroad Company duly authorized thereto shall have, under the corporate seal of the said company, assented to and accepted the provisions of an Act entitled an Act to authorize the consolidation of the Baltimore and Susquehanna Railroad Company with the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company, and the Susquehanna Railroad Company, by the name of the Northern Central Railway Company, it being expressly understood that the said transfer is upon the sole condition that the said Baltimore and Susquehanna Railroad Company, and the several companies herein mentioned, shall fully agree upon the consolidation of the said companies aforesaid, upon terms to be by them agreed upon, otherwise to be of no force and effect; and the said Mayor and City Council of Baltimore are further authorized and empowered to make any subscription they may think expedient or proper to the stock of said consolidated company, not exceeding the amount of five hundred thousand dollars, or to make any loan to that amount to said company, and to issue the bonds of the corporation therefor, with interest, payable at any time after the year 1880, and to deliver said bonds to said company at par, in payment of said stock or loan, the amount thereof to be appropriated by said company in such manner as the said Mayor and City Council of the city of Baltimore may direct; or instead of such loan, the said Mayor and City Council are hereby authorized to make such disposition of the stock heretofore subscribed by the corporation of the city of Baltimore in the Baltimore and Susquehanna Railroad Company, and also of the debt heretofore contracted by the said company to the city of Baltimore, as the said Mayor and City Council may judge conducive to the public interest, and also to give their assent to any pro-

Before the said Register shall deliver to the said York and Cumberland Railroad Company the bonds or certificates of loan so guaranteed by the Mayor and City Council of Baltimore, he shall be satisfied by the delivery to him of a certificate of the president and treasurer of the said Susquehanna Railroad Company, of the subscription to the capital stock of the said company of ten thousand shares, amounting when fully paid, to five hundred thousand dollars, by the said York and Cumberland Railroad Company, and also the delivery by said York and Cumberland Railroad Company of a good and sufficient deed, pledging the property of said company and the capital stock subscribed by said company to the said Susquehanna Railroad Company, for the payment of said bonds or certificates of loan, and the interest thereon, according to their tenor, in which deed there shall be a proviso that the Mayor and City Council of Baltimore, having first obtained authority from the Legislature of Maryland so to do, may, at any time prior to the payment of the principal of said bonds, elect to take stock at par in the said Susquehanna Railroad Company to the amount of bonds or certificates of loan so guaranteed, or any part thereof; the Mayor and City Council of Baltimore in that event releasing the said York and Cumberland Railroad Company from all liability, and guarantee- Ibid, s. 2. Register. Release.

ceedings that may be considered advisable for making said stock and debt, or any part thereof, available for the completion of the road of the said consolidated company to Sunbury or to tide-water.

Ordinance No. 57, June 21, 1854, provides, that the Northern Central Railway Company, (formed by the consolidation of the Baltimore and Susquehanna Railroad Company with the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company, and the Susquehanna Railroad Company, under the Act of 1854, c. 250,) shall conform and make good to the Mayor and City Council, all the security stipulated for by the provisions of ordinance No. 44, approved June 17, 1852, and No. 76, approved July 22d, 1852, relative to the guarantee of the bonds of the York and Cumberland Railroad Company, and that nothing herein contained shall be construed to release or impair the security which the city of Baltimore now holds as indemnity for the guarantee of the said bonds.

ing said company from all loss on account of the said bonds, or such amount thereof as corresponds to the amount of stock so elected to be taken, assuming the payment of the same in the hands of third parties, without recourse thereafter for principal or interest to the said York and Cumberland Railroad Company.

Ibid, s. 3.

Faith of city pledged.

The non-payment by the said York and Cumberland Railroad Company of the interest, or any part thereof, on the said bonds or certificates of loan, or any of them, is hereby recognized as giving an instant claim for the payment thereof by the Mayor and City Council of Baltimore, and the faith of the said Mayor and City Council is hereby solemnly pledged to take all such steps as may be necessary to enable them to meet without delay the liabilities incurred by them by the guarantee hereby authorized, under the power given to them by the Act of Assembly of Maryland aforesaid, and for that purpose, should the Council not be in session, the Mayor shall convene the same forthwith, to the end that the holders of the said bonds or certificates of loan may be subjected to no avoidable delay in the punctual payment of the principal and interest thereof, according to their tenor.

No. 76, July 22, '52.

Register.

Before the Register, as required by the second section of the above ordinance to which this is a supplement, shall deliver to the York and Cumberland Railroad Company the bonds or certificates of loan, as required by the said ordinance to be guarantied by the Mayor and City Council of Baltimore, he shall receive from the said York and Cumberland Railroad Company a good and sufficient deed or deeds, pledging the property of the said company for the payment of the said bonds or certificates of loan and the interest thereon, according to their tenor, in which deed or deeds there shall also be a covenant on the part of the said York and Cumberland Railroad Company, to hold for the use of the city of Baltimore, as further security to the city of Baltimore for the guarantee of

York & C. R. R. Co. to give deed.

Covenant.

the said bonds or certificates of loan, any securities which the said York and Cumberland Railroad may or shall obtain from the Susquehanna Railroad Company, for the loan of the said bonds or certificates of loan, or the proceeds thereof, to the said Susquehanna Railroad Company; and in like manner to hold, for the use of the city of Baltimore, as security as aforesaid, any stock in the said Susquehanna Railroad Company, which the said York and Cumberland Railroad Company may at any time receive, upon a subscription or transfer founded upon the bonds or certificates guarantied by the city, or the proceeds thereof, whether said stock shall have been originally subscribed by said York and Cumberland Railroad Company, or obtained in commutation of any loan made by said York and Cumberland Railroad Company, to the said Susquehanna Railroad Company; it being the intent and purpose of this ordinance to recognize the right and power of the York and Cumberland Railroad Company to appropriate, at their pleasuse, the said bonds or certificates of loan guarantied by the city, or the proceeds thereof, either in loaning the same to the said Susquehanna Railroad Company on such terms and conditions as the said York and Cumberland Railroad Company may think fit, taking good security for such loan, and reserving the right to convert the same into stock; or in making a subscription to the stock of the said Susquehanna Railroad Company, or in purchasing such stock whenever they may think it expedient to do so; the said securities for the loan, and the said stock when acquired, being, as herein above directed, to be held by the said York and Cumberland Railroad Company as further or additional security to the city of Baltimore, for the guarantee of the bonds or certificates of loan as aforesaid.

As a condition precedent to the guarantee of the said bonds or certificates of loan of the said York and Cumberland Railroad Company in the manner prescribed in the first section of

Ibid, s. 2. Condition of guarantee.

the ordinance to which this is a supplement, the said Susquehanna Railroad Company shall enter into a permanent contract, in writing, with the said York and Cumberland Railroad Company, a duplicate copy of which contract shall be lodged with the Register before the said bonds or certificates of loan, or any part thereof, shall be guarantied by the city, under the corporate seal of the said Susquehanna Railroad Company, that no discrimination in tolls, the rates of transportation or passenger fare, or in the management or working of said Susquehanna Railroad Company, shall or will be made of a character to prejudice or impair the interest of the said York and Cumberland Railroad Company, or to divert trade or travel from the city of Baltimore.

Ibid, s. 3.

Condition of bonds.

The bonds or certificates of loans as provided (by the first section of ordinance No. 44, June 17, '52, to which this is a supplement) to be issued by the said York and Cumberland Railroad Company, for a sum not exceeding in the aggregate five hundred thousand dollars, and to be guarantied by the Mayor and City Council of Baltimore, shall be issued in sums of five hundred or one thousand dollars, (interest payable half yearly on the first day of January and July,) and also upon condition that said bonds or certificates of loan shall not be sold or disposed of by said York and Cumberland Railroad Company, or said Susquehanna Railroad Company, at less than par; and said Register shall open upon his stock book a separate account of the bonds or certificates aforesaid, and make a report of the same to the Mayor and City Council aforesaid at their regular annual sessions; and so much of the second section, and all such part or parts of the said ordinance to which this is a supplement as are inconsistent with the provisions of this supplement are hereby repealed.

NORTHWESTERN VIRGINIA RAILROAD.

No. 21, Mar. 14, '72.

40. The Commissioners of Finance are hereby authorized and empowered, in their discretion, to exchange any of the

stocks held in the Northwestern Virginia sinking fund, to wit—the consolidated loan of 1890 and the City Hall stock of 1900, for bonds of the Northwestern Virginia Railroad Company, endorsed and guarantied by the Mayor and City Council of Baltimore, to mature on the first day of January, 1873, as the same may be presented to them; and to sell any and so much of said stocks as may be required to provide funds for the redemption of the whole amount of said bonds which may be outstanding on said first day of January, 1873.*

Commissioners of Finance to exchange stocks for bonds of Co.

To sell stocks to provide for redemption of bonds outstanding.

* By Resolution No. 75, April 22, '64, the Commissioners of Finance were authorized to sell the entire claim of the city of Baltimore against the Northwestern Virginia Railroad Company, for a sum not less than $1,100,000—$100,000 to be paid cash; the balance to be paid at a period not later than December 1, 1872, with interest to commence January 1, 1864, and to be paid semi-annually on or before the first day of January and July in each year, and with all necessary stipulations to secure an early completion of said road, and of a bridge to connect it with the Marietta and Cincinnati Railroad. The city's interest was sold July 22, '64, to Baltimore and Ohio Railroad Company, for $1,200,000, under propositions and agreements, in report of Commissioners of Finance, August 25, '64.

1852, c. 146, authorized the Mayor and City Council to give such aid to the Northwestern Railroad Company of Virginia, as they may deem expedient, either by lending to the said railroad company the stock or bonds of said city, on condition that the said railroad company shall pay the interest on such stock or bonds, until the time when the said railroad shall be completed and opened to the Ohio river, or by a guaranty of the bonds of the said railroad company; provided, however, that the amount for which the said city shall be responsible shall not exceed the sum of one million five hundred thousand dollars; and that to enable the said Mayor and City Council to meet the liability to be incurred by them for principal or interest, under the authority hereby conferred on them, they are empowered hereby, over and above any existing privilege to raise money heretofore imposed upon them, to borrow any amount of money not exceeding one million and a-half of dollars from such persons, on such terms and for such length of time as they, the said Mayor and City Council, from time to time, may find convenient and expedient for the accomplishment of the purposes contemplated by this act; and that the said Mayor and City Council are hereby authorized and empowered, in addition to any power of taxation heretofore vested in them, to levy upon the assessable property within the limits of the city, or collect by tax, according to the usual mode of raising money by taxation in the city, any sum or sums of money which may be necessary to pay and discharge the principal and interest of any loan or loans which may be ob-

PITTSBURG AND CONNELLSVILLE RAILROAD.

No. 47, Apr. 16, '75.

Agreement of Baltimore and Ohio R. R Co. to pay to Mayor and City Council on or before July 1st, 1900, one million of dollars.

41. Whenever the Baltimore and Ohio Railroad Company shall stipulate and agree by a proper instrument in writing, signed and executed by its president or president *pro tempore*, and under its corporate seal, in such form as shall be approved by the City Counselor or City Solicitor, to pay to the Mayor and City Council of Baltimore, on or before July 1, 1900, one million of dollars in current money of the United States, in manner following, that is to say: forty thousand dollars in current money of the United States on the first day of July in each and every year after the year eighteen hundred and seventy-five, until the first day of July in the year eighteen hundred and ninety-nine, inclusive of said year; and then upon the first day of July, in the year nineteen hundred, so much of said one million of dollars as may then remain unpaid, in current money as aforesaid, and in the meantime to pay interest on so much of said one million dollars as may remain unpaid, semi-annually, on the first days of July and January in each and every year during said period of time, and to make payment of the first semi-annual instalment of said interest on the first day of July, eighteen hundred and seventy-five, and shall execute a mortgage approved by the said City Counselor or City Solicitor of all its real and personal estate, tolls and revenues, to secure the payment of the principal sum so agreed to be paid, and of the interest thereon, and the payment of the said annual sums hereinbefore provided to be paid at the times when the said principal sum, and the interest thereon, and said annual sums are respectively due and payable, and when meetings

Amount of payments and when to be made.

Interest to be paid semi-annually in deferred payments.

To execute a mortgage to secure payment of principal sums and interest thereon.

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tained by the said Mayor and City Council in pursuance of this act. Ordinance No. 40, June 5, 1852, was passed in conformity with this enabling act.

By 1852, c. 307, the B. & O. R. R. Co. was authorized, under certain conditions, to lend their aid or credit to the N. W. V. R. R. Co. See *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md. 53.

of the stockholders of the said Baltimore and Ohio Railroad Company, and of the said Pittsburg and Connellsvile Railroad Company,* shall have been called by the respective directors thereof, at such times and places, and in such manner as said respective directors shall designate; and when the holders of at least two-thirds of the stock of said respective companies, represented at such respective meetings, in person or by proxy, and voting thereat, shall have assented to such agreement and mortgage, then the Mayor of the City of Baltimore shall be, and he is hereby, authorized and directed, upon receiving the said agreement and mortgage, executed and assented to as aforesaid, to execute, acknowledge and deliver, in the name and on behalf of the Mayor and City Council of Baltimore, to the said Baltimore and Ohio Railroad Company, a conveyance and assignment of all the estate, interest and claims of the said Mayor and City Council of Baltimore, as bondholder, creditor or otherwise, in, to or against the said Pittsburg and Connellsville Railroad Company, and in, to or against the property of said railroad company; and shall assign and deliver up to the said Baltimore and Ohio Railroad Company all the evidences of debt, interest in, or claims against the said Pittsburg and Connellsville Railroad Company by the Mayor and City Council of Baltimore, owned or held; provided, however, that the said agreement in writing, hereinbefore provided to be made by the said Baltimore and Ohio Railroad Company, and the said mortgage hereinbefore provided to be executed by the said company, shall not be executed or received, and the conveyance

When the Mayor and City Council, authorized to make to B. & O. R. R. Co. an assignment of interest, claim, &c., of Mayor and City Council in or against the Pittsburg and Connellsville R. R. Co.

*This ordinance recites, that it is necessary that further aid should be extended in order to complete the construction of the Pittsburg and Connellsville Railroad, and that the Baltimore and Ohio Railroad Company is willing to extend such aid, provided it can, before so doing, be protected against the claims of the Mayor and City Council of Baltimore, upon and against the said Pittsburg and Connellsville Railroad Company.

The Act of 1872, c. 400, changed the name of this corporation, (incorporated by Act of 1853, c. 88,) to the Pittsburg, Washington and Baltimore Railroad Company.

and assignment hereinbefore provided for to be made by the Mayor of the City of Baltimore, on behalf of the Mayor and City Council thereof, shall not be executed until public notice shall have been first given of such proposed sale by the publication of this ordinance in one or more of the public newspapers of the city of Baltimore, at least once a week for three successive weeks, before the execution of the agreement and mortgage hereinbefore provided to be made by the said Baltimore and Ohio Railroad Company.

Public notice of sale to be given.

Ibid, s. 2.

The interest on the said one million of dollars, and the said several annual payments so provided to be paid under the said agreement and mortgage, shall, if the said agreement and mortgage are executed and accepted as hereinbefore provided, be invested, as the same are paid, in the public debt of the city of Baltimore; and the balance of said one million of dollars therein and thereby stipulated to be paid shall also be invested, when the same is paid, in the public debt of the city of Baltimore.

Interest on the one million dollars and the several annual payments to be invested in the public debt of the city.

Ibid, s. 3.

The right is hereby reserved to the said Baltimore and Ohio Railroad Company to pay and discharge said mortgage debt of one million of dollars, or so much thereof as may remain unpaid, at any time before the maturity thereof, upon its giving sixty days' prior notice in writing of its intention so to do; and upon payment of the remainder of the principal of said mortgage debt, and of all arrears of interest, and of a proportion of the interest accruing upon said mortgage debt to the date of the full payment thereof, it shall be the duty of the Mayor of the City of Baltimore, for the time being, in the name and on behalf of the Mayor and City Council of Baltimore, to execute and deliver to the said Baltimore and Ohio Railroad Company a release of the mortgage hereinbefere provided for, and to cancel and deliver up the agreement secured thereby.

Right reserved to B. & O. R. R. Co. to discharge mortgage debt before maturity upon giving sixty days' notice in writing.

NOTE.—1853, c. 269, authorized the Mayor and City Council to give such aid to the Pittsburg and Connellsville Railroad Company as they may deem

UNION RAILROAD.

42. Whenever the Comptroller of the City shall be satisfied that the sum of one hundred and fifty thousand dollars has been *bona fide* subscribed, and the instalments thereon duly paid as part of the capital stock of the Union Railroad Company, as provided in the Act of Assembly, passed at January session of 1866, and amended at January session of 1867, for the purpose of constructing a railroad from a point near Owings' Mills, on the line of the Western Maryland Railroad, to tide-water at Canton, together with a lateral road to the city of Baltimore connecting therewith, and whenever the Mayor, Comptroller and Register shall be sat-

No. 41, June 11, '67. Amount stock subscribed.

expedient, either by lending to the said railroad company the stock or bonds of the said city, on condition that the said railroad company shall pay the interest on such stock or bonds until the time when the said railroad shall be completed and opened from Pittsburg, in Pennsylvania, to Cumberland, in Maryland, or by a guarantee of the bonds of the said railroad company; provided, however, that the amount for which the said city shall be responsible, shall not exceed the sum of one million dollars; and that to enable the said Mayor and City Council to meet the liability to be incurred by them for principal or interest, under the authority hereby conferred on them, they are empowered hereby, over and above any existing privilege to raise money heretofore imposed upon them, to borrow any amount of money not exceeding one million dollars, from such persons, on such terms, and for such length of time, as they, the said Mayor and City Council, from time to time, may find convenient and expedient for the accomplishment of the purposes contemplated by this act; and that the said Mayor and City Council are hereby authorized and empowered, in addition to any power of taxation heretofore invested in them, to levy upon the assessable property within the limits of the city of Baltimore, or collect by tax, according to the usual mode of raising money by taxation in said city, any sum or sums of money which may be necessary to pay and discharge the principal and interest of any loan or loans which may be obtained by the said Mayor and City Council of Baltimore in pursuance of this act.

Ordinance No. 74, June 24, 1853, was passed in conformity with this enabling act. The subsequent ordinances relating to this subject are No. 29, June 10, 1856; No. 22, April 21, 1858; No. 7, February 18, 1865; No. 16, March 13, 1868; No. 32, May 5, 1868; No. 107, June 19, 1871, and No. 48, April 13, 1872.

isfied that the president and directors of said Union Railroad Company have entered into a contract with responsible parties, and the work of constructing said railroad has actually been commenced in conformity with the ninth section, as amended, of said Act of Assembly,* then the Register of the City with the approval of the Mayor, shall guarantee the bonds of the Union Railroad Company of Baltimore, as provided and stipulated by this ordinance in the name of the Mayor and City Council of Baltimore, to an amount not exceeding in the whole five hundred thousand dollars.

When to guarantee bonds of company.

Amount.

Ibid, s. 2.

Mortgage.

Before any bonds are guarantied by the Register as herein provided, the Union Railroad Company of Baltimore shall execute a good and sufficient mortgage to the Mayor and City Council of Baltimore, covering all the present and hereafter to be acquired estate, property and effects of the said company, together with its present and prospective tolls and rev-

* 1866, c. 119, sec. 9, as amended by the Act of 1867, c. 74, is as follows:

The president and directors of said company shall be invested with all the rights and powers necessary to the construction and repair of a railroad from some point on the Western Maryland Railroad at or near Owings' Mills, by way of Powhatan and Wetheredville, to the city of Baltimore, west of Charles street, and also from some point on said Union railroad to tide-water at Canton, in Baltimore city, or county, or either, with power to cross over, upon or under any other railroad, street or highway of any character whatever, together with any lateral railroad to the city of Baltimore, connecting therewith, with as many sets of tracks as may be deemed necessary, not exceeding sixty-six feet wide for the graded surface of said road or roads, and the said president and directors, or a majority of them, may make any contract, or contracts, to be made between said company and any person or persons for the construction of the whole or any parts of such works, and said company or agents may enter upon and use any lands required for the construction of such road or roads and their necessary and convenient buildings and equipments, and may take and use such materials as may be required for the construction and repair thereof, according to the provisions of the Act of 1852, c. 326, sec. 14, entitled, an Act to incorporate the Philadelphia, Wilmington and Baltimore Railroad Company. This Act of 1867, c. 74, was repealed by Act of 1870, c. 412.

enues to secure the payment of the principal and interest, in priority, of any bonds guarantied by the said Mayor and City Council, and to indemnify and save harmless the Mayor and City Council such guarantee as herein provided, said mortgage to be approved by the Mayor, Comptroller and Register, or a majority of them, and deliver to the Register.

Ibid, s. 3. Denomination of bonds. Interest.

The bonds to be issued under the provisions of this ordinance shall be of five hundred dollars or one thousand dollars each, payable on the first day of January, 1895, with interest, meanwhile, at the rate of six per cent. per annum, payable semi-anually on the first day of January and July in the city of Baltimore.

Ibid, s. 4. Commencem'nt and completion of road.

The construction of said railroad shall commence on or before the first day of August, 1867, and such route as to alignment and gradients, shall be secured as will be, in the judgment of the Mayor, Register and Comptroller, the most direct that can be obtained between the termini and the whole road, with a freight and passenger depot, west of Pennsylvania avenue, and depot at Canton, in the city of Baltimore, shall be completed within three years thereafter; and the said bonds shall be guarantied, as the work progresses, in such proportion as a majority of the finance committee shall from time to time determine.

When bonds to be guarantied.

Ibid, s. 5. Conditions. The guarantee.

When the conditions and provisions of the foregoing sections are complied with, the Register of the City, with the approval of the Mayor, shall endorse, either in writing, or by causing the same to be printed or engraved upon the said bonds, the guarantee of the Mayor and City Council of Baltimore, to be signed by the Mayor and countersigned by said Register, with the corporate seal of the city thereto affixed, in the following words:

Description of bonds.

For value received, the Mayor and City Council of Baltimore do hereby guarantee the payment of the within bond

of ——dollars, with the interest thereon according to its tenor, under the authority of an Act of the General Assembly of Maryland, passed at January session of 1866, entitled an Act to incorporate the Union Railroad Company of Baltimore, and to authorize the Mayor and City Council of Baltimore to endorse the bonds of said company, and in pursuance of an ordinance of the said Mayor and City Couucil, passed on the 11th day of June, 1867, entitled an ordinance to endorse and guarantee the first mortgage bonds of the Union Railroad Company of Baltimore.

In testimony whereof, ——, Mayor of said city, hereto subscribes his name, and causes the corporate seal to be hereto affixed on this —— day of —— in the year eighteen hundred and —. —— ——, *Mayor.*

No. 71, May 31, '70. Construct line of railway.

Whereas, by reason of the obligations about to be incurred by the Mayor and City Council of Baltimore in the loan of its credit to the Western Maryland Railroad Company for the construction of a line of railroad from Owings' Mills to the city of Baltimore, it has become inexpedient that the Union Railroad Company of Baltimore should construct its line of railway between the same points; and whereas, the said Union Railroad Company of Baltimore is willing to relinquish its right to construct all that part of its road lying west of a point on the line of the Western Maryland Railroad at or near the northwest boundary of the city of Baltimore, and hath been authorized so to do by an Act passed by the General Assembly at its last session,* and in view of the obligation on the part of the Mayor and City Council of Baltimore to endorse the bonds of the said company, and of the endorsement already made by it on the bonds of the said company, it is important that the construction of the road

*Act of 1870, c. 412, which repealed the Act of 1867, c. 74, and amended the charter (1866, c. 119) of the company.

of the said company should be completed as soon as possible, and the company be placed in condition to pay its interest; therefore, this ordinance enacts and ordains as follows: Construction to be completed as soon as possible.

The said Union Railroad Company of Baltimore is hereby relieved from the obligation to expend any of the proceeds of the bonds so to be endorsed in the construction of its line of railway west of the western limits of the city of Baltimore, and to provide a depot elsewhere than at Canton; and the bonds yet to be endorsed on behalf of the Mayor and City Council of Baltimore shall be guarantied at such time and in such amounts as the Commissioners of Finance shall deem best, and the bonds shall be sold under the direction of the Commissioners of Finance, and the proceeds thereof furnished to the company as the work progresses, *pari passu* with an equal amount of money furnished by said company, to be used in the construction of the said Union Railroad, between tide-water at Canton, as the eastern terminus, and some point on the line of the Western Maryland Railroad, at or near the northwestern boundary of the city of Baltimore, as the western terminus of the said Union Railroad. Ibid, s. 1. Relief to Union Railroad Co. Bonds to be sold by Commissioners of Finance. Proceeds. Termini.

The mortgage heretofore executed by the Union Railroad Company of Baltimore to the Mayor and City Council of Baltimore, shall be and continue a lien only upon that portion of the line of said Union Railroad which shall lie east of Belvidere bridge, and the officers of the city shall cause to be prepared and executed a proper and sufficient release of said mortgage, in so far as the same may cover or affect that portion of the line of said Union Railroad which may lie west of said Belvidere bridge. Ibid, s. 2. Mortgage. Release in part.

Before the endorsement or guarantee of any of the bonds mentioned in the first section, and before the release of mortgage authorized by the second section of this ordinance shall be made, all the Commissioners of Finance shall be satisfied Ibid, s. 3. Conditions.

Precedent.

that the said Union Railroad Company of Baltimore has entered into a valid contract, or valid contracts, to build said railroad from its eastern terminus at Canton to its western terminus at or near the northwestern limits of the city of Baltimore, and that said company has by stock subscriptions, by bonded debt, or otherwise, secured the command of an amount of money sufficient, together with the proceeds of

Endorsement of bonds.

the bonds so to be endorsed, to carry out said contract or contracts, and to complete said railroad between the said termini. And as a further condition of the endorsement of said bonds, and of the disbursement of the proceeds thereof, the said Commissioners of Finance shall require that the

Commencement of work.

said company shall commence the work of building said railroad simultaneously, and shall conduct it at the same time and rateably on the line on the west and on the line on the east side of said Belvidere bridge.

Ibid, s. 4.

The time limited for the completion of the road and the

Time extended.

depot at Canton, is hereby extended to the first day of January, eighteen hundred and seventy-three, and work on the construction of the road shall be resumed within nine months from the passage of this ordinance; such parts of the said ordinance number forty-one, approved June eleventh, eighteen hundred and sixty-seven, as are inconsistent herewith are hereby repealed.

No. 24, March 21, '72.

Preamble.

Whereas, by an ordinance approved on the eleventh day of June, 1867, [p. 943, *ante*,] provision was made for the endorsement by the Mayor and City Council of Baltimore, of the first mortgaged bonds of the said company, to the extent of five hundred thousand dollars, and under such authority endorsements were obtained on bonds to the amount of one hundred and seventeen thousand dollars, when, it having been ascertained that sufficient funds to complete the road had not been obtained, further endorse-

ments were refused, and the Mayor and City Council remained without security of any practical value, and were compelled to make provision for the payment of the interest upon the bonds so endorsed, until the year eighteen hundred and seventy; and whereas, during the year eighteen hundred and seventy, the control of the said company passed into the hands of the present corporators, by whom the interest has been promptly met, and during the said year application was made for an endorsement of the residue of said five hundred thousand dollars, under modified terms, and provision was made therefor by an ordinance approved May 31st, 1870; and whereas, also, under the anticipation that the road of said company would be mainly constructed from the means so to be obtained, the said company applied to the General Assembly of Maryland at the January session of 1870, and caused to be passed an amendment to the charter of the company, under which the Mayor and City Council of Baltimore became entitled to the appointment of such number of directors as would give to the Mayor and City Council of Baltimore a majority of one in the board of directors, and became also entitled to a controlling vote at all corporate meetings; but after the passage of the last named ordinance and act of assembly, it became apparent that the means to be derived from said endorsement would be so far inadequate that the company was unable to act under the ordinance, and has not obtained any further endorsement, but has by means of stock subscription, and an endorsement of bonds by the Canton Company of Baltimore, obtained the sum of about one million three hundred and eighty-three thousand dollars, much of which has been and is being expended; and whereas, although the construction of the road has reached an advanced stage, it is yet necessary to raise a large additional sum by mortgage, which will be the third in order, the first mortgage being only for

said one hundred and seventeen thousand dollars, thus rendered amply secure; and whereas, by reason of the terms of the charter of the company, and as a result from the unanticipated endorsement by a corporation other than the Mayor and City Council, the board of directors has been rendered so large that the affairs of the company cannot be conducted without a change, and, as all companies can use the road on equal terms, and as the city is now so amply secured, it is deemed just that the powers of the city should be reduced and the company be restored to the control of its own affairs, and this ordinance enacts and ordains as follows:

No. 24, March 21, '72.
Act of Assembly.
Power of Mayor and City Council to be confined to two directors.

The Mayor and City Council hereby assents to the passage of an act by the General Assembly of Maryland* whereby the power of the Mayor and City Council of Baltimore, in reference to the management of the Union Railroad Company of Baltimore, shall be confined to the choice of two directors in a board to be composed of not less than nine nor more than thirteen members, the other members to be selected as the said company may deem best, and all right to vote at the meetings of the stockholders is hereby relinquished; provided, however, that before this section shall be operative, the said company shall execute and deliver to the Mayor and City Council of Baltimore a full release of all further claim to endorsements by the Mayor and City Council of Baltimore, the form of such release to be approved by the City Solicitor.

Right to vote at meetings of stockholders relinquished.
Proviso.
Company to execute and deliver a full release.

VIRGINIA VALLEY RAILROAD.

No. 59, Sept. 14, s. 1, 1869.
Subscription to stock of company.

43. The Commissioners of Finance of said city are hereby authorized and required, in the name of the city of Baltimore, to subscribe for one million of dollars of the stock of the Valley Railroad Company, in the State of Virginia; and from time

* The Act of 1872, c. 119.

to time, as may be required for the purpose of paying such subscription, the Register of the City is hereby authorized and directed to issue the bonds of the city of Baltimore; the pro- Bonds of city.
ceeds of the sale of such bonds to be used to pay the quotas of the said city's subscription to said stock, as the same may be called for by the said company; said bonds to be issued in sums of not less than one hundred dollars each, redeemable in fifteen years, and bearing interest at the rate of six per cent. per annum, payable quarterly, and transferable as other city bonds are transferred; provided, however, that such subscription shall Proviso.
not be made until the further sum of two million two hundred Conditions.
thousand dollars shall have been validly subscribed to the stock of said Valley Railroad Company, either by the counties and towns in the Valley of Virginia, or by persons or corporations solvent and able to pay the amounts of their respective subscriptions; nor until at least thirty per cent. of the amount of every subscription which shall be made to said stock by individuals or corporations, other than said counties, shall have been paid in cash to said company; nor unless at least one million of dollars of the aforesaid two million two hundred thousand dollars shall have been subscribed by the said counties and towns in the Valley of Virginia, or by a corporation or persons resident therein, and solvent, and able to pay the amount of their respective subscriptions; and provided further, Proviso.
that no payment on such subscription shall be made until provision, satisfactory to the said Commissioners of Finance, has been made by said Valley Railroad Company, by additional subscriptions of stock or otherwise, for the means to construct and complete said railroad throughout its entire length, from Harrisonburg, in the county of Rockingham, to Salem, in the county of Roanoke, in the State of Virginia; and provided Proviso.
further, that the city of Baltimore, as a stockholder in said Valley Railroad Company, shall be entitled to all the rights and privileges of other persons and corporations holding stock in the same, and that no preference shall be given or allowed Preference.

by said company to any other stockholders over said city of Baltimore; and provided further, that said subscription shall not be made, nor said debt contracted, until the same be authorized by an act of the General Assembly of Maryland, nor until this ordinance be approved by the votes of a majority of the legal voters of the city of Baltimore.*

Act of Assembly.

WESTERN MARYLAND RAILROAD.

No. 68, s. 1, July 23, '60.

Mortgage bonds of company.

44. After the Mayor, Register and Comptroller of the City, or a majority of them, shall be satisfied that a first mortgage has been duly executed, covering all the property, effects and revenues of the Western Maryland Railroad Company, now built, or to be built, for the sole purpose of securing the principal and interest of certain bonds or certificates of stock issued by the Western Maryland Railroad Company, to an extent not greater than six hundred thousand dollars, and also upon the oath or affirmation of the president, together with a majority of the directors of said Western Maryland Railroad Company, that such is the case, the Register is hereby authorized and required, upon the presentation to him, by the treasurer of the said company, either at one time, or from time to

Amount.

* The Act of 1870, c. 90, made it lawful for the Mayor and City Council of Baltimore to subscribe to one million of dollars of the capital stock of the Valley Railroad Company, incorporated by the State of Virginia, upon the terms and conditions, and in the manner specified and provided for in and by the above ordinance, entitled "An ordinance to authorize a subscription of one million of dollars to the stock of the Valley Railroad Company, in the State of Virginia, and a loan to pay such subscription, or upon such other terms and conditions, and in such manner as the said Mayor and City Council may hereafter by ordinance prescribe, but such subscription, if made as herein authorized to the said capital stock, shall not exceed the said amount of one million of dollars; and the said subscription shall not be made until the ordinance authorizing or directing the same to be made shall be submitted to the legal voters of the city of Baltimore, at such time and places as are or may be fixed by such ordinance, and be approved by a majority of the votes cast at such time and places." The ordinance was submitted and duly approved.

time, of the said bonds or certificates of loan of said railroad company, to endorse or guarantee the same for a sum not exceeding seventy-five thousand dollars, as may suit the convenience of said railroad company, in sums of five hundred dollars and one thousand dollars each—said bonds or certificates of stock being payable on the first day of January, 1890, with interest at the rate of six per cent. per annum, payable half yearly in the city of Baltimore, on the first day of January and the first day of July, successively, in each and every intervening year; in the meanwhile the principal and interest being secured by a pledge of the property and revenues of the said Western Maryland Railroad Company; and also a condition that the said bonds, or certificates of loan, shall not be sold or disposed of by said company at less than par.

Guarantee

Amount of each bond.

When payable.

Property pledged.

Upon the completion of five additional miles of track to that now laid of said railroad by said Western Maryland Railroad Company from Baltimore, in the direction of Emmettsburg, satisfactory to the Mayor, Register and Comptroller, or a majority of them, then in that case the Register of the City shall, in the same manner and upon the same conditions as named in the foregoing section of this ordinance, endorse twenty-five thousand dollars more of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Ibid, s. 2.

Additional.

Amount.

When five additional miles between Baltimore and Emmettsburg shall have been completed and in operation, to the satisfaction of the Mayor, Register and Comptroller, or a majority of them, the Register of the City shall, in the same manner and upon the same conditions hereinbefore named, and under aforesaid restrictions contained in section one of this ordinance, endorse twenty-five thousand dollars additional of the said bonds or certificates of loan.

Ibid, s. 3.

Additional.

Amount.

When five additional miles of track of said railroad be laid between Baltimore and Emmettsburg by said Western Maryland Railroad Company, as shall be satisfactory to the Mayor,

Ibid, s. 4.

Additional.

Register and Comptroller, or a majority of them, then in that case the Register of the City shall, in the same manner and upon the same conditions as named in the first section of this
Amount. ordinance, endorse twenty-five thousand dollars additional of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Ibid, s. 5.
Additional. When five additional miles between Baltimore and Emmettsburg shall have been completed and in operation, to the satisfaction of the Mayor, Register and Comptroller, or a majority of them, the Register of the City shall, in the same manner and upon the same conditions hereinbefore named, and under aforesaid restrictions as contained in section one, en-
Amount. dorse twenty-five thousand dollars additional of the said bonds or certificates of loan.

Ibid, s. 6.
Additional. When five additional miles of track of said railroad be laid between Baltimore and Emmettsburg by said Western Maryland Railroad Company, as shall be satisfactory to the Mayor, Register and Comptroller, or a majority of them, then in that case the Register of the City shall, in the same manner and upon the same conditions as named in the first section of this
Amount. ordinance, endorse twenty-five thousand dollars more of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Ibid, s. 11.
Par value. The proceeds of the sale of said bonds, both those secured by the first and second mortgages, in the stock market, or elsewhere, which shall not be disposed of at less than par, as provided in section one of this ordinance, in excess of eighty per cent., shall be placed in the hands of the Register of the City, on account of the Mayor and City Council of Baltimore, to be by him held and invested in said endorsed bonds, or
Sinking fund. other securities of the city of Baltimore, as a sinking fund for the security of the payment of the principal and interest of said bonds.

The Register's endorsement of the bonds named and described in previous sections of this act, shall either be in writing or by causing said endorsement to be printed or engraved upon the same—said bonds or certificates of loan of the Western Maryland Railroad Company, the guarantee of the Mayor and City Council of Baltimore, to be signed by the Mayor of said city for the time being, with the corporate seal of said city thereto affixed, in the following words: For value received, the Mayor and City Council of Baltimore do hereby guarantee the payment of the within bond or certificate of loan, for $——, with interest thereon, according to its tenor, in pursuance of the provisions of an ordinance of the Mayor and City Council, approved the 23d day of July, in the year 1860, entitled an ordinance to endorse and guarantee a portion of the first mortgage bonds of the Western Maryland Railroad Company, and by the act of the General Assembly of Maryland approving the aforesaid ordinance.* Ibid, s. 12. Register's endorsement. Corporate seal.

In testimony whereof, ————————, Mayor of the said City of Baltimore, hath hereto subscribed his name and caused the corporate seal of the said city of Baltimore to be hereto affixed on this —— day of ———, in the year eighteen hundred and ——. Attest.

————————, *Mayor.*

The coupons attached to said bonds or certificates of loan named and described in the previous section, shall be guaranteed by endorsing in writing, printing or engraving thereon the words: Guarantied by the Mayor and City Council of Baltimore. Ibid, s. 13. Guarantied.

————————, *Register.*

* 1860, c. 20, enacted: that the Mayor and City Council of Baltimore are authorized to endorse or guarantee the payment of the principal and interest on the first mortgage bonds of the Western Maryland Railroad Company to an amount not exceeding in the aggregate two hundred and fifty thousand dollars, in such manner and form as they, the said Mayor and City Council, may deem best; and the Mayor and City Council may exercise the authority hereby granted at any time hereafter, as they may deem proper.

The Register being authorized to use a stamp with a fac simile of his signature, in lieu of his own proper signature on such coupons.

Ibid, s. 14.

Non-payment.

The non-payment by the Western Maryland Railroad Company of the interest, or any part thereof, on the said bonds or certificates of loan, or any of them, thus endorsed, shall be hereby recognized as giving an instant claim for the payment thereof by the Mayor and City Council of Baltimore, and the

Faith of city pledged.

faith of the said Mayor and City Council of Baltimore is hereby solemnly pledged to take all such steps as are usual in such cases, and as may be necessary to enable them to meet without delay the liabilities incurred by them by the guarantee hereinbefore authorized and confirmed by the act of the

Proviso.

General Assembly of Maryland; provided, however, that should the Register have proof laid before him that any of the funds raised under the provisions of this ordinance are being, or have been applied towards paying any indebtedness or liabilities of the said Western Maryland Railroad Company, incurred previous to the passage of this ordinance, (or of other violation of any provision herein contained,) all further endorsement of the said bonds shall be withheld; it being here-

Agreement.

by fully understood and agreed upon, between the Mayor and City Council of Baltimore and the Western Maryland Railroad Company, (on the acceptance by the said company of any of the provisions of this ordinance,) that the money raised by the negotiation and sale of any and all of the said bonds, shall be solely applied towards the extension of the said railroad from its present terminus at Reisterstown to Hagerstown,

Further proviso

Maryland; and provided further, that the said Western Maryland Railroad Company shall have taken the necessary steps by which the city of Baltimore has become entitled to have a

Two city directors.

permanent representation of two members in the board of directors of said railroad company; and should the ratio of directors be increased at any time hereafter, on the part of the

stockholders, those of the city of Baltimore shall be increased in like proportion; and provided further, that all the necessary expenses that may be incurred in carrying out the several provisions of this ordinance shall be promptly paid by the Western Maryland Railroad Company.* Further proviso

Upon the completion of each mile of track, additional to that now laid, of said railroad from Unionbridge in the direction of Hagerstown, Washington county, satisfactory to the Mayor, Register and Comptroller of the City, or a majority of them, the Register of the City shall, in the same manner provided in the ordinance No. 68, July 23, 1860, of which this is an amendment, for the endorsement of the first mortgage bonds of said railroad company, endorse the second mortgage bonds of said railroad company, to such an amount that the sum of three hundred thousand dollars, the whole amount of such second mortgage bonds to be endorsed under the provisions of this section, shall be distributed rateably over the whole numbers of miles lying on the route adopted, between Unionbridge and the border of Washington county, the said Register being hereby directed to endorse the said sum of three hundred thousand dollars of said second mortgage bonds in sums equal to the quotient of said three hundred thousand dollars, divided by the number of miles between Unionbridge and the line of Washington county, on the route selected; provided, that the Western Maryland Railroad Company shall have first executed and delivered to the Register of the City, a good and satisfactory mortgage, covering all the property and effects of the said company that now belong or may hereafter belong to it, as well as all the present and future net revenue of said company, in the name of the Mayor and City Council of Baltimore, in trust to secure the payment of the principal and interest of the bonds to be endorsed in accord-

No. 73, May 18, '64.

Completion of track.

Register to endorse the second mortgage bonds.

Endorsement pro rata per mile.

Mortgage to be executed.

* Sec. 15 of above ordinance was repealed by Ordinance No. 15, April 28, '65.

Endorsement by Commissioners of Washington County.

ance with the provisions of this section, and those so to be endorsed by the County Commissioners of Washington county; said mortgage to take precedence over all other mortgages or other incumbrances upon the property and revenues of the Western Maryland Railroad Company, except the first mortgage already executed; provided further, that before making the endorsement of the second mortgage bonds aforesaid, the Register, together with the Mayor and Comptroller, shall be satisfied that the Commissioners of Washington County have bound themselves to endorse similar bonds to the amount of three hundred thousand dollars, upon conditions which will make them available for construction of the road within the limits of Washington county, and that additional stock subscriptions are obtained to the extent of two hundred thousand dollars.*

Proviso.

City officers to be satisfied of endorsement of Commissioners of Washington County.

*This ordinance recites that the General Assembly of Maryland, at the session of 1864, passed an act empowering the County Commissioners of Washington County to endorse or guarantee, on behalf of said county, the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company, to an amount not exceeding the sum of three hundred thousand dollars; and that the said County Commissioners of Washington County, in the exercise of the authority conferred upon them by that Act of Assembly, on the 12th day of April, 1864, passed an order for the endorsement of three hundred thousand dollars of the second mortgage bonds of said company; and that the said order provided that the whole amount obtained from the proceeds of the bonds, so to be endorsed, should be expended in the cost and construction of the said road within the limits of Washington county; and it is, therefore, expedient that the assistance to be rendered such road by the Mayor and City Council of Baltimore should be given in such manner that it may be available for such part of said road as will lie between Unionbridge, Carroll county, and the border of Washington county. This ordinance repeals secs. 7, 8, 9 and 10 of Ord. No. 68, July 23, 1860, and substitutes the above section in lieu thereof.

1864, c. 314, provided: that the County Commissioners of Washington County are hereby authorized and empowered to endorse or guarantee, on behalf of said county, the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company, to an amount not exceeding three hundred thousand dollars, in such manner and form as they, the said County Commissioners, may deem best, and at any time hereafter as they may deem proper. That if it shall become necessary at any time after said commissioners shall have exercised the authority granted them by the pre-

Article XLVI.—Ordinances.

Ordinance No. 68, approved July 23, 1860, and Ordinance No. 73, approved May 18, 1864, are so amended as that the sinking fund to be held and invested by the Register of the City, for the security of the payment of the principal and interest of the second mortgage bonds of said Western Maryland Railroad Company, shall be the same as the sinking fund on the five million loan to the Baltimore and Ohio Railroad Company, namely, ten per cent. of the proceeds of the sale of said bonds in the stock market or elsewhere, and not twenty per cent., as provided for the first mortgage bonds of said company.

No. 58, Aug. 9, '67.
Sinking fund.

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ceding section, to provide for the payment of the principal and interest upon the bonds so endorsed, the said commissioners shall provide for the same by levy upon the assessable property in the said county.

1864, c. 298, enacted: that the Mayor and City Council of Baltimore are authorized to endorse or guarantee the payment of the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company, to an amount not exceeding in the aggregate the sum of three hundred thousand dollars, in such manner and form as they, the said Mayor and City Council, may deem best; and declares valid any ordinance heretofore passed by the Mayor and City Council of Baltimore for such purpose; and provides that the said Mayor and City Council may at any time hereafter exercise the remainder of their authority, so as to endorse or guarantee such second mortgage bonds as they may deem proper.

1865, c. 177, enacted that: whereas, by a compact between the city of Baltimore and the Western Maryland Railroad Company, the said city, in consideration of its loan to the said company, became entitled to a permanent representation of two members of the board of directors of the said company, but the mode in which the said directors are to be appointed remains to be provided for by an amendment of the charter of the said company, that therefore the Mayor and City Council of Baltimore shall in the month of October, eighteen hundred and sixty-five, and annually thereafter, nominate, and by and with the advice and consent of a convention of the two branches of the city council, appoint two of the five members of the board of directors of the said company, and that the charter of the said company is hereby altered and amended conformably to the change hereby made in the same. That should the number of directors constituting the said board of directors be at any time hereafter increased on the part of the stockholders, those of the city of Baltimore shall be increased in like proportion.

Ibid, s. 2. How to endorse bonds.

Section first of said Ordinance No. 73, approved May 18, 1864, is so amended as to authorize the Register of the City to endorse said second mortgage bonds, to the amount and in the mode and manner specified in said ordinance, as each mile of said road progresses from Unionbridge in the direction of Hagerstown, and not when completed, as named in first section of said ordinance.

No. 16, s. 1, Mar. 15, '66. Mayor to subscribe for shares of stock of company. Proviso.

The Mayor of the City of Baltimore is hereby directed to subscribe in the name and behalf of the Mayor and City Council of Baltimore, to four thousand shares of the capital stock of the Western Maryland Railroad Company, of the par value of fifty dollars each; provided, however, that it shall be specified in and as a part of such subscription, that the money shall not be payable until the County Commissioners of Washington

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And that this act shall take effect from and on its acceptance by the stockholders representing a majority of said stock.

1866, c. 13, enacted: that the Mayor and City Council of Baltimore are authorized to subscribe to the capital stock of the Western Maryland Railroad Company, to an amount not exceeding two hundred thousand dollars. And it further enacts, that the said Mayor and City Council may provide, by ordinance or ordinances, for the mode and terms upon which subscription shall be made, and the money provided to meet it.

And 1866, c. 71, enacted: that the Mayor and City Council of Baltimore are authorized to contribute towards the construction of the Western Maryland Railroad, between Hagerstown and Cumberland, the sum of fifteen hundred thousand dollars, either by a subscription to that amount to the capital stock of the said company, or by the endorsement of the said company's bonds, or by the issue of the city's own bonds, as may be most expedient in the judgment of the said Mayor and City Council. And it further provides that the said Western Maryland Railroad Company, in the event of the said sum being furnished to the company for the construction of the road as aforesaid, by the said Mayor and City Council, in either of the modes aforesaid, other than by a subscription to its capital stock, shall be authorized to secure the said city for the amount so advanced or endorsed by a mortgage on its road, property, tolls and revenues, the said mortgage not to have priority over, but to stand upon an equality with other mortgages, to be executed by the said company to the coal and iron companies of Allegany county and the commissioners of said county for similar advances in aid of the said enterprise.

county * shall have subscribed for three thousand shares of said capital stock, and that the money arising from the subscription hereby directed shall be expended in the construction of the road of said company, from its present terminus at Unionbridge to the line of division between the counties of Frederick and Washington. Commissioners of Washington county.

The said subscription shall be paid in city stock at par, in such instalments and at such times as the same shall be called for by the president and directors of the Western Maryland Railroad Company; provided, said company shall not have power to call for more than the sum of fifteen thousand dollars in any one month, or in greater proportions than are called Ibid, s. 2. How subscription paid. Proviso.

*1866, c. 19, recites that the County Commissioners of Washington County did, on the 26th September, 1865, pass an order that three thousand shares of the capital stock of the Western Maryland Railroad Company, being of the par value of one hundred and fifty thousand dollars, be, and the same are hereby, subscribed by and in the name of and for Washington county, upon the condition, nevertheless, that the city of Baltimore, by its corporate authorities, duly subscribe four thousand shares of said stock, being of the par value of two hundred thousand dollars, and upon the condition further, that such stock so as aforesaid subscribed by said county, or the money paid in for the same, shall be first solely and exclusively applied to the construction and completion of said road within the limits of Washington county aforesaid, so far as the same may be required in such construction and completion, and the balance, if any, after such construction and completion, wherever otherwise it may be required in its construction and completion, and upon the condition further, that said subscription be duly authorized and made lawful by the Legislature of Maryland; and that the president of said County Commissioners be, and he is hereby, authorized empowered, directed and required forthwith to make said subscription to said stock for and in the name of Washington county, and upon the conditions and limitations aforesaid; and the said subscription is made upon the further condition that the directors of the said company be increased, and that two of the said directers be taken from Washington county. And said Act of 1866, c. 19, then provides that the said order of the said County Commissioners of Washington County is declared valid, and that the County Commissioners of Washington County are authorized and empowered to subscribe to the capital stock of the Western Maryland Railroad Company, at the time hereinafter mentioned, a sum not exceeding the amount of one hundred and fifty thousand dollars, on the terms and conditions of said order and this act. The said subscription shall not be made until the said

for from individual stockholders, and as each call shall be made upon the Mayor, he shall immediately notify such call to the Commissioners of Finance, who shall within one week after such notification, issue certificates of stock to said company for the amount of such call, bearing an interest of six *per centum per annum*, payable quarterly, and redeemable at the pleasure of the Mayor and City Council of Baltimore at any time after the first day of July, 1890.

Certificates of stock.

Ibid, s. 3.

Form of certificate.

The certificates of stock to be issued by virtue of this ordinance shall be in the same form as is provided for in the ordinance relative to the public debt of the city of Baltimore, approved April 3, 1826, [p. 905, *ante*.]

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railroad shall have been completed and paid for, or until said County Commissioners are satisfied that the said road will be made and paid for, to the line dividing Frederick from Washington county, and in the direction of Hagertown; and for the purpose of raising the said sum of money, so to be subscribed by the said County Commissioners, they are hereby empowered annually to levy the same on the taxable property of Washington county, whenever the same shall be called for, and in such sums and proportions as the progress of the work through said Washington county shall require; or the said County Commissioners shall borrow the said sum from time to time as it may be required as aforesaid, upon the credit of the said county, and to issue bonds, duly executed, for the payment of the same; the said bonds not to be sold under their par value, to bear interest not exceeding six per cent., payable semi-annually, and not to run for a period longer than twenty years, and said bonds shall be exempt from county and municipal taxation, and for the purpose of paying the interest thereon, and to retire the principal, the said County Commissioners are hereby empowered and required to levy an annual sum adequate for said purposes. And that said bonds shall not be transferred to said railroad company in payment of said subscription, or any part thereof, but the same shall be sold by the County Commissioners of Washington County, and the proceeds paid to said railroad company in payment of the same. 1866, c. 48, provided that the directors in said company be increased by two new members, and two of such directors shall be citizens of Washington county; provided, however, that this act shall take effect only when a subscription to the capital stock of said company, binding upon said county, shall have been made to an amount of not less than one hundred and fifty thousand dollars, and when this act shall have been accepted by the stockholders of said company representing a majority of its stock.

The City of Baltimore shall be entitled, upon payment of the first instalment of the stock hereby subscribed, to all the rights and privileges of a stockholder in said company. Ibid, s. 4. City entitled to rights and privileges.

The subscription hereby made, together with the subscription of Washington county, shall be applied to the construction of the said road from Hagerstown and Unionbridge simultaneously and reciprocally, in fair proportions, that is to say, the work from Hagerstown and from Unionbridge shall be commenced at the same time, and shall progress equally and rateably each in the direction of each other, it being the meaning and intention of this ordinance that for every five thousand dollars expended under this subscription, the sum of five thousand dollars shall be expended on the road, commencing at Hagerstown and progressing eastwardly until said road shall be completed, and that the application of the money hereby subscribed shall be subject to the conditions contained in this section, and shall be applied as hereby provided, subject to the supervision of the Mayor, Register and Comptroller of the City—furthermore, this subscription to the stock of said company shall not be binding on the city unless the location of said road shall be approved by the said officers; and provided further, that a produce and passenger depot of the Western Maryland Railroad shall be established west of Jones' Falls. Ibid, s. 5. How subscription to be applied. Provisos. Depot.

The Mayor of the City of Baltimore is hereby authorized and empowered to vote the stock held by the City of Baltimore in the Western Maryland Railroad Company, either in person or by proxy, at all general or special elections and in all meetings held by the stockholders of said company; provided, that the said city shall not be in arrears in the payment of any instalment as the same is called for by the said company.* No. 2, Feb. 21, '67. Mayor to vote stock of W. M. R. R. Co. Proviso.

*By Res. No. 64, March 16, '68, the Mayor was directed to comply with the application of the president and directors of the Western Maryland Railroad Company, by the endorsement of an additional fifty thousand dol-

Article XLVI.—Ordinances.

No. 57, s. 1, June 2, '68.
Lien waived in favor of mortgage.

The lien of the Mayor and City Council under the mortgage heretofore executed to it by the Western Maryland Railroad Company, is hereby waived in favor of a mortgage or mortgages, to be executed by said company, to an amount not exceeding the sum of six hundred thousand dollars; provided, the County Commissioners of Washington County shall waive the lien of said county under the said mortgage.*

Proviso.

Ibid, s. 6.
Location of road.

Said company shall not change the present location of its road, between Westminster in Carroll county and the city of Baltimore, without the consent of the Mayor and City Council of Baltimore being first had and obtained.†

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lars of the bonds of said road, in accordance with the ordinance relating thereto.

* 1868, c. 344, provided: that the Mayor and City Council of Baltimore and the County Commissioners of Washington County are authorized and empowered, if in their discretion good policy require it, to waive their liens and the mortgage heretofore executed to the Mayor and City Council of Baltimore by the Western Maryland Railroad Company, in favor of a mortgage or mortgages to be executed by said company to such amounts not exceeding the sum of one million dollars, as may be determined by the Mayor and City Council of Baltimore and the County Commissioners of Washington County.

By the Act of 1878, c. 240, the County Commissioners of Washington County are authorized and empowered to acquire or purchase the bonds and coupons of the Western Maryland Railroad Company, endorsed and guaranteed by the County Commissioners of Washington County, if at any time they deem it expedient so to do, in the manner therein set forth.

† This ordinance, under the provisions of its 2d, 3d, 4th and 5th sections, was submitted to the voters of the city of Baltimore and adopted.

NOTE.—Ordinance No. 42, June 12, 1869, of the Mayor and City Council, entitled An ordinance to provide for raising the sum of one million of dollars, by the Mayor and City Council of Baltimore, by means of the hypothecation of such number of shares of the capital stock of the Baltimore and Ohio Railroad Company, owned by the Mayor and City Council of Baltimore, as may be necessary for that purpose, and for investment of said sum of money in the bonds of the Western Maryland Railroad Company, to be secured by a mortgage next in priority after the mortgages already executed by said company, is within the scope and purview of the provision contained in section 7, of Article XI, of the Constitution of 1867, which de-

The City Register is hereby authorized and directed to pay the interest upon the bonds of the Western Maryland Railroad Company, which fell due on the first of July, eighteen hundred and sixty-nine, and which were guarantied by the city of Baltimore, and also to pay the interest which may hereafter accrue and fall due on said bonds, in case provision be not made for the payment of the said hereafter accruing interest by the said Western Maryland Railroad Company.* No. 2, Nov. 13, s. 1, '69. City Register to pay interest on bonds.

The said Register is hereby authorized and empowered to borrow upon the credit of the city, and upon the best terms possible, such sum of money as may be necessary to pay the said interest which fell due on the first day of July, eighteen hundred and sixty-nine. Ibid, s. 2. City Register to borrow money.

The sum or sums of money, so borrowed, shall be repaid out of the levy for eighteen hundred and seventy. Ibid, s. 3. How to be repaid.

clares that "no debt shall be created by the Mayor and City Council of Baltimore, unless it be authorized by an Act of the General Assembly and by an ordinance of the Mayor and City Council of Baltimore, submitted to the legal voters of the city, and approved by a majority of the votes cast," and the same not having been so authorized and approved is null and void. The ordinance being unconstitutional, citizens of Baltimore, owners of property therein, and tax payers were entitled to ask the interposition of a court of equity to restrain its execution by injunction, and such suit need not be instituted by the Attorney General, nor is it necessary that he should be a party thereto. *Mayor, &c.*, v. *Gill, et. al.* 31, Md. 375. *St. Mary's Industrial School* v. *Brown*, 45 Md. 326.

* This ordinance recites, that the city of Baltimore by various ordinances passed by the City Council, and approved by the Mayor, has guarantied the bonds of the Western Maryland Railroad Company to the extent of seven hundred and fifty thousand dollars, pledging the faith of the city for the prompt payment of the interest thereon, as also the ultimate payment of said bonds; and the said Western Maryland Railroad Company, has failed to provide for the payment of the interest which became due on the first day of July, eighteen hundred and sixty-nine, upon the said guaranteed bonds; and it is required that immediate provision be made by the city of Baltimore for the payment of the interest upon said guarantied bonds.

No. 11, Jan. 21, '70.
Register to guarantee Western Maryland Railroad bonds.

The Register of the City, upon presentation to him of the bonds of the Western Maryland Railroad Company, amounting in the aggregate to the sum of fourteen hundred thousand dollars, payable on the first day of January, nineteen hundred, with interest at the rate of six per centum per annum, payable half yearly in the city of Baltimore on the first day of January and July in each and every year, is hereby authorized and directed to cause the same to be endorsed with the guarantee of the Mayor and City Council of Baltimore, which endorsement shall be made in the manner, at the times and after compliance with the provisions hereinafter mentioned.

Ibid, s. 2.
Endorsement.

The endorsement of the bonds provided for in the next preceding section of this ordinance shall either be made in writing, or by causing the same to be printed or engraven on the said bonds, and the said endorsement shall be signed by the Mayor and countersigned by the Register of the City for the time being, and shall have affixed thereto the corporate seal of the city, and shall be in form following:

For value received the Mayor and City Council of Baltimore hereby guarantees the payment of the principal and interest of the within bond, in accordance with an ordinance entitled an ordinance to authorize the endorsement or guarantee by the Mayor and City Council of Baltimore of the mortgage bonds of the Western Maryland Railroad Company, and to provide a sinking fund in connection therewith—approved

1870; which ordinance was subsequently submitted to and ratified by the people of Baltimore. Witness the signature of the Mayor and Register of the City of Baltimore and its corporate seal; and the blank left in the above form for the date of the approval of this ordinance shall be filled with the date of said approval. The

Coupons.

coupons attached to said bonds shall also contain the endorsement of the guarantee of the said Mayor and City Council of

Baltimore by having written, printed or engraven thereon the words "guaranteed by the Mayor and City Council of Baltimore" to which shall be attached the name of the Register, for which purpose a fac simile of his signature may be employed.

Ibid, s. 3.

The endorsement of said bonds shall not be made unless and until an act shall be passed by the General Assembly of Maryland, authorizing the said endorsement, nor unless and until this ordinance shall have been submitted to the legal voters of the city of Baltimore in the manner hereinafter mentioned, and a majority of the votes cast at the said election shall be in favor of the said ordinance; and before any endorsement of said bonds shall be made, the said Western Maryland Railroad Company shall deliver to the Register of the City a deed of mortgage duly executed and acknowledged, and in such form and with such covenants and conditions as shall be approved by the City Counselor, wherein and whereby there shall be conveyed to the said Mayor and City Council of Baltimore all the road and railway of the said company as now, or hereafter to be constructed, and all its franchises, right, tolls and revenues, rolling stock, machinery, and all its other estate, real, personal and mixed, of every kind and description, by way of mortgage to secure and indemnify the said Mayor and City Council of Baltimore for and in its endorsement and guarantee of the said bonds, and for all charges and expenses connected therewith; which mortgage shall be next in priority to those now already executed by said company, and shall contain proper covenants for the payment by said Western Maryland Railroad Company of the principal and interest of the bonds hereinbefore mentioned, as and when the same shall respectively become due and payable; and the said bonds shall be applied only to the purposes mentioned in this ordinance; and all the expenses of the execution and recording of said mortgage shall be paid by said company at the time of said execution and recording.

Act of Assembly authorizing endorsements.

Submission to voters.

Mortgage from company.

Priority of mortgage.

How bonds to be applied.

Ibid, s. 4. Charter of company to be amended.

The endorsement of the said bonds hereinbefore authorized shall not be made, unless and until such an amendment to the charter of the said Western Maryland Railroad Company shall be made by an Act of the General Assembly of Maryland, and accepted by said company, as will give to the Mayor and City Council of Baltimore such an additional number of directors as will secure to the said city a majority of three members in the board of directors.*

Ibid, s. 10. Sinking fund. Interest

Of the fourteen hundred thousand dollars of bonds for whose endorsement provision is hereinbefore made by section one of this ordinance, two hundred thousand dollars of said bonds shall be retained by the Register toward a sinking fund; and the interest derived from the bonds so retained shall be from time to time invested by the Commissioners of Finance; and if, at or prior to the maturity of said fourteen hundred thousand dollars of said bonds, the same, together with all others upon which the city may be liable as endorser or guarantor of said company, shall in principal and interest have been redeemed by the said company, then the said two hundred thousand dollars of bonds so deposited with the Register shall be cancelled, and the accumulated income derived from said bonds shall be returned to said company; and whenever the accumulated income in the hands of the said Commissioners of Finance shall reach an amount sufficient to redeem the whole amount of bonds to be endorsed under the provisions of this ordinance, and delivered to said company, then

* Section 2 of the Act of 1870, c. 110, enacts that the number of directors of the Western Maryland Railroad Company shall be increased to thirteen, and that the Mayor and City Council of Baltimore are authorized to appoint six directors in addition to the directors already to be appointed by the said Mayor and City Council of Baltimore, and that such additional directors shall be appointed in the mode heretofore provided by law for the appointment of directors in said company by said Mayor and City Council of Baltimore.

The fifth, sixth, seventh, eighth and ninth sections of this ordinance are repealed by Ordinance No. 10, January 17, 1872, (p. 970 *post.*)

the Commissioners of Finance may give notice through the daily papers of the city of Baltimore of the time and place for the redemption of said bonds, and redeem the same out of the said sinking fund so derived from said accumulated income; and when the said outstanding bonds shall have been so redeemed, the said bonds so retained by the Register shall be cancelled; and before the Register shall endorse any part of the twelve hundred thousand dollars of said bonds which are designed by this ordinance to be delivered to the said Western Maryland Railroad, there shall have been delivered to him by said company, the two hundred thousand dollars of said bonds mentioned in this section.*

Redemption of bonds.

The City Register is directed to pay the interest upon any of the bonds endorsed or guarantied, or hereafter to be endorsed or guarantied under the provisions of ordinance, No. 11, January 21, 1870, [pp 966, &c., *ante.*] in case provision be not made by the said company for payment of such interest coupons at their maturity.†

No. 108, June 19, '71. When City Register to pay interest upon bonds.

*By the Act of 1870. c. 48, the Mayor and City Council of Baltimore were authorized and empowered to endorse or guarantee the mortgage bonds of the Western Maryland Railroad Company, to the amount of fourteen hundred thousand dollars, and the ordinance of the said Mayor and City Council of Baltimore, approved on the twenty-sixth day of January, eighteen hundred and seventy, and entitled an ordinance to authorize the endorsement or guarantee by the Mayor and City Council of Baltimore of the mortgage bonds of the Western Maryland Railroad Company, and to provide a sinking fund in connection therewith, was ratified and confirmed. This ordinance was duly approved under the provisions contained therein providing for its submission to the voters.

† This ordinance recites that the Mayor and City Council by an ordinance, January 21, 1870, and entitled an ordinance to authorize the endorsement or guarantee by the Mayor and City Council of Baltimore of the mortgage bonds of the Western Maryland Railroad Company, and to provide a sinking fund in connection therewith, has come under obligation to endorse the mortgage bonds of the said company to the amount of fourteen hundred thousand dollars, payable January 1, 1900, and also the coupons for interest attached to the said bonds; and that the credit of the city requires that provision be made for the prompt payment of the interest thereon, in the event that the said company may make default in payment of any of the coupons attached to said bonds.

Article XLVI.—Ordinances.

No. 10, Jan. 17, '72.

Surrender of bonds of company.

Whenever the president and directors of the Western Maryland Railroad Company shall have surrendered to the Mayor and Commissioners of Finance of the City of Baltimore bonds of the said company, amounting in the aggregate to the sum of two hundred and seventy-five thousand dollars, endorsed with the guarantee of the Mayor and City Council of Baltimore, as provided by the original ordinance, [No. 11,* Jan. 21,'70, p. 966 *ante*,] to which this is a supplement, and issued to said company, and shall also have released and surrendered to the Mayor and City Council of Baltimore by release under the hand of said company and sealed with its corporate seal, all rights of the said company in two hundred and fifty thousand additional of said bonds, endorsed with the said guarantee under said ordinance, but yet remaining in the hands of the Mayor and Commissioners of Finance, and shall have deposited with the City Register, to be filed in his office, the obligation of the said Western Maryland Railroad Company, under the corporate seal thereof and the signatures of the president and directors

Release of all rights in hand of Mayor and Commissioners of Finance.

Obligation to be deposited with City Register.

* This ordinance recites that it has been represented to the Mayor and City Council, by the president and directors of the Western Maryland Railroad Company, that the funds at the disposal of said company are altogether insufficient for the completion of said railroad, as an independent road from the city of Baltimore to Williamsport, and for its equipment, as designed by the original ordinance [No. 11, January 21, 1870,] to which this is a supplement; and that in the opinion of the Mayor and City Council of Baltimore, the true interests of the city demand the early completion as aforesaid of the said Western Maryland Railroad, as affording the only hope of securing to the city some return on the large sums heretofore invested in said railroad; and whereas, it has been found impossble to dispose of the bonds of the said railroad conpany, although endorsed with the guarantees of the Mayor and City Council of Baltimore, as provided in the original ordinance, to which this is a supplement, except at rates far below the price of city stock, to which, so far as the city's liabilities are concerned, they are in all respects equivalent; and that it is manifest that the various provisions contained in the fifth, sixth, seventh, eighth and ninth sections of the original ordinance, to which this is a supplement, regulating the issue and application of the bonds so as aforesaid endorsed by the city, can now only serve to delay and prevent the early completion of the said railroad; it thereupon repeals said sections and enacts as above.

thereof, in such forms as shall be approved by the City Counselor pledging the whole of the property and revenue of said company for the purpose hereinafter mentioned; the Mayor and Commissioners of Finance aforesaid are hereby authorized and directed immediately, upon application being made to them for that purpose by the president and directors of said railroad company, or as soon thereafter as conveniently may be, to issue and deliver to said company certificates of the stock of the city to the amount of one million of dollars, bearing interest at the rate of six per cent. per annum, from the first day of January, eighteen hundred and seventy-two, payable semi-annually, which certificates shall be redeemable on the first day of January, 1902.

To be approved by the City Counselor.

Mayor and Commissioners of Finance to issue to company one million dollars of stock.

The condition of the obligation as hereinbefore provided shall be for the payment of the principal and interest that shall accrue upon said stock as, and when, the same shall respectively become due and payable.

Ibid, s. 3.

Condition of obligation.

The said certificates of city stock shall be delivered to the said president and directors of the said railroad company, upon the express trust to keep the said stock or the proceeds thereof segregated from the assets of the said company and to apply the same exclusively to the completion of the construction of the said Western Maryland Railroad as an independent road from Baltimore to Williamsport, and the equipment for the same, and to the payment of any indebtedness contracted for such purposes only since the first day of September, 1870.*

Ibid, s. 4.

Conditions upon which stock to be delivered to company.

* Ordinance No. 108, October 18, 1872, provides that: nothing contained in above 4th section shall be constructed as restricting the president and directors of said company from applying, if they find it necessary to do so, any part of the funds derived from the stock of the Mayor and City Council of Baltimore, issued to said company under the said ordinance, to the repair and reconstruction of any part of the road heretofore constructed between the city of Baltimore and Hagerstown.

Ibid, s. 5.

Mayor and Commissioners of Finance to cancel and destroy surrendered bonds of company.

The Mayor and Commissioners of Finance shall, at the time of the issue of the city stock hereinbefore authorized, cancel and destroy the bonds of the said Western Maryland Railroad Company, endorsed with the guarantee of the Mayor and City Council of Baltimore, amounting in the aggregate to the sum of five hundred and twenty-five thousand dollars, which shall have been surrendered by the president and directors of said company as hereinbefore provided.

Ibid, s. 6.

Amendment of sec 10, of No. 11, Jan. 21, '70.

Section ten (p. 968, *ante*,) of the original ordinance to which this is a supplement, is hereby so amended as that the sinking fund therein created and required to be held and invested by the Register of the City, for the security of the payment of the principal and interest of the bonds of the said Western Maryland Railroad Company so by said ordinance authorized to be endorsed with the guarantee of the city, shall be in all respects applicable to the payment of the principal and interest of the one million of dollars of city stock authorized by this ordinance, as well as to the payment of the principal and interest of so much of the aforesaid endorsed bonds of said company as shall remain after the cancellation and destruction hereinbefore provided.

Ibid, s. 7.

Issue of stock not to be made until Act of Assembly be passed.

Submisison to voters.

The issue of the city stock hereinbefore authorized shall not be made unless and until an Act of the General Assembly of Maryland authorizing the same shall be passed, nor unless and until this ordinance shall have been submitted to the legal voters of the city of Baltimore, and a majority of the votes cast at the said election shall be in favor of the said ordinance.*

*This ordinance contains the usual provisions for its submission to the voters.

By the Act of 1872, c. 2, the Mayor and City Council of Baltimore, were authorized and empowered to issue and lend to the Western Maryland Railroad Company, the stock of the Mayor and City Council of Baltimore, to the amount of one million dollars, redeemable on the first day of January, in the year nineteen hundred and two, and bearing interest at the rate of six per centum per annum, from the first day of January, in the year eigh-

Article XLVI.—Ordinances.

No. 23, April 10, '73. Commissioners of Finance authorized to invest $330,000 in bonds of Western Maryland Railroad Co.

The Commissioners of Finance of the City of Baltimore are hereby authorized and directed to invest the sum of three hundred and twenty thousand dollars, out of any moneys now in their hands or which may hereafter come to their hands, in the purchase of one hundred and seventy-eight thousand five hundred dollars of the bonds of the Western Maryland Railroad Company, of the series known as the second preferred mortgage bonds, and also of the right, title and interest of the said company to two hundred thousand dollars of other mortgage bonds of the said company now in the possession of the Register of the City of Baltimore, under and by virtue of the provisions of the tenth section [p. 968 *ante*] of an ordinance of the Mayor and City Council of Baltimore, approved January 21st, 1870, entitled an ordinance to authorize the endorsement or guarantee by the Mayor and City Council of Baltimore, of the mortgage bonds of the Western Maryland Railroad Com-

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teen hundred and seventy-two, to aid in the construction of the railroad of the said company.

The Act of 1872, c. 61, recites that: whereas, at the present session of the General Assembly of Maryland, an act was passed entitled an Act to authorize the Mayor and City Council of Baltimore to issue and lend to the Western Maryland Railroad Company, the stock of the Mayor and City Council of Baltimore, to the amount of one million dollars, redeemable on the first day of January, nineteen hundred and two, and bearing interest at the rate of six per centum per annum, from the first day of January, eighteen hundred and seventy-two, to aid in the construction of the railroad of said company; *and whereas*, the said Act of Assembly was intended to authorize the issue of the said stock as provided for by an ordinance of the Mayor and City Council, approved January 17, No. 10, 1872, and entitled an ordinance to amend an ordinance entitled an ordinance to authorize the endorsement or guarantee, by the Mayor and City Council of Baltimore, of the mortgage bonds of the Western Maryland Railroad Company, and to provide a sinking fund in connction therewith, approved January 21, 1870, and for greater certainty, it is deemed better to declare and provide that the said Act of Assembly shall have the same effect, as though it had, in specific terms, referred to the said ordinance, therefore, said Act of Assembly enacts that the said ordinance is ratified and confirmed, and the aforesaid Act of Assembly shall be construed as authorizing the issue and lending of the said stock of the Mayor and City Council of Baltimore, in the mode provided in the said ordinance.

pany, and to provide a sinking fund in connection therewith, and upon delivery to them by said company of the said one hundred and seventy-eight thousand five hundred dollars, and an assignment in writing of all the right, title and interest of the said company in and to the said two hundred thousand dollars of bonds in possession of the Register, the said Commissioners of Finance shall pay the said sum of three hundred and twenty thousand dollars to the said company, at such times and in such payments as may be arranged between the said Commissioners of Finance and said company.

Condition upon which money to be paid.

Ibid, s. 2.

Nothing contained in this ordinance shall alter or change the provision made by the tenth section of the ordinance hereinbefore mentioned for a sinking fund, except so far as to extinguish the right, title and interest of said company in the said two hundred thousand dollars of bonds and its right to require a cancellation of the same, and to enable the said company to assign all its interest in the same to the said Commissioners of Finance.

Not to alter or change the provision for a sinking fund.

No. 41, June 2, '74.

The Commissioners of Finance are authorized, in their discretion, to purchase matured coupons detached from unendorsed bonds of the Western Maryland Railroad Company, and to hold the same among the investments of the redemption funds; provided, that such authority shall not extend beyond July, 1875.

HILLEN STATION.

No. 97, May 24, '75.

Commissioners of Finance to invest a sum not exceeding $200,000 in purchase of property for, and the erection of, a depot.

45. The Commissioners of Finance of the City of Baltimore, are hereby authorized to invest any moneys now in their hands, or which may hereafter come to their hands, to an amount not exceeding two hundred thousand dollars, in the purchase of such real and leasehold property in the city of Baltimore, not west of North street, not east of Exeter street, not south of Hillen street, as they may deem proper for the purpose, and in the erection upon the same of a plain substantial passenger and freight depot, engine house

and the necessary appurtenances to the same, together with the tracks not exceeding two on such highway or highways as may be necessary to connect the same with the tracks of the Northern Central Railway. Provided, however, that no such purchase or improvement shall be made until the Western Maryland Railroad Company shall have covenanted in a form to be acceptable to the Commissioners of Finance, and approved by the City Counselor, that it will accept from the Mayor and City Council of Baltimore a lease of such lots, and the improvements so to be erected and made, for a term of ninety nine years renewable forever, subject to an annual rent equal to 8 per cent. per annum upon the amount invested by the city in said lot and improvement, payable in equal monthly instalments.*

Proviso.

Annual rental.

When the buildings and improvements shall have been completed, the Mayor shall execute to the Western Maryland Railroad Company, its successors and assigns, a lease of the same in manner and form as hereinbefore mentioned, reserving the right hereinbefore mentioned, payable to the said Commissioners of Finance, and containing covenants on the part of the said company to pay said rent in manner aforesaid, and to maintain and keep the improvements in complete repair, and to insure the buildings for the benefit of the lessors, or so that they shall be replaced by the insurers to an amount equal to the value of the same, and containing also

Ibid, s. 2.

Mayor to execute a lease to the W. Md. R. R. Co. on the completion of buildings, &c.

Covenants on part of W. Md. R R. Co.

*This ordinance recites that it has been represented to the Mayor and City Council of Baltimore, that an advantageous purchase can be made by the Commissioners of Finance of the City of Baltimore, of certain parcels of real and leasehold property in the city of Baltimore, and that such property can be improved by the erection of a railway depot and other buildings at moderate cost, and permanently leased to the Western Maryland Railroad Company; and that it is believed that such will be a safe investment of any funds in the hands of said Commissioners of Finance, and at the same time, the large interest of the Mayor and City Council of Baltimore in said company will be greatly benefited by enabling the said company to obtain a depot within the central portion of the city, and by the large increase of the revenue of said company which will thence result.

Covenants by the Mayor and City Council.

covenants by the Mayor and City Council of Baltimore that it will convey to said company, its successors and assigns, the reversion in said premises, so to be demised, at any time upon payment to the said Commissioners of Finance of the sum of two hundred thousand dollars, or so much thereof as may by them have been invested in said property and improvements, together with all the accrued rent and a due proportion of the accruing rent; and also that said commissioners will set apart as the same shall be received, one eighth part of the said rent and hold the same together with interest at the rate of six per centum, to be allowed to said company upon the same from the times when the same shall be paid, as a fund for the purchase by said company of said reversion, and that when the same shall have accumulated to said sum of two hundred thousand dollars, or so much thereof as may have been invested for the purposes above mentioned, and all rent shall have paid, the Mayor and City Council will convey said reversion to said company, its successors and assigns; and that if the said company, its successors or assigns, shall wish to purchase the reversion at any time, the amount of the said accumulated fund then in the hands of the said Commissioners of Finance shall be treated as a part of and credit upon the sum to be paid.

Commissioners to set apart one-eight of the rent.

Ibid, s. 3.

Before such lease shall be made, notice shall be given thereof, by publication in the manner provided by Sec. 2, of Article IV, P. L. L.*

Public notice to be given.

* Sec. 2, Article I, p. 10, *ante.*

NOTE.—The Act of 1874, c. 477, enacted that: In the contingency of the foreclosing of the mortgages of the Western Maryland Railroad Company, it shall be lawful for the city of Baltimore, in virtue of its large interest and investments in said company, to purchase all the properties and assets of said company, including the right of way, railroad track, rolling stock, stations, &c., &c., at such time as the Mayor and City Council of Baltimore shall pass an ordinance declaring it expedient and proper to make such purchase; provided, that the ordinance shall in all respects conform to the re-

quirements of the seventh section of article eleven of the Constitution, [p. 6, *ante.*] In order to provide the means for the purchase aforesaid, the Mayor and City Council of Baltimore may issue the bonds of the city for an amount not exceeding two million dollars, upon such terms and conditions, and in such manner as the Mayor and City Council of Baltimore may hereafter by ordinance prescribe; provided, that the said bonds shall not be issued nor the purchase be made until the ordinance authorizing or directing the same shall be submitted to the legal voters of the city of Baltimore, at such time and places as may be fixed by such ordinance, and be approved by a majority of the votes cast at such time and places.

By Act of 1878, c. 308, the Mayor and City Council of Baltimore are authorized and empowered to purchase the whole or any part of the bonds of the Western Maryland Railroad Company, issued under the mortgage of said company, known as the "Second Preferred Mortgage," and also the coupons issued with said bonds, whether detached or not detached, and the funding certificates issued for such coupons, at such price as may be agreed upon between the said company and the Finance Commissioners of the said city.

2. In order to enable the Mayor and City Council of Baltimore to purchase the said bonds, coupons and certificates, it is hereby authorized to issue its certificates of indebtedness, commonly known as city stock to an amount not exceeding the sum of four hundred thousand dollars, upon such terms and conditions, and in such manner as the Mayor and City Council of Baltimore may hereafter provide by ordinance, but no part thereof shall be issued, nor shall any such purchase be made until the ordinance directing or authorizing such purchase, and the issue of such certificates of indebtedness or city stock, shall have been submitted to the legal voters of the city of Baltimore, at such time and places as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and places.

By the Act of 1878, c. 265, the Mayor and City Council of Baltimore are authorized and empowered to convert any bonded or other indebtedness of the Western Maryland Railroad Company, now held or hereafter to be held by the Mayor and City Council of Baltimore, into the preferred stock of said company and also to purchase or pay any or all of the bonds and coupons of said company which have been endorsed or guaranteed by the said Mayor and City Council of Baltimore, and to convert the same into the preferred stock of said company, the said stock to be of such series and issued in such manner as may be agreed upon by the said company and the Mayor and City Council of Baltimore.

2. That in order to enable the Mayor and City Council of Baltimore to purchase or pay for the bonds mentioned in the preceding section, it is hereby authorized and empowered to issue its certificates of indebtedness, commonly known as city stock, to an amount not exceeding the sum of six hundred thousand dollars, upon such terms and conditions and in such manner as the said Mayor and City Council of Baltimore may hereafter

provide by ordinance, but no part thereof shall be issued until the ordinance directing or authorizing the issue of the same shall have been submitted to the legal voters of the city of Baltimore, at such time and places as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and places.

3. That if holders of the bonds and coupons of the Western Maryland Railroad Company, issued under its mortgage, commonly known as the "Second Preferred Mortgage," and of the overdue coupons on the same, and of funding certificates issued for the said overdue coupons, will accept from said company its preferred stock for amounts equal to or not exceeding the face value of such bonds, coupons or funding certificates, and will sell, transfer and deliver to the Mayor and City Council of Baltimore such bonds, coupons and funding certificates, in consideration of the guarantee by the Mayor and City Council of Baltimore of dividends upon said stock, to the extent in this section mentioned, then the said Mayor and City Council of Baltimore shall be authorized to purchase and become the owner of said bonds, coupons and funding certificates, and to give as the consideration to support such purchase the guarantee of the Mayor and City Council of Baltimore of the payment of dividends to the holders of such stock, not exceeding three and a-third *per centum per annum* upon the par value of the same. And the said Mayor and City Council of Baltimore are hereby authorized to provide by ordinance the mode in which such guarantee shall be given, and for any other details which may be necessary to carry out the objects of this section, and for fixing the terms upon which the said company may pay and extinguish the bonds, coupons and funding certificates so to be purchased by the said Mayor and City Council of Baltimore.

4. That if holders of the bonds, coupons or funding certificates in the preceding section mentioned will reduce the amounts thereon to such sum that the interest thereon at the rate of six *per centum per annum* will be equal to interest not exceeding three and one-third *per centum per annum*, upon the original amounts thereof, then the Mayor and City Council of Baltimore is hereby authorized and empowered to guarantee, in any appropriate manner, the payment by said company of the principal and interest, or the interest only, of such reduced amounts, and to provide by ordinance for the manner of making such guarantee, and the terms and conditions upon which the same will be made.

5. That neither the guarantee of the dividends, or of the payment of principal and interest, or any part thereof, in the last preceding two sections mentioned, shall be made by the Mayor and City Council of Baltimore until the ordinance authorizing or directing the same shall have been submitted to the legal voters of the city of Baltimore, at such time and places as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and places.

Article XLVI.

SUBSCRIPTIONS AUTHORIZED BY ACTS OF ASSEMBLY.

MARYLAND AND DELAWARE SHIP CANAL.—By Act of 1878, c. 338, the Mayor and City Council of Baltimore are authorized and empowered to subscribe to the capital stock of the Maryland and Delaware Ship Canal Company, or to endorse the first mortgage bonds of the said company, to an amount not exceeding five hundred thousand dollars, upon such terms and conditions as the said Mayor and City Council may by ordinance prescribe; provided, that the ordinance authorizing such subscription for said endorsement shall have been submitted to the legal voters of the city of Baltimore, at such time and places as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and places. That the said five hundred thousand dollars, or any part thereof, shall not be paid until the said Maryland and Delaware Ship Canal is completed. See Resolution No. 10, Acts of 1878.

BALTIMORE, CHESAPEAKE AND DELAWARE BAY RAILROAD.—By the Act of 1876, c. 391, the Mayor and City Council of Baltimore are authorized and empowered to subscribe to the capital stock of the Baltimore, Chesapeake and Delaware Bay Railroad Company, or to endorse the first mortgage bonds of the said company, to an amount not exceeding six hundred thousand dollars, upon such terms and conditions as the said Mayor and City Council may by ordinance prescribe.

ARTICLE XLVII.

STREETS AND CITY COMMISSIONER.

STATUTES.

1. Power to open, widen, close, &c. streets, squares, lanes or alleys: damages: appeals: jury trial: compensation.
2. Notice of application.
3. Notice by Commissioners.
4. Mayor and City Council authorized to provide by general ordinance for establishing and changing grade lines.
5. To provide for grading, paving, kerbing, &c.
6. When special ordinance not required.
7. Who deemed owners.
8. Where real estate has been divided in reference to streets to be opened, streets may be opened: proviso: notice.
9. Streets so opened, public highways.
10. Paving, cleaning out, &c., private wharf, dock or street: expenses.
11. Grading, regulating, paving, &c., footways: tax: fine.
12. Altering grade on acconnt of health: duty of Mayor and City Commissioner: persons to assess damages: award.
13. Turnpike roads running into city.
14. Removal of dirt and filth from streets: pavements: lamps.

NORTH AVENUE.

15. Subject to same conditions, &c., as other streets: grading, paving, kerbing, &c.: liability of owners: laws and ordinances applicable.

BRIDGES AND HIGHWAYS.

16. Authority to Mayor and City Council to purchase bridges and turnpike roads.

ORDINANCES.

OPENING, WIDENING, CLOSING, &C., STREETS.

1. Three Commissioners.
2. Oath or affirmation of Commissioners.
3. Oath or affirmation to be recorded.
4. Record of proceedings: recorded orders: City Surveyor: compensation: oath of clerk, &c.
5. Assessment for benefits: assignment to be received by Register or Collector.

6. Notice to be given: award of damages: assessment of those benefited: expenses and damages: Register.
7. When Commissioners to ascertain full value of lot and improvement: when to sell materials of house necessary to remove and residue of lot: notice: deed from Mayor and City Council: bond from purchaser: removal of materials, &c.: when Commissioners to re-sell: notice: proviso: condemnation of part of lot: proviso: notice.
8. Statement to be placed in Register's office: maps: representations and testimony to be considered: duty of Register: right of appeal to City Court.
9. Duty of clerk to Commissioners for Opening Streets.
10. Appeal to City Court: court to appoint day: right of jury trial: judge to have power to add reasonable costs.
11. When ordinance for opening, &c., street declared void or repealed, how parties reimbursed: payment of expenses.
12. Collector to notify parties assessed: sale: notice.
13. Collector authorized to sell property: notice.
14. Mode of sale: Collector to re-sell.
15. Collector to execute deed of conveyance: purchase-money.
16. Liens: when to invest in city five per cent. stock.
17. Persons not claiming title may pay amount of assessment: certificate.
18. Temporary commissioners.
19. Limit of time.
20. Term of years.
21. Obstructions to be removed: suit for expenses.
22. Per diem to be assessed.
23. Salaries of Commissioners and clerk: expenses.
24. Books and papers to be deposited with Register.
25. Deeds from owners of property: duty of Examiner of Titles: square: plat.
26. Public highways.
27. When petitions or remonstrances not entertained: location of property.

GRADES, GRADING, PAVING, &C.

28. Permanent grade lines: changes: record and return.
29. Notice of application, &c.
30. Grading, paving, &c.
31. Notice of application, &c.
32. Notice for proposals
33. Who deemed owners.
34. Tax on owners: lien.
35. List of persons liable to pay.
36. Interest.
37. Flag and stepping-stones.
38. When alleys, &c., paved without kerbstones: proviso.
39. When streets, &c., paved with rubble stone, &c.: gutter stones: kerbstones: proviso: security from contractor.
40. City Commissioner and assistants to examine kerb, flag, &c., stones, paving, &c.: penalty on contractor.
41. Petition by Mayor for grading, &c.
42. Expenses of cross streets.
43. Regrading, &c.
44. Private contracts of owners for grading, &c.: proviso: bond: penalty.
45. Bond from parties to whom contracts are awarded.

Article XLVII.

46. When contractor to forfeit all claim to contract: new award.
47. What per centage to be withheld from contractors, and for how long: guaranty.
48. Contracts, how awarded.
49. General regulations for grading and paving footways.
50. Notice to owners of property: when to be published: collector.
51. Notice to be given to proprietors.
52. Proceedings in case of neglect or refusal.
53. Footway tax, how collected: lien
54. May be collected by distress.
55. Register to pay in anticipation.
56. Penalty for refusal.
57. Footways, &c., to be inspected biennially.
58. Footways, how to be paved with stone.
59. Paving bonds to be extended by Mayor.
60. Notice to owners: footways: pavements of brick: fine.
61. Nicholson or improved pavement: proviso.

REPAIRING, MENDING, &C., STREETS AND BRIDGES.

62. Appointment of City Commissioner: to attend office daily: Assistant City Commissioner: not to be engaged in or connected with other business.
63. Bond of Commissioner: of assistant: salary.
64. Duty of Assistant City Commissioner: work to be correctly measured: record.
65. Two additional assistants: salaries.
66. Duty of last named assistants.
67. Clerk: salary: duties: journal: return to Register: bids for work: papers.
68. Leveling, grading, mending, &c., streets, &c.: contracts, how approved.
69 Money expended, how paid.
70. Report to Council.
71. Statement of streets, &c. paved or repaved: contractors.
72. Heading of documents.
73. City Commissioner to fix lines of streets, &c., boundaries of lots: land marks.
74. Lines of streets in laying foundations of houses: duty of City Commissioner: City Surveyor: penalty.
75. Appeal to Mayor from determination of City Commissioner: commission to disinterested persons: compensation: return of award to Register: oath.
76. Duty of Mayor: bond for expenses.
77. How expenses ascertained.
78. Power to enter lots or possessions.
79. Bridges.
80. Injuring or destroying abutment, mound, &c.: penalty.
81. Placing flag and stepping-stones.
82. Repairing and cleaning private wharves, docks, &c.
83. Trenches made by gas companies.

LAMPS AND GAS.

84. Construction, &c., of lamps and lamp pillars.
85. Register to pay.
86. Name of street on lamp.
87. New lamps to have names on.
88. Destroying lamps, &c.: penalty.
89. Private lamps regulated: provisos: penalty.
90. Lighting or extinguishing public lamps: penalty.

Article XLVII.

SUPERINTENDENTS OF LAMPS AND LAMPLIGHTERS.

91. Appointed by Mayor: duties.
92. Light on Sunday night.
93. Compensation of superintendents and lamplighters.

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94. Earth not to be removed from unpaved streets without permission.
95. Ditches not to be dug in lanes or alleys without permission.

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96. City Commissioner to give permission to construct: proviso.
97. Penalty for constructing without written permission.
98. How application to be made.
99. Payment to Register.
100. Penalty when the number of ft. exceeds the number paid for.
101. To be completed within three weeks: proviso.
102. Extent of areas.
103. Areas to be enclosed: proviso.
104. What constitutes vaults and areas.
105. Entrances to cellars to be covered when not in use: penalty.
106. Cellar doors, how to be constructed.
107. Duty of police.
108. Vaults, how to be covered: penalty.
109. Apertures of vaults, how to be covered: penalty: proviso.
110. Precautions while constructing.
111. Removal of covering: penalty.

REGULATIONS.

112. Penalty for firing guns, &c.: exception: firing from aboard vessels.
113. Coal and troughs in streets prohibited.
114. Firewood in streets regulated: penalty.
115. Barrels, hogsheads, boxes, &c.: penalty: not more than one-half of footway to be used.
116. When streets may be obstructed: goods liable to inspection regulated.
117. Goods, &c., not to project more than three feet: penalty.
118. Wheelbarrows, &c., on footways prohibited: proviso.
119. Lumber, &c., regulated: notice from City Commissioner or police: penalty.
120. Horses not to be shod or fires made in streets: penalty: proviso: when fires allowed.
121. Hitching posts.
122. Penalty for injuring trees in streets, &c.: proviso.
123. Sparrows, robins, wrens, &c., protected: bird boxes: penalty.
124. Water from gutters not to be thrown on streets.
125. Snow to be removed from footways: exception: penalty.
126. No salt to be used to melt ice or snow: penalty.
127. Duty of police with respect to snow, ice, &c.
128. Bulky articles not to be thrown from windows: sliding boards, skids, &c., regulated: penalty: proviso.
129. Penalty for playing bandy, flying kite, throwing stones, &c.
130. Political organizations not to parade after dark: penalty.

DRIVING CATTLE, SHEEP OR SWINE THROUGH STREETS.

131. Hours when cattle, &c., may be driven through certain streets.
132. Streets.
133. Streets.
134. Streets.
135. Penalty.

136. Swine not permitted to lie down in streets: penalty.
137. Driving cattle, sheep and hogs through streets prohibited, except to slaughter houses or shipping points: exception: proviso.

CATTLE, SWINE AND GOATS AT LARGE.

138. Cattle and swine not permitted to go at large: when taken up, how disposed of: penalty.
139. Appropriation.
140. Goats going at large may be killed or seized: appropriation.
141. Penalty on owners of goats.

STATUTES.

P. L. L., art. 4, sec. 837, 1878, c. 143.

Power to open, widen, close, &c., streets, squares, lanes or alleys.

1. The Mayor and City Council of Baltimore shall have full power to provide for laying out, opening, extending, widening, straightening or closing up in whole or in part, any street, square, lane or alley within the bounds of said city, which in their opinion the public welfare or convenience may require; to provide for ascertaining whether any, and what amount in value, of damage will be caused thereby, and what amount of benefit will thereby accrue to the owner or possessor of any ground or improvements within or adjacent to said city, for which such owner or possessor ought to be compensated, or ought to pay a compensation, and to provide for assessing and levying, either generally on the whole assessable property of said city, or specially on the property of persons benefited,

Damages.

the whole or any part of the amount of damages and expenses which they shall ascertain will be incurred in locating, opening, extending, widening, straightening or closing up the whole or any part of any street, square, lane or alley in said city; to provide for granting appeals* to the Baltimore City Court,

* The jurisdiction over these appeals is now vested by Const., 1867, Art. 4, sec. 28, in the Baltimore City Court. The jurisdiction of the Criminal Court in this matter ceased with Const., 1864, Art. 4, sec. 36, and Art. 4, sec. 33, and that of the Superior Court with Const., 1867. See *Mayor, &c.* v. *Clunet*, 23 Md. 449. P. G. L., Art. 29, secs. 51-53, provided that the Superior Court, [now Baltimore City Court,] shall have and exercise jurisdiction in appeals from the decisions of any commissioners or other persons appointed in virtue of any ordinance to ascertain the damage which will be caused, or the benefit which will accrue to the owners or possessors of grounds or improvements by lo-

from the decisions of any commissioners, or other persons appointed in virtue of any ordinance, to ascertain the damage which will be caused or the benefit which will accrue to the owners or possessors of ground or improvements by locating, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley within said city, and for securing to every such owner and possessor the right, on application within a reasonable time, to have decided by a jury trial whether any damage has been caused, or any benefit has accrued to them, and to what amount; to provide for collecting and paying over the amount of compensation adjudged to each person entitled, or investing it in stock of the said corporation, bearing an interest of five *per centum per annum*, for the use of any such persons who because of their infancy, absence from the city, or any other cause, may be prevented from receiving it, before any street, square, lane or alley, in whole or in any part, shall be so opened, extended, widened, straightened or closed up, and to enact and pass all ordinances, from time to time, which shall be deemed necessary and proper to exercise the powers and effect the objects above specified.

Jury trial.

Compensation.

2. Before the Mayor and City Council shall pass any ordinance under the preceding section, at least sixty days' notice shall be given of any application for the passage of such ordinance, in at least two of the daily newspapers in the said city.*

P. L. L. art. 4, s. 838.

Notice of application.

cating, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley within the city of Baltimore.

The appeal from the assessment of the commissioners shall be taken within thirty days after the expiration of the notice of such assessment required to be given by the city.

1870, c. 263, provided that all appeals from decisions on matters of law made by the courts of Baltimore city in relation to streets in said City, shall stand for hearing in the Court of Appeals, at the first term after the transmission of the record. See Const., 1867, Art. 4, sec. 15.

* Held in *Mayor, &c.* v. *Grand Lodge of I. O. O. F.*, 44 Md. 436, that the notice of sixty days was a condition precedent to the valid exercise of the

Ibid, s. 839.

Notice by commissioners.

3. Before any commissioners appointed by any ordinance of said corporation under the preceding two sections shall proceed to the performance of their duty, they shall give notice in at least two of the daily newspapers in the city of Balti-

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power in any given case, and that any ordinance which did not substantially conform to the notice, would be inoperative and void.

A notice as required by the above section was as follows: "Notice is hereby given that application will be made to the Mayor and City Council of Baltimore to open and condemn Lexington street, from Holliday to Douglas street." The ordinance purporting to have been passed in pursuance of this notice was entitled an ordinance to condemn and open Lexington street eastward from Gay street, so as to make it intersect the present western terminus of Douglas street, and to change the name of Douglas to Lexington street; and its first section directed the Street Commissioners "to condemn and open Lexington street, eastwardly from Gay street, so as to make it intersect the present western terminus of Douglas street, as laid down and delineated on a plat of said opening recently made by" the City Surveyor as follows: and then the limits and bounds of this opening and extension were described.

In another section the name of Douglas street was changed to Lexington street. The opening and extension contemplated by the notice was to be from Holliday street, and to continue Lexington street from that point to Douglas street. The ordinance provided that the condemnation and opening should begin at Gay street and extend to Douglas street; and nothing more. Held: 1. That the difference between what the notice stated, was contemplated and would be applied for, and what the ordinance actually authorized and directed to be done, was material and essential. 2. That the ordinance not being in substantial conformity with the notice, was inoperative and void. *Mayor, &c.* v. *Grand Lodge, I. O. O. F.*, 44 Md. 436.

Held in *Dashiell* v. *Mayor, &c.* 45 Md. 616, that although this section made the notice of sixty days essential to the validity of a condemnation ordinance, the proceedings to open and condemn a street were entirely different from the proceedings to pave it; and if in an action by the city to recover from a party a paving tax assessed on lots belonging to him, the validity of the condemnation ordinance could be assailed at all for any matter *dehors* the ordinance itself, the *onus* of proof was on the party raising the objection. An objection that the commissioners gave by publication twenty-nine instead of thirty days' previous notice of meeting to execute their powers under the condemnation ordinance, was held an irregularity that might have been availed of on an appeal from the proceedings under the ordinance, but could not be relied on in the action of the city to recover the paving tax.

more of the object of the ordinance under which they propose to act, at least thirty days before the time of their first meeting to execute the same.

1874, c. 218, s. 1.

May or and City Council authorized to provide by general ordinance for establishing and changing grade lines.

4. The Mayor and City Council of Baltimore are hereby authorized and empowered to provide by general ordinance for the establishment of the permanent grade lines of any street, lane or alley, or part thereof, now or hereafter to be marked, located or laid out upon the plan of said city, on application of the owner of any property binding thereon, and, from time to time, for a change in any such grade lines which may have been previously so established; and for the assessment and collection of the cost of said work, either through the general tax levy or by special assessment upon the party making the application.*

Ibid, s. 2.

To provide for grading, paving, kerbing, &c.

5. The said Mayor and City Council shall have, and are hereby vested with full power and authority to provide by ordinance for the grading, shelling, graveling, paving, and kerbing, or for the re-grading, re-shelling, re-graveling, re-paving and re-kerbing of any street, lane or alley in said city, or part thereof, now condemned, ceded or opened as a public highway, or which may hereafter be condemned, ceded, opened, widened, straightened or altered according to the laws and ordinances regulating the same; and also for assessing the cost of any such work, in whole or in part, *pro rata*, upon the property binding on such street, lane or alley, or part thereof, and for collecting such assessments as other city taxes are collected.

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*This act repealed sections 840, 841, 844, 845, 846, 847, 848, 849, 850, 855 and 861 of P. L. L., Art. 4, (being sections 4, 5, 8, 9, 10, 11, 12, 13, 14, 18 and 19, of Art. 43, of City Code of 1869,) and Acts of 1870, chs. 282 and 322. As to the effect of the repeal of sec. 861, (sec. 19, of Art. 43 of City Code, of 1869,) by Act of 1870, c. 282, and the repeal of that act by the Act of 1874, c. 218, see *Dashiell* v. *Mayor*, &c. 45 Md. 616.

Ibid, s. 3.

When special ordinance not required.

6. The said Mayor and City Council shall also have, and are hereby vested with power and authority to provide by general ordinance for the grading, graveling, shelling, paving or kerbing, or for the re-grading, re-graveling, re-shelling, re paving, or re-kerbing of any street, lane or alley, or part thereof, in said city, without the passage of a special ordinance in the particular case, whenever the owners of a majority of the front feet of property binding on such street, lane or alley, or part thereof, shall apply for the same, upon terms and under conditions to be prescribed in said general ordinance; and for the assessment in any such case, of the cost of such work, in whole or part, *pro rata*, upon all the property binding upon such street, lane or alley, or part thereof, and for the collection of such assessment, as other city taxes are collected.

Ibid, s. 4.

Who deemed owners.

7. A tenant for ninety-nine years, or for ninety-nine years renewable forever, or the executor or administrator of such tenant, or the guardian of an infant owner, or a mortgagee in possession, shall be deemed and taken as an owner, for the purposes of any application to the Mayor and City Council, authorized by this act, and the application of any such person shall bind the property so represented for any assessment or tax made under an ordinance passed in pursuance of the provisions of this act.

P. L. L. art. 4, sec. 843.

Where real estate has been divided in reference to streets to be opened, streets may be opened.

8. Where real estate within the said city has been or may be divided according to law, among heirs, legatees, joint tenants or tenants in common, entitled to the same, and such division calls for any of the streets, lanes or alleys, or any part or parts thereof, surveyed and laid off under the law of 1817, [ch. 148,] or reserves any of the said streets, lanes or alleys, or any part or parts thereof, as open, and divides such estate with reference thereto, the Mayor and City Council may on application of one or more persons in-

terested in the ground to be taken on such application, adopt and sanction by ordinance the principal under which such division was had, and open any of the said streets, lanes or alleys, or any parts thereof, in the said division reserved or recognized; provided, at least one week's notice in the newspapers of said city (the cost of the advertisement to be paid by the applicants) be given of such application before any such ordinance shall pass.

Proviso.

Notice.

9. All the streets, lanes or alleys opened in the manner directed in the last preceding section shall be public highways, and be subject to the laws, regulations and ordinances applicable to public streets, lanes or alleys, or parts thereof, in said city.

Ibid, sec. 843.

Streets so opened, public highways.

10. They may on the application of a majority of feet in front of any private wharf, dock, street, lane or alley, cause the same to be paved, cleaned out, mended, or otherwise repaved or kept in good condition or repair, and may impose upon and collect from all the proprietors of the property so to be cleaned out or repaired a tax sufficient in amount to defray the expenses thereof, which shall be assessed upon the proprietors in proportion to the number of feet held by them respectively in front or length, and shall be collected by the Mayor and City Council as taxes levied for paving public streets.

Ibid, sec. 851.

Paving cleaning out, &c., private wharf, dock or street.

Expenses.

11. They may pass all ordinances necessary for grading, regulating, paving and repairing the footways in the streets, lanes and alleys of the city, and impose a tax on any lot or lots fronting on any paved street, lane or alley for the purpose of grading, regulating, paving or repairing footways in front thereof, or compel by fine or otherwise, the owner or proprietor of any lot or lots to pave or repair the footways in front thereof, agreeably to the ordinances to be passed by them.

Ibid, sec. 852.

Grading, regulating, paving, &c., footways.

Tax.

Fine.

Ibid, sec. 854.

Altering grade on account of health.

Duty of Mayor and City Commissioner.

12. Whenever the Board of Health shall certify in writing to the Mayor that it is necessary for the health of the city to alter the grade of any street, lane or alley on low or made ground, the Mayor shall issue his order to the City Commissioner, who shall thereupon call upon the several property holders on such street, lane or alley, and procure from them their assent in writing to such alteration; and if any property holder shall refuse to permit the same to be graded, and shall require damages therefor, and cannot agree with the commissioners as to the amount of damages, or should there be any legal disability on the part of those owning property on such street, lane or alley, the judge of the Baltimore City Court, on application of the corporation, shall appoint three disinterested persons to assess such damages, who shall return on oath their award to said court, and the same shall be confirmed by the court unless cause to the contrary be shown; in which case the court shall at the first term thereafter decide finally thereon; and when the damages so assessed or agreed upon shall be paid by the corporation of the city to the persons so assessed and legally entitled to receive the same, the corporation may proceed to re-grade and pave the said street, lane or alley.

Persons to assess damages.

Award.

Ibid, sec. 857.

Turnpike roads running into city.

13. The president, directors and companies of the different turnpike companies owning roads running into the city of Baltimore, may cede to said city such parts of said roads as lie within the corporate limits of said city, and the same when ceded shall be in all respects subject to the same regulations as unpaved public streets.*

* As to Railroads see p. 762, *ante*, and case of *Hooper* v. *B. & Y. Co.* 34 Md. 521, p. 766, *ante*.

In the City Court, *Frush* v. *Mayor, &c.*, Oct. 15, 1874 : appeal from closing Windsor Mill road: On motion to dismiss the appeal on the ground, that the road being at urnpike, belonging to a chartered company, the city had no right to close it, it was held by Brown, C. J., that: the authority given the city under

14. The Mayor and City Council of Baltimore shall have power to clean the streets and remove the dirt and filth therefrom, and to prohibit and punish by ordinance the placing of any dirt, filth or other matter therein, and may protect any pavement by prohibiting the travel thereon; and the said Mayor and City Council may also erect lamps in any of the streets, lanes or alleys of said city, and cause the same to be lighted at the expense of the city.

Ibid, sec. 862.

Removal of dirt and filth from streets.

Pavements.

Lamps.

NORTH AVENUE.

15. The bed of North avenue throughout its entire length shall in all respects be hereafter held as the bed of any other street or avenue in Baltimore city, so far as the same be laid down on Poppleton's map of Baltimore city; and subject to all the conditions or requirements of any other street or avenue in said city; and any and all of the ground fronting thereon,

1878, c. 59.

Subject to same conditions, &c., as other streets.

section 1 of this article, was broad enough to include this case, and should be liberally construed; that it embraced private as well as public streets, &c., and streets owned by corporations; that a turnpike road is a street under the police powers of the city, and liable to be closed, &c., as a street under section 1 of this article.

It was objected, that this proceeding virtually deprived the company of its charter; but it was held: that it only deprived the company of that part of its road which lay in the city, which the testimony showed was left by the company almost without repair and in such a condition that it was a nuisance, and that for some years nearly all the repairs on the road had been made by the city; that the company had all its toll gates, which were not interfered with; and its road from the city to its terminus; that there was no absolute right given by the charter to the company to a particular line of road inside the city and free from the right of the city to condemn it as property. Condemnation could not have a different effect from a transfer by the company of the part of the road within the city limits under the above section 13. See *Union R. R. Co.* v. *Havre-de-Grace Turnpike Co.* 35 Md. 224; *Hooper* v. *Balt. & Yorktown Turnpike Co.* 34 Md. 521. It was further held, that: the appellant, whose boundary lines were described as bounding on the north and south sides of the road condemned, was the owner of the fee in the bed of the road; that the condemnation only freed his property from the easement of the turnpike company, and that this was a benefit for which he was bound to pay the true value.

Grading, paving, kerbing, &c.

whether in Baltimore city or county, shall in the event of said avenue or any part thereof being graded, kerbed, paved, shelled, graveled, or any like improvement, be subject to the same assessment for the cost of said grading, kerbing, paving, graveling, shelling, or like improvement, as would be the case with ground fronting on any other street or avenue in the city, similarly to be improved as aforesaid, and such ground and the owners and representatives thereof shall in such event be held liable for said assessments, and the said avenue be subject to all the acts of assembly and ordinances of the Mayor and City Council of Baltimore, which are now or may be hereafter in force and applicable for the grading, kerbing, paving, graveling, shelling, or any like improvements of streets or avenues in Baltimore city.*

Liability of owners.

Laws and ordinances applicable.

BRIDGES AND HIGHWAYS.

1878, c. 114.

Authority to Mayor and City Council to purchase bridges and turnpike roads.

16. The Mayor and City Council of Baltimore are hereby authorized, with the County Commissioners of any adjoining or neighboring county or counties thereof, to purchase all bridges and turnpike roads, or any portions thereof leading towards said city, as such times and upon such terms as said Mayor and City Council and said County Commissioners on the one part, and the owners of such bridges and highways on the other may mutually agree, and when so purchased, all or

* 1864, c. 188, provided for paying the costs and expenses of grading North avenue, from Pennsylvania avenue to the Northern Central Railroad, by the Mayor and City Council. 1864, c. 344, empowered the Mayor and City Council to collect and receive from the property holders on both sides of North avenue, as well in Baltimore county as in the city, the sums severally assessed to them for the grading of said avenue. As to authority to grade, see *Mayor, &c.* v. *Porter*, 18. Md. 284. These acts were declared inoperative and void by the Court of Appeals, in *Mayor, &c.* v. *Hern*, 26 Md. 194. See also *Lester* v. *Mayor, &c.* 29 Md. 419; 38 Md. 229.

With regard to a proposed Boundary avenue or Boulevard, see Res. No. 124, June 12, 1851; No. 138, June 21, 1851, and No. 114, May 28, 1852, and report of Park Commission, Jan. 1, 1869.

any of them shall thereafter be free public highways, and as such, under the care and management of said Mayor and City Council and said County Commissioners, as they may respectively provide and stipulate as between them.*

ORDINANCES.

OPENING, WIDENING, CLOSING, &c., STREETS.

No. 100, May 31, '76. Fixing term of office for Commissioners for Opening Streets

1. There shall be appointed in the month of February, 1877, as other city officers are appointed, three Commissioners for Opening Streets in the city of Baltimore, who shall severally hold their offices as follows:—The Mayor shall designate one commissioner to hold office for the term of one year, one for the term of two years, and one for the term of three years, so that one commissioner, after the appointment of the three

*As to Harman's Bridge, Light Street Bridge, &c., see p. 363, &c., *ante*, and the Act of 1876, c. 220, s. 7, and *Pumphrey* v. *Mayor, &c.*, 47 Md. 145.

By the Act of 1878, c. 487, the president, managers and company of the Baltimore and Reisterstown Turnpike Road are authorized and empowered to cede and transfer, or sell to the Mayor and City Council of Baltimore, or to the County Commissioners of Carroll, or to the Mayor and City Council of Westminster, or any municipal corporation, upon such terms and conditions and with such reservations as may be mutually agreed upon between the parties, any portion or portions of its turnpike road for use as a public highway, and that this act shall take effect when the same shall be accepted by a majority in value of the stockholders, of the president, managers and company of the Baltimore and Reisterstown Turnpike Road at any general meeting.

The Act of 1876, c. 399, provided for laying off streets in Baltimore county adjoining the city. The Act of 1872, c. 3, authorized the Western Avenue Company to construct a road from the western terminus of any street to Catonsville.

The Acts of 1870, c. 309, and 1874, c. 274, relating to Wilkins avenue in Baltimore county, construed in *Wade* v. *St. Mary's Industrial School*, 43 Md. 178; *Dashiell* v. *Mayor, &c.* 45 Md. 624. The Act of 1878, c. 125, provides for grading Wilkins avenue. The Act of 1872, c. 363, provided for opening and extending North street in Baltimore county, from North avenue to Denmead street.

commissioners in February, 1877, shall be appointed annually for the term of three years.

No 26, s. 2, April 3, '66. Oath or affirmation of commissioners.

2. In each and every case, before the commissioners shall proceed to act as a board, in the exercise of the powers confided to them by this or any future ordinance, they shall severally take and subscribe the following oath or affirmation before a justice of the peace: I, A. B., do swear, or solemnly, sincerely and truly declare and affirm, that I will, to the best of my judgment, knowledge and ability, faithfully, impartially and diligently execute the duty of a Commissioner for Opening Streets in the city of Baltimore, according to an ordinance entitled An ordinance to provide for exercising certain powers vested in this corporation, in relation to streets in the city of Baltimore, or any ordinance supplemental thereto.

Ibid, s. 3. Oath or affirmation to be recorded and certified to.

3. The said oath or affirmation shall be recorded in a book to be provided by the said commissioners for the recording of their proceedings; and the justice in whose presence the said oath or affirmation shall be made and subscribed shall certify thereto under his hand and in the same book.

Ibid, s. 4; No. 53, Aug. 7, '67. Record of proceedings.

4. The said commissioner shall employ a clerk in each case, who shall keep a full and true record of all their proceedings, in a book provided as aforesaid, under the direction and supervision of the City Solicitor, and in such form as he may prescribe. And the clerk so employed shall record all orders made by the said commissioners in regard to the performance of their duties, and make true copies of all notices by them directed to be published, and the certificate of the publication thereof; and shall perform such other necessary duties as the said commissioners shall require. And the said commissioners shall also have the power to obtain the services of the City Surveyor, and such other assistants and agents as they may deem necessary, in the exercise of their powers, and allow to each of the persons so employed by them such compensation

Recorded orders.

City Surveyor.

as may be fixed by ordinance, and if not so fixed, as the said commissioners may deem reasonable, and asssess the said compensation and all other necessary charges; and the clerk and other persons to be so employed, shall severally take and subscribe an oath or affirmation similar in substance to that required to be taken and subscribed by the commissioners, which shall be in like manner entered in the record of proceedings of the said commissioners. Compensation. Oath of clerk, &c.

5. When the said commissioner shall assess a sum of money to be paid by any person or persons for benefits derived by such person or persons by opening, widening or closing any street, lane or alley, or part thereof, and shall assess a sum of money to be paid to the same person or persons for injury sustained by said opening, widening or closing, it shall and may be lawful, upon a certificate of title from the Solicitor of the City, for the Register or Collector to receive from such person or persons an assignment for the sum or sums so assessed, as damages as aforesaid. Ibid, s. 5. Assessment for benefits. Assignment to be received by Register or Collector.

6. Whenever the Mayor and City Council shall hereafter, by ordinance, direct the Commissioners for Opening Streets to lay out, open, extend, widen, straighten or close up, in whole or in part, any street, square, lane or alley, within the bounds of this city, the said commissioners shall give at least thirty days' notice, in at least two of the daily newspapers of the city, of the object of the ordinance under which they are about to act, and of the day, hour and place of their first meeting under the said ordinance; and the said commissioners shall meet at the time and place mentioned in the notice given by them, and proceed to exercise the power and perform the duty assigned to and required of them, under and by virtue of this ordinance, and ascertain whether any and what amount in value of damage will thereby be caused to the owner of any right or interest claimed in any ground or improvements within or adjacent to the said city, over and above the amount Ibid, s. 6. Notice to be given.

in value of benefit which will thereby accrue to such owner, for which, taking into consideration all advantages and disadvantages, such owner ought to be compensated; and in addi-

Award of damages.

tion thereto shall award to the occupant or occupants of any lot of ground, or of any improvement that may be removed, such damages, if any, as the commissioners, or a majority of them, may believe such party or parties have sustained by such removal; and the said commissioners, after having ascertained the whole amount of damages as aforesaid, and after having added thereto an estimate, made by them, of the probable amount of expenses which will be incurred in the performance of the duties required of them as aforesaid, and also the expense incurred by the Register under the provisions of this ordinance,

Assessment of those benefited.

shall proceed to assess all the ground and improvements within and adjacent to the city, the owners of which, as such, the said commissioners shall decide and deem to be directly benefited by accomplishing the object authorized in the ordinance

Expenses and damages.

aforesaid; and should the direct benefits, assessed as aforesaid, not be equal to the damages and expenses incurred, the balance

Register.

of said expenses and damages shall be paid by the City Register and be taken out of the general levy, subject, nevertheless, to all such restrictions exempting certain descriptions of property from assessment as are contained in any law of the State, or in this ordinance or in any other ordinance of the city.

No. 25, April 5, '73; No. 8, July 6, '70; No. 77, June 10, '70.

7. In every case where it shall be necessary in order to effect the object proposed, that a part only of a house and lot,

When Commissioners to ascertain full value of lot and improvement.

or of a lot, shall be taken and used, or destroyed, and the owner or owners thereof shall claim to be compensated for the whole, the said commissioners may ascertain the full value thereof, as if the whole lot and improvement were necessary to be taken and used for such proposed object; and the whole amount of such valuation, when finally decided on, shall be paid or tendered to the owner or owners thereof, or vested in city five per cent. stock for his, her or their use, before any

part thereof shall be destroyed, removed or used, unless such owner or owners shall assent thereto, in writing, as provided in section 16 hereof; and the said commissioners, after giving ten days' notice in two of the daily newspapers of the city of the time and place, manner and terms of sale, shall sell the materials of any house which it shall be necessary to remove, in whole or in part, and the residue of any lot of which a part shall be taken and used as necessary to effect the object confided to the commissioners, and for which the owners shall claim to be fully compensated, at public auction, to the highest bidder for cash, to be paid on the day when full possession shall be given of the property or materials so sold, and the said commissioners, or a majority of them, on receiving the price or sum of money so bid, shall convey to the purchaser or purchasers the property, ground, or materials, sold by them as aforesaid, by a good and sufficient deed, to be executed and acknowledged by them in the form and manner required by law for conveying the title to land in this State. Such sale shall be made before the commissioners shall proceed to assess the amount of damages and expenses to be assessed as directed by this ordinance; and the said commissioners are duly empowered to take and receive a bond of the purchaser of the property or materials aforesaid, with a penalty to the Mayor and City Council of Baltimore, that the price for which the same was sold shall be duly paid at such time as they, the said commissioners, are prepared to deliver possession of said property and materials, and that the said purchaser shall remove, within sixty days thereafter, from the bed of the street, all such materials so sold, and all rubbish or other obstructions in said street occasioned thereby; and in the event of the purchaser or purchasers of property or materials failing forthwith to comply with the terms of sale, the Commissioners for Opening Streets in office at the time of such failure shall re-sell the said property or materials at the risk of the former purchaser

Notice.

To sell materials of house necessary to remove and residue of lot.

Deed from Commissioners.

Bond from purchaser.

Removal of materials.

When Commissioners to re-sell.

Notice. or purchasers, giving not less than five days' notice of said sale in two of the daily newspapers of the city aforesaid, the expenses of said sale and notice to be paid by the original purchaser, and the deed to be executed and acknowledged as hereinbefore provided; provided, however, that when in the opinion of said commissioners the part of a lot necessary to effect the object proposed can be taken without destroying the whole lot for the purposes for which it is used or for building purposes, then said commissioners shall condemn such part only of such lot as is necessary for the proposed object, and shall award to the owner or owners of the part of the lot so taken such damages, and assess the remainder thereof such benefits as in their judgement shall be just and proper; provided, further, that when a lot is destroyed for the purposes for which it is used or for building purposes, then the said commissioners shall give a notice in writing to the owner or owners thereof, or their agent or agents, of the damage about to be sustained, and that such owner or owners, or their agent or agents as aforesaid, shall have the space of thirty days to determine whether they will or not surrender the lot so damaged.

Proviso.

Condemnation of part of lot.

Proviso.

Notice.

No. 26, s. 8, Apr. 3, '66; No. 29, Apr. 28, '68; No. 75, June 28, '78.

8. As soon as the commissioners aforesaid shall have completed the valuation of damages ascertained by them, as directed by section 6 of this ordinance, they shall cause a statement thereof to be made out and placed in the office of the Register of the City for the inspection of all persons desiring information of its contents, and such statement, together with an explanatory map or maps, shall contain a correct description of each separate lot or parcel of ground deemed to have sustained damages, its length and breadth, the name of any street, square, lane or alley on which it bounds, the names of all persons who shall claim any estate or interest in it, and the amount of damages as valued by

Statement to be placed in Register's office.

Maps.

the commissioners, and if there be any house or other improvement on it necessary to be removed, in whole or in part, a description of the size and such other particulars as the commissioners shall deem proper; and in like manner a description of each parcel of ground deemed by the commissioners to be benefited, the name or names of such person or persons as shall claim any estate or interest therein, and the amount assessed thereon for benefits and the commissioners shall cause a notice to be published four successive days in two daily newspapers of the city, stating the extent of the ground covered by the assessment, and that such statement and map or maps have been so deposited with the Register for examination, and that the commissioners will meet at the office of the Commissioners for Opening Streets on a day in such notice to be named; which shall be within ten days after the first publication of such notice to review any of the several matters set forth in the said statement, to which any person claiming to be interested therein shall, on that day, so appointed make objection, and the commissioners shall meet at the time and place so appointed and consider all such representations and testimony on oath or affirmation, verbal or in writing, in relation to any matter in said statement which shall be offered to them on behalf of any person claiming to be interested therein, and the said commissioners shall make all such corrections and alterations in the valuations, assessments and estimates, and all other matters contained in the said statements and explanatory map or maps aforesaid, as in their judgment shall appear to them, or a majority of them, to be just and proper, and they may adjourn from day to day if necessary, to give all parties claiming a review an opportunity to be heard, not exceeding in the whole ten days; and after closing such review the commissioners shall make all such corrections in their statement and explanatory map or maps as they shall deem pro-

Notice.

Representations and testimony to be considered.

Statements and maps.

per, and cause such statement and map or maps so corrected and certified under the hands and seal of said commissioners and their clerk to be deposited in the office of the Register as one of the records of the city; and it shall be the duty of the Register, within five days after said proceedings shall have been deposited in his office, to notify all persons interested by an advertisement to be inserted once a week for four successive weeks, in two of the daily newspapers of the city, that the said assessment and maps have been so placed in his office, and that the parties interested therein are entitled to appeal therefrom, by petition, in writing, to the Baltimore City Court.

Duty of Register.

Right of appeal.

No. 76, June 21, '73.

Duty of clerk to Commissioners for Opening Streets.

Notice.

Proviso.

9. It shall be the duty of the Clerk of the Commissioners for Opening Streets to serve written or printed notice upon each and every party or parties assessed for damages, caused by the condemnation and opening of any public highway; provided, however, that the service of such notice shall not be so construed as to be one of the prerequisites to the condemnation and opening of any street under any ordinance heretofore passed, or hereafter to be passed, by the Mayor and City Council of Baltimore.

No. 26, s. 9, Apr. 3, '66; No. 29, Apr. 28, '68.

Appeal to City Court.

10. Any person or persons, or corporations, who may be dissatisfied with the assessment of damages or benefits, as hereinbefore provided, may, within thirty days after the return of the corrected statement and map or maps to the Register, as provided in section 8 of this ordinance, and the first publication of the notice thereof by the Register, appeal therefrom by petition, in writing, to the Baltimore City Court, praying the said court to review the same, and on any such appeal the court may and shall appoint a day for hearing said appeal, which shall not be less than five or more than thirty days after the expiration of the thirty days limited for taking appeals as aforesaid, and shall direct the clerk of the

Court to appoint day.

said court to issue a *subpœna duces tecum* to the Register of the City, requiring him to produce and deliver to said court the record of the proceedings of the Board of Commissioners in the case, and all maps, plats, documents and papers connected with such record, and the said City Court shall have full power to hear and fully examine the subject, and decide on the said appeal, and for that purpose is hereby authorized and empowered to adjourn from time to time, and may cause all such appeals to be consolidated, or may hear and decide them separately, and may require the said commissioners, their clerk, surveyor, or other agents and servants, or any of them, and all such other persons as the court shall deem necessary, to attend, and examine them on oath or affirmation, and may permit and require all such explanations, amendments and additions to be made to and of the said record of the proceedings as the said court shall deem requisite; and the persons appealing to the Baltimore City Court, as aforesaid, shall be secured in the right of a jury trial, and the said court shall direct the Sheriff of Baltimore city to summon twelve or more persons qualified to be jurors, and shall empannel any twelve disinterested persons so summoned, or attending the court, to try any question of facts, and if necessary to view any property in the city, or adjacent thereto, to ascertain and decide on the amount of damages or benefit, under the direction of the court; and the said court shall not reject or set aside the record of the proceedings of the said commissioners for any defect or omission in either form or substance, but shall amend or supply all such defects and omissions, and increase or reduce the amount of damages and benefits assessed, and alter, modify and correct the said return of proceedings, in all or any of its parts, as the said court shall deem just and proper, and shall cause the proceedings and decisions on said returns and appeals to be entered in the book containing the record of the proceedings

Duty of court.

Right of jury trial.

of the commissioners, certified by the clerk, under the seal of the court, and the book to be transmitted to the Register of the City, which shall be final and conclusive in every respect, unless an appeal be taken to the Court of Appeals, and such record book, or a copy of the proceedings therein, or any part of such proceedings, whether in court or out of court, certified by the Register of the City, under the corporate seal of the city, shall be evidence in any court in this State, and the judge of the Baltimore City Court shall have full power, in his discretion to add the reasonable costs of any appeal, to be taxed by him, or any part thereof, to the damages to be collected for opening or closing said street, or to require such cost, or any part thereof, to be paid by all or by either of the appellants as the circumstances of each appeal, in his opinion, shall justify.

Judge to have power to add reasonable costs.

No. 8, Feb. 23, '77.

When ordinance for opening, &c., streets declared void or repealed, how parties re-imbursed.

11. Whenever any ordinance passed by the Mayor and City Council of Baltimore, providing for the condemnation and opening, widening or closing of any street, lane or alley in said city, shall be set aside, or declared null and void* by a Court of competent jurisdiction, to wit: the Baltimore City Court or the Court of Appeals, in the event of an appeal to that tribunal, or the same shall be repealed by the Mayor and City Council of Baltimore, it shall be the duty of the Comptroller immediately thereafter to draw his warrant on the Register in favor of any and all persons, or their legal representatives, who may have paid into the city treasury any sum or sums of money on account thereof; which shall be forthwith paid out of any sums in the treasury not otherwise appropriated. The Comptroller shall

* When the City Collector of Baltimore is about to advertise and sell property assessed under a void ordinance for benefits for the opening of a street, a Court of Equity has jurisdiction, upon the application of the property holder, to restrain by injunction the enforcement of the ordinance. *Mayor &c.*, v. *Grand Lodge of I. O. O. F.*, 44 Md. 437.

likewise draw his warrant on the Register for the payment of all expenses which may have been incurred, by virtue of any such ordinance, in carrying out the provisions thereof, for which the city may be liable under existing ordinances. Payment of expenses.

12. If no appeal shall have been prayed, then within ten days* after the time hereinbefore limited therefor, or after the return of the decision upon any appeal shall have been made to the Register, the said Register shall transfer the said commissioners' return to the Collector, who shall proceed forthwith to notify the parties assessed for benefits, by means of bills specifying the several sums so assessed, and warning them that if the same be not paid within six months from the date of such transfer of said commissioners' returns, he will proceed to sell the specific pieces or parts of property on which such unpaid sum or sums of money shall have been assessed, in the manner, and after having given the notice directed by section 13 of this ordinance. No. 26, s. 10, Apr. 3, '66. Collector to notify parties assessed. Sale. Notice.

13. If the sums assessed upon the property certified, shall not be paid within the time above limited, the Collector shall be, and he is hereby, authorized and directed to sell the property or any part thereof on which such assessment has been laid, giving not less than thirty days' nor more than sixty days' notice of said sale in two of the daily newspapers published in the city of Baltimore; said notice Ibid, s. 11. Collector authorized to sell property. Notice.

*In City Court, *Webster* v. *Mayor, &c.*, Oct. 16, 1874. In this case—appeal from assessment of damages for opening a street—on 25th June the corrected statement and maps were returned to the Register in conformity with section 10, and appellant appealed on 5th August. Held by Brown, C. J., that the appeal should have been taken within 30 days after such return had been made to Register; and that section 12 of this article did not enlarge the time ten days; that section 12 should be read as if the word "then" was inserted after the word "prayed" in first line. Held also, that the question was jurisdictional, and that the city had a right to make the objection after this case had been consolidated with others, and after the premises had been viewed by the jury. Appeal dismissed.

to be published within ten days after the expiration of the time limited in section 12, for the payments of said benefits, and the moneys so collected by the Collector shall be paid over by him to the Mayor and City Council of Baltimore, as other moneys are directed to be paid over, and by them to the persons entitled to receive the same.

Ibid, s 12.

Mode of sale.

14. In all cases in which the City Collector shall sell any property on account of the non-payment of assessments made for the opening, closing, widening or extension of any street, lane or alley, it shall be his duty to sell said property to the extent, and subject to the same conditions which are provided by ordinance for the sale of real estate in the city of Baltimore, charged with the payment of other taxes imposed by this corporation; and in the event of the purchaser or purchasers failing forthwith to comply with the terms of said sale, the Collector shall re-sell the same at the risk of the former purchaser, giving not less than ten days' notice in two of the daily newspapers of the city aforesaid; and after collecting the benefit assessments he shall forthwith return the said commissioners' proceedings to the Comptroller.

Collector to re-sell.

Return to Comptroller.

Ibid, s. 13.

Collector to execute deed of conveyance.

15. The Collector, on receiving the full amount of the purchase money on such sale, shall execute a deed of conveyance in favor of the purchaser or purchasers, or their assign or assigns, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property, and after deducting the costs of sales, advertising and other necessary expenses, he shall pay the balance of such purchase money to the Mayor and City Council of Baltimore, who shall pay over the said balance, after deducting the amount assessed on said property, to the person or persons entitled thereto, on demand, without interest.

Purchase money.

Ibid, s. 14.

Liens.

16. All sums of money assessed by the commissioners aforesaid, upon property deemed by them to be benefited, shall be and continue liens on each several piece of property

so assessed, to the amount of its particular assessment, until the same shall be paid to the city; but, no part of any street, square, lane or alley, shall be opened on or over the ground of any person or persons, or corporation, adjudged by the commissioners to be entitled to damages for said opening, without the consent, in writing, of the person or corporation so entitled, until such damages shall be paid, or the amount thereof invested in the city five per cent. stock, for the use of each person or corporation entitled to any part of the compensation for such damages, to the amount of his, her or their respective right and interest therein, of which investment the Register's certificate, under the corporate seal of the city, shall be competent proof.

When to invest in city five per cent. stock.

17. Any person or persons not claiming title to any lot or piece of property upon which any sums shall be assessed, as aforesaid, may pay the amount of the sum so assessed, within the time limited, to the Register of the City, and obtain his certificate of having paid such sum without claiming title to the property; and such payment shall vest in the person or persons paying, his, her or their heirs, the lien on such lot or property mentioned in section 16 of this ordinance.

Ibid, s. 15.

Persons not claiming title may pay amount of assessment.

Certificate.

18. If it should so happen that any one or more of said commissioners should be interested in any particular case, the Mayor shall make a temporary appointment of a commissioner or commissioners, to act in the place and stead of such interested commissioner or commissioners, who shall take the oath or affirmation, as the case may be, and in all respects conduct himself as the commissioners who are annually appointed.

Ibid, s. 16.

Temporary commissioners.

19. The said Commissioners for Opening Streets shall proceed to close all their work, notwithstanding they may not be re-appointed, within six months from and after the expiration of the time for which they were appointed by virtue of the first section of this ordinance.

Ibid, s. 18.

Limit of time.

Ibid, s. 19.
Term of years.

20. Whenever any lot, or part of a lot, or parcel of ground may be taken and included within the lines of any street, lane or alley, or part thereof, and damages assessed therefor, and there shall be an outstanding unexpired term of years therein, the said commissioners shall discriminate in their proceedings between the value of fee simple or ground rent interest, and the leasehold interest.

No. 57, May 17, '70.
Removals of obstructions.

21. Whenever any obstruction shall have remained in any street, lane or alley, or part thereof so opened, for the space of sixty days after the proceedings of the said commissioners shall have been returned to the Register of the City, it shall be the duty of said commissioners, if then in office, and if not in office, then it shall be the duty of the commissioners in office at the time of such failure, to cause the same to be removed, and to draw on the Register for the expense so incurred, which shall be paid by him, and the Mayor shall forthwith cause a

Suit for expenses.

suit for the recovery of said expenses to be instituted against the person or persons by whose default the said obstruction has been suffered to remain, and the same, when recovered, shall be paid to the Register for the use of the city, and if such removal be made by the commissioners in office for the time being, it shall not be necessary for such commissioners, prior to making such removal, to take any other oath than that which they may have taken upon their appointment to office.

No. 26, s. 21, Apr. 3, '66.
Per diem to be assessed.

22. In each case of laying out, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley, under the provisions of this ordinance, the said commissioners shall, for each and every day in which they and their clerk shall be actually engaged in the performance of their duties, assess, as part of the expenses of their proceedings, a per diem as to each of said commissioners and their clerk, of four dollars, to be collected as other expenses are, and to be paid to the Register for the use of the city.

23. The salary of each of said commissioners shall be twelve hundred dollars per annum, and that of their clerk twelve hundred dollars per annum, to be paid as other city officers are paid; the said payment to be in full satisfaction of all compensation for the duties required of them. When the proceedings in any case arising under this ordinance are transferred by the Register to the Collector, the Register is authorized and required to pay all the expenses incurred by the commissioners under the said proceedings.

Ibid, s. 22; No. 53, Aug. 7, '67.
Salaries of commissioners and clerk.
Expenses.

24. The Commissioners for Opening Streets, so soon as they shall have completed their work on each street, shall deposit all papers and books relating thereto in the office of the Register.

Ibid, s. 23.
Books and papers to be deposited with Register.

25. Whenever the owner or owners of the bed of any of the streets, lanes or alleys of the city, as laid out on Popplеton's plat, shall offer to convey the same to the corporation, it shall be the duty of the Mayor to obtain the opinion of the Examiner of Titles in relation to the title to the property and the legality of the deed or deeds, and, if in the opinion of the Mayor, it will be right and proper, and the public good will result therefrom, he is hereby authorized to receive, in the name of the Mayor and City Council of Baltimore, any deed or deeds so offered to the city; provided that no deed shall be for less than one whole square, and that the city shall not incur any expense in receiving the same; and that a plat setting forth the location, together with the surrounding property, to the extent of two hundred feet, shall accompany said deed.

Ibid, s. 24; No. 92, June 18, '59.
Deeds from owners of property.
Duty of Examiner of Titles.
Proviso.
Square.
Plat.

26. Whenever any street, lane or alley, or part thereof, shall be conveyed to the city, as provided in the preceding section, the same shall be a public highway, subject to all ordinances and resolutions of the Mayor and City Council relating to streets, lanes and alleys in the city of Baltimore.

Ibid, s. 25.
Public highways.

Article XLVII.—Ordinances.

Ibid, s. 26.

When petitions or remonstrances not entertained.

27. The Mayor and City Council of Baltimore will not entertain any petition for or remonstrance against the opening, widening, straightening or closing of any street, lane or alley in the city of Baltimore, unless the signers of such petition or remonstrance shall state the location of the property they represent, together with the number of front feet of the same.

Location of property.

GRADES, GRADING, PAVING, ETC.

No. 44, s. 2, June 4, '74.

Permanent grade lines.

28. The City Commissioner may, on application in writing of the owner of any property binding thereon, proceed to establish the permanent grade line or lines of any street, lane or alley, or part thereof, now or hereafter to be marked, located, widened or straightened or laid out upon the plan of the city, and may also, from time to time, upon similar application, make such changes in the grades of any unpaved streets, lanes or alleys, or parts thereof, as he may deem advisable. He shall keep in his office a record of such establishments or changes, and shall also make a written return of the same to the Register of the City, who shall record the same and preserve the original in the files of his office, and shall also collect the cost of such establishments or changes of grade from the person or persons making the application for the same.*

Changes.

Record and return.

*This ordinance repealed Ordinance No. 74, June 3, 1870, entitled An ordinance to add additional sections to Article 43, of City Code of '69, title Streets, and Ordinance No. 78, June 14, 1870, entitled An ordinance to repeal sections 30, 31 and 39, of Article 43, of the City Code of '69, and reenact the same with amendments, and sections 27 to 49 inclusive, and sections 61, 62, 63, 64 and 66 of Article 43, of the City Code of '69.

Certain paving was done in the city of Baltimore, and a tax therefor assessed on the owners of adjacent lots in the years 1870 and 1871, after the Act of 1870, c. 282, [repealed by 1874, c. 218,] and the city ordinance, No. 78, June 14, 1870, [repealed by No. 44, June 4, 1874,] had been passed. A suit to recover this tax was brought by the Mayor and City Council for the use of C. H. and Son, contractors for the paving, on October 7, 1874, after the passage of the Act of 1874, c. 218, and the ordinance No. 44 of that year, which ordinance unconditionally repealed section 35, of Article 43, of the City Code of 1869. This section 35 made it the duty of the City Collector when

29. Before establishing such grade, or altering or changing any grade heretofore, or that may be hereafter, established, the City Commissioner shall give five days' notice in three daily papers of the application made, and that he will appear on the premises, on the date to be named in said notice, for the purpose of determining on such application. Ibid, s. 3. Notice of application, &c.

30. The City Commissioner, with the approbation of the Mayor, shall have full authority to grade, gravel, shell, pave or kerb any street, lane or alley, or part thereof, in the city of Baltimore, whenever the owners of a majority of the feet of ground binding on such street, lane, or alley, or part thereof, shall apply for the same. Ibid, s. 4. Grading, paving, &c.

31. When the City Commissioner shall receive an application in writing to grade, gravel, shell, pave or kerb any street, lane or alley, or part thereof, as provided in the aforegoing section, it shall be his duty to give ten days' public notice, by advertisement in three newspapers, of the fact of such application, as also of the time and place when he intends to act, for the purpose of determining on such application. Ibid, s. 5. Notice of application, &c.

32. After such application has been made, and the public notice has been given, and the City Commissioner has determined to grade, gravel, shell, pave or kerb any street, lane or alley, or part thereof, he shall give ten days' notice in three Ibid, s. 6. Notice for proposals.

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required by any contractor having a claim for paving done by him, to commence a suit on behalf of such contractor in the name of the Mayor and City Council against any person liable to the tax assessed on his property for such paving, Held:

1. That the said action did not depend upon said section 35, of Article 43.

2. That the Mayor and City Council had the right to maintain the action. *Dashiell* v. *Mayor, &c.*, 45 Md. 615. See this case as to discrepancies between Ordinance No. 13, June 5, 1858, and Ordinance No. 78, June 14, 1870, which modified it, and the effect on the validity of the tax, of a bond given by the contractors, under the ordinance of 1858 instead of that of 1870.

newspapers, that proposals will be received for doing the same; the said proposals shall be opened in the Mayor's office, and the contract shall be awarded to the lowest responsible bidder.

Ibid, s. 7.

Who deemed owners.

33. A tenant for ninety-nine years, or for ninety-nine years renewable forever, or the executor or administrator of such tenant, or the guardian of an infant owner, or a mortgagee in possession, shall be deemed and taken as an owner for the purposes of any application authorized by this ordinance, and the application of any such person shall bind the property so represented for any assessment or tax made under it.

Ibid, s. 8.

Tax on owners.

34. After the contract has been awarded, as provided in section 32, the City Commissioner shall impose a tax upon the owner or owners of property binding upon such street, lane or alley, or part thereof, equal in amount to the whole expense of the work, and for collecting the same, being three per centum on the whole cost, except for cross streets; and he shall assess and lay the tax upon the owner or owners of property on each side of said street, lane or alley, or part thereof, of one-half of so much of said street, lane or alley, as may be in front of such property, except for paving the portion reserved for sidewalks, being one-fifth of the whole width on each side thereof; and the said tax shall be a lien upon such property.

Lien.

Ibid, s. 9.

List of persons liable to tax.

35. After the contract has been awarded to grade, gravel, shell, pave or kerb any street, lane or alley, or part thereof, the City Commissioner shall make a correct list of the names of the persons liable to pay the tax for the same, and the amount to be paid by each person; and he shall deliver to the City Collector a duplicate list of such, under his hand and seal, with directions for collecting the said tax, which shall be due in sixty days after the completion of the work and its acceptance by the City Commissioner; and the City Register, sixty days after the acceptance of the work by the City Commissioner, shall deliver to the contractor the city's note for the

Duty of City Collector and Register.

amount, payable in twelve months after date, bearing interest at six per centum per annum. The City Commissioner shall correct any mistake in the warrant whenever he may be satisfied that any mistake has been made.

36. The City Collector is hereby directed to charge interest at the rate of six per centum per annum on all bills not paid when due, and is also directed to collect all such bills as other city taxes are collected. Ibid, s. 10. Interest.

37. In all contracts for paving streets a provision shall be incorporated for putting down flag or stepping stones across all streets, lanes or alleys at their intersections with each other, and all flag-stones to be hereafter used, shall consist of two rows of gneiss, granite or other hard stone, two feet in width, and not less than five inches in thickness, and shall be so laid as that there shall be a space of one foot between said two rows of flag-stones, which shall be paved with Belgian blocks, and the City Commissioner shall conform to the requirements of this section in all cases where flag-stones shall hereafter be laid. Ibid, s. 11; No. 29, Apr. 22, '76. Flag and stepping stones.

38. Streets, lanes or alleys, not more than twenty feet in width, hereafter to be paved, may be paved without kerbstones, provided the owners of a majority of the front feet binding thereon shall assent to the same, and the City Commissioner shall deem it advisable so to pave such street, lane or alley. No. 44. s. 12, June 4, '74. When streets, alleys, &c., paved without kerbstones. Proviso.

39. All streets, lanes or alleys, to be paved, shall be paved with rubble stone, or such other stone as the City Commissioner shall consider sufficiently durable; the stone to be not less than sixteen square inches on the surface (except that part between the kerb and gutter, which may be of such smaller size as directed by the City Commissioner) and at least six inches in depth, to be placed upright in a bed of sharp sand or gravel, at least one foot in depth; and the interstices shall be fitted up with stone of a size and quality to be prescribed by the City Commissioner; Ibid, s. 13. When streets, &c., paved with rubble stone, &c.

all paving to be rammed twice with rammers weighing fully
Gutter stones. eighty pounds; gutter stones to be of good hard stone, not less than ten inches in breadth, one foot long, and six inches in depth;
Kerbstones. the kerbstone to be not less than four and a half inches in thickness, eighteen inches in depth and four feet in length, and the edge, which is to be fitted to the sidewalk, shall be straight, and leveled to the pitch of the footways, and the two ends shall be made straight the whole depth, and the upper edge shall be
Proviso. of equal thickness throughout; provided that in paving streets, lanes or alleys, not over twenty feet in width, the City Commissioner may, in his discretion, put the gutter in the centre thereof, in which case the kerbstones to be used may be not less than fifteen inches in depth; and all kerbstones shall be set in a bed of sharp sand or gravel as hereinbefore provided for the paving; and the contractor for paving any street, lane or alley,
Security from contractor. shall give satisfactory security, to be approved by the Mayor, to keep the said pavement in repair for two years after its completion.

Ibid, s. 14. 40. The City Commissioner, or his assistants, shall examine
City Commissioner and assistants to examine kerb, flag, paving, &c. all kerb, flag, and gutter stones intended to be used, previously to their being laid; and all such stone not conforming to the provisions of this ordinance shall be condemned and rejected; and he shall also examine all paving before any sand has been thrown on it, and if the same be not laid in a good and substantial manner, and in accordance with the aforegoing provisions, he shall cause the same to be taken up and repaved at the cost of the contractor therefor; and if any contractor shall set any kerb, flag, or gutter stones, or cover any paving with sand previously to inspection by the commissioner or his assistant, he shall
Penalty on contractor. forfeit and pay a fine of twenty dollars for each and every offence.

Ibid, s. 15. 41. The Mayor shall have full power, whenever he may
Petition by Mayor for grading, &c. deem it advisable, to sign, on behalf of the city corporation, any petition for the paving, grading, or kerbing of streets, lanes or alleys, on which may front any property belonging to the city.

Article XLVII.—Ordinances.

42. Whenever any street, lane or alley, has been graded, graveled, shelled, kerbed or paved, in pursuance of this ordinance, the City Register shall pay the expense of the cross streets, on the order of the City Commissioner. Ibid, s. 16. Expense of cross streets.

43. The City Commissioner, with the approbation of the Mayor, shall have full authority to re-grade, re-gravel, re-shell, re-pave or re-kerb any street, lane or alley, or part thereof, whenever the owners of a majority of the feet of ground binding on such street, lane or alley, or part thereof, shall apply for the same, and the same modes of procedure, notices, &c., shall be adopted as are hereinbefore prescribed for grading, graveling, shelling, paving or kerbing streets, lanes or alleys; except that one-third of the whole cost shall be defrayed by the city, and two-thirds of the whole cost shall be paid by the owners of the property binding thereon; and the proportion to be paid by the property holders shall be a lien on their respective properties; the whole expense of the work on the cross streets to be defrayed by the city, on the order of the City Commissioner. Ibid, s. 17. Regrading, &c.

44. The City Commissioner is hereby authorized to permit any street, lane or alley, or part thereof, to be graded, graveled, shelled, paved or kerbed, under the private contract of the owners, whenever all the owners of property binding thereon shall unite in an application in writing to him for such permission; provided, that the contractor or owners shall give bond, approved by the Mayor, that the work shall be done in strict accordance with the terms of this ordinance, and that he or they will keep it in repair for two years after its completion. Any person or persons who shall proceed to grade, gravel, shell, pave or kerb any street, lane or alley, or part thereof, without first complying with the terms of this section, shall be liable to a fine of one hundred dollars for each and every day that he or they may Ibid, s. 18. Private contract of owners for grading, &c. Proviso. Bond. Penalty.

be engaged in such work, the said fine to be collected as other fines are collected.

No. 95, May 27, '76.
Bond from parties to whom contracts are awarded.

45. All parties to whom contracts may be awarded for grading, kerbing or paving streets, lanes or alleys in the city of Baltimore, shall be required to file, within ten days from the date of such award, a satisfactory bond conditioned for the commencement of the work within fifteen days thereafter, and for its continuous and faithful prosecution, except when unavoidably interrupted by weather.

Ibid, s. 2.
When contractor to forfeit all claim to contract.
New award.

46. Any contractor who shall fail to comply with the terms of the preceding section of this ordinance, within the time specified, shall forfeit all claim to the contract awarded him, and the proper officers of the city may at once either award a contract for the same work to the next lowest bidder therefor, or may re-advertise for proposals, and proceed as if no award had been made, as in their judgment may be best for the interests of the city.

No. 21, Apr. 5, '77.
What percentage to be withheld from contractors, and for how long.
Guaranty.

47. It shall be the duty of the Comptroller of the City, and the Register of the City, in settling bills against the Mayor and City Council of Baltimore, on all contracts made and entered into for the grading, paving and kerbing of streets, lanes and alleys, to withhold from the contractors for said work, ten *per centum* of the amount of their bills; said amount to be retained for the space of two years from the date of settlement, in order to protect the corporation against loss, by reason of the negligent performance of any contract, and as a guaranty that the contractors will keep the work performed by them in proper condition and repair during the space of two years.

No. 13, s. 39, R. O.
Contracts how awarded.

48. The City Commissioner, with the approbation of the Mayor, shall consummate all contracts with such person or persons as shall have public work awarded them, pursuant to Art. I, sub-title, City Contracts, [p. 62, &c., *ante*,] when-

ever such awards have been made under advertisement issued by him for proposals for such public work.

Ibid, s. 24.

General regulations for grading and paving footways.

49. The City Commissioner shall have full power to grade and regulate the footways in all paved streets, lanes and alleys in the city of Baltimore, and all streets, lanes and alleys hereafter to be paved, repaved or repaired, to the grade of five-eighths of an inch ascent for every foot in width of such footways, from the top of the curb stone to the line of the street, lane or alley in which such footway may be paved, repaved or repaired, and to regulate all gutters across said footways, which unless covered with wood, stone or brick, on a level with the surface of the footways, shall not be deeper than three inches.

Ibid, s. 25.

Notice to owners of property, when to be published.

Collector.

50. The City Commissioner is hereby authorized and directed, in all cases where the owner or owners of ground fronting on any of the paved streets, lanes or alleys of the city, cannot be found at the time said footways are out of order, to cause to be published in three or more of the daily papers having the largest circulation published in the city of Baltimore, at least five times, the locality and number of feet of such lot or lots of ground, and notice of his intention to have the footways of such lot or lots paved, repaved or repaired, as the case may be, and in case said lot or lots shall not be paved, repaved or repaired within the time specified in said notice, said commissioner shall have the footways of such lot or lots paved, repaved or repaired, and shall hand over to the Collector his warrant, to be by him collected as herein provided.

Ibid, s. 26.

Notice of order to be given to proprietors.

51. The said City Commissioner shall cause notice of said order to be given to the proprietor or proprietors of the lot or lots in front of which a footway is required to be filled up, dug down, paved or repaved, in manner following, that is to say: the said order, or a copy thereof, may be left at any house on such lot, or served personally on the proprietor or proprietors, or his, her or their tenant, agent or guardian, or left at his, her

or their residence, or a copy of such order may be published in one or more of the newspapers of the city, not less than five times, notice in any of which modes shall be deemed sufficient.

Ibid, s. 27.

Proceedings in case of neglect or refusal.

52. If the proprietor or proprietors of any lot or lots fronting on any paved street, lane or alley, shall neglect or refuse to fill up, dig down, pave or repair the footways in front of such lot or lots, for the space of ten days after service of a printed or written order, or copy thereof, in manner as aforesaid, to be reckoned in case of publication in a newspaper from the first publication, then the said City Commissioner shall be and he is hereby authorized and directed to have the said footways filled up, dug down, paved or repaved with brick, in a sufficient and substantial manner, or repaired in such manner as he, the said City Commissioner, shall think proper, and a tax shall be and he is hereby imposed upon each respective lot in front of which the footways shall have been so filled up, dug down, paved or repaired, equal to the expense of such filling up, digging down, paving or repairing, with an addition thereto of three per cent. for the expense of collecting.

Ibid, s. 28.

Footway tax, how collected.

53. The City Commissioner shall issue his warrant to the collector, approved by the Mayor, for the collection of said tax, containing the names of the person or persons who are to pay such tax, and the amount to be paid by each, nevertheless correcting any mistake in the said list as often as he may be satisfied of the same, and the said tax shall be due immediately on making out said warrant, which the said City Commissioner may do as soon as he can ascertain the expense incurred, or to be incurred, and such tax shall be a lien upon all such lots.

Lien.

Ibid, s. 29.

May be collected by distress.

54. The said collector shall immediately collect the same by distress or otherwise, giving sixty days' notice previously to distress, and pay over the same to the Register.

Article XLVII.—Ordinances.

55. The City Commissioner is hereby authorized, with the approbation of the Mayor, to draw on the Register of the City, in anticipation of such tax, for such sum or sums of money as may be necessary to fill up, dig down, pave or repair any such footways. Ibid, s. 30. Register to pay in anticipation.

56. If any person or persons shall neglect or refuse to fill up, dig down, pave or repave any footway in front of his, her or their lot or lots, when required so to do by the City Commissioner, in the manner hereinbefore provided, such person or persons shall forfeit and pay twenty-five cents per front foot every day such person or persons shall refuse or neglect to fill up, dig down, pave or repave as aforesaid, as a fine for such neglect or refusal; and it shall be the duty of the City Commissioner, when he issues his warrant for the said tax, to take the necessary steps for enforcing the said fine. Ibid, s. 31. Penalty for refusal.

57. It shall be the duty of the City Commissioner, in conjunction with the Marshal of Police, biennially to inspect all the footways, flag and stepping stones within the corporate limits of the city, and cause the same (where required) to be immediately repaved or repaired, in conformity to the provisions of sections 49, 50, 52, 56 and 60, of this ordinance. Ibid, s. 32. Footways, &c., to be inspected biennially.

58. It shall not be lawful for any person or persons to pave any of the footways binding on any of the streets, lanes or alleys of the city of Baltimore with stone, unless the same shall be put down with good and sufficient flag stones, parallel with the kerbstone on said street, lane or alley, under a penalty of one dollar for every front foot. Ibid, s. 33. Footways, how to be paved with stone.

59. The Mayor is hereby authorized to extend the time of bonds for paving or repaving the streets, lanes or alleys, upon his being assured by the City Commissioner that the Ibid, s. 34. Paving bonds may be extended by Mayor.

work cannot be completed consistently with the public interests within the time limited in the bonds.

No. 71, July 13, '68.
Notice to owners.

60. The City Commissioner is authorized to direct and require by written or printed order, the proprietor or proprietors of any lot or lots fronting on any of the paved streets, lanes or alleys of the city, to fill up, or dig down to the proper grade, or to pave or repair the footways in front of such lot or lots, with a good and sufficient brick pavement, on a bed of good sharp sand, not less than six inches deep, within ten days after notice of such order; the said footways in front of unimproved lots to be paved with good and substantial brick four feet from the kerbstone, and all the thoroughfares or business streets of the city shall be paved to the building line, if thought requisite by the City Commissioner, and in case of refusal or neglect by the proprietor or proprietors of any lot or lots of ground to comply with the requirements of the said commissioner, the owner or owners of said lot or lots of ground shall be subject to a fine of ten dollars for each and every day such notice or order shall remain uncomplied with, to be recovered as other fines and forfeitures are recoverable.

Footways.

Pavements of brick.

Fine.

No. 65, Oct. 19, '67.
Nicholson or improved pavement.

61. Whenever application shall be made to the City Commissioner to have paved or repaved any street, lane or alley of the city of Baltimore, or whenever said paving or repaving shall be done by virtue of an ordinance of the Mayor and City Council of Baltimore, it shall be optional with the owners of a majority of the front feet of ground binding upon said street, lane or alley, whether the said paving or repaving shall be with stone, or what is known as the Nicholson, or any other improved pavement; and provided further, that when any paving or repaving is to be done in front of any property owned by the corporation of the city of Baltimore, the Mayor, Comptroller and City

Owners to choose their paving.

Proviso.

Commissioner shall decide whether it shall be paved with stone or any improved pavement.

REPAIRING, MENDING, &c., STREETS AND BRIDGES.

62. There shall be appointed, annually, as other city officers are now appointed, one City Commissioner, who shall attend daily at his office, and there shall also be appointed annually one Assistant City Commissioner, who shall be under the direction of the said City Commissioner, and the entire time of both commissioner and assistant shall be devoted personally to the interests of the corporation, and should it be ascertained that either of the aforesaid officers is engaged or connected with any business or pursuit other than that appertaining to his official duties, it shall be deemed good and sufficient cause for his or their removal by the Mayor.

No. 6, s. 1, Feb. 14, '63.
Appointment of City Commissioner and assistant.
To attend office daily.
Assistant City Commissioner.
Not to be engaged or connected with other business.
Removal.

63. Said commissioner and assistant commissioner, before entering upon the duties of their several offices, shall severally give bond with security for the faithful performance of their duties, the commissioner in the penal sum of ten thousand dollars, and the assistant in the sum of five thousand dollars, and there shall be appropriated, annually, the sum of three thousand dollars for the salary of the City Commissioner, payable monthly, and for the salary of the Assistant Commissioner, fifteen hundred dollars, payable monthly.

Ibid, s. 5; No. 23, Mar. 19, '64; No. 4, Feb. 3, '65; No. 37, May 6, '68.
Bond of commissioner.
Of assistant.
Salary.

64. It shall be the duty of the Assistant City Commissioner to attend to all duties that may be required of him by the City Commissioner, and before any repairs of paved streets are proceeded with, the said City Commissioner shall have correctly measured the work to be done, and the clerk to the City Commissioner shall keep a record of such measurement, and the payments shall be made in accordance therewith.

Ibid, s. 4.
Duties of Assistant City Commissioner.
Work to be correctly measured.
Record.

No. 112, June 10, '75.
Two additional assistants.
Salaries.

65. There shall be annually appointed by the Mayor, to be confirmed by the City Council, two additional assistants to the City Commissioner, at a salary of fifteen hundred dollars each per annum.

Ibid, s. 2.
Duty of last named assistants.

66. It shall be the duty of said assistants to inspect daily, under the direction of the City Commissioner, all grading, paving and kerbing of streets, lanes or alleys, or repairs of the same that may be in progress, and to measure all repairs that may be made to the same, and to superintend and inspect any other work that the City Commissioner may direct.

No. 6, s. 9, Feb. 14, '63; No. 23, Mar. 19, '64; No. 53, Aug. 7, '67; No. 37, May 6, '68; No. 17, Feb. 28, '71.
Clerk.
Salary.
Duties.
Journal.
Return to Register.
Bids for work.
Papers.

67. There shall be appointed by the City Commissioner a clerk to said commissioner, whose compensation shall be fifteen hundred dollars a year, payable monthly, and who shall keep a fair journal of all proceedings in the office, as far as they may relate to the condemnation, grading or leveling of the streets, lanes and alleys, and the establishment of boundaries or the making and repairing of sewers, and the building and repairing of bridges, and shall return them, under the hand and seal of the commissioner, at least once in every three months, to the Register of the City, to be by him recorded and filed in his office; and he shall carefully preserve all bids for work to be done, and all papers belonging to persons having business with the City Commissioner's office.

Ibid, s. 2; No. 52, May 7, '68.
Leveling, grading, mending, &c., streets, &c.
Contracts, how approved.

68. The department of the City Commissioner shall include the leveling, grading, making, mending or repairing the streets, lanes, alleys and bridges, and contracting with any person for materials for the purpose aforesaid, said contracts having been approved by the Mayor, Register and Comptroller of the City, and with as many workmen as he may judge necessary to be employed from time to time in and about the same.

Ibid, s. 3.
Money expended, how paid.

69. All moneys appropriated for the department of the City Commissioner shall be expended under his direction, and paid by the Register to his order, when approved by the Mayor, on the certificate of the Comptroller.

Article XLVII.—Ordinances.

70. It shall be the duty of the City Commissioner, annually, to lay before the City Council, in the first week of the annual session, a report of his proceedings, with an abstract of the expenditures of the office, signed by him. Ibid, s. 6. Report to City Council.

71. It shall be the duty of the City Commissioner, in making his annual report to the Mayor and City Council, to furnish a statement of the several streets, lanes and alleys, or parts thereof, that have been paved or repaved during the year, together with the names of the contractors, the number of square feet and the sum per square foot paid for paving or repaving, as the case may be, and to state explicitly whether all the provisions of the ordinances relating to paving and repaving, and the duties required of the City Commissioner, have been complied with. Ibid, s. 7. Statement of streets, &c, paved or repaved. Contractors.

72. All warrants and other documents issued by the City Commissioner, or connected with his department, shall be headed: "City Commissioner's office." Ibid, s. 8. Heading of documents.

73. The City Commissioner shall have full power and authority, and he is hereby authorized and required, when applied to by any person requiring the same, to ascertain and fix the lines of any of the streets, lanes and alleys, or any boundary of any of the lots within said city, and having so fixed and established the same, to put up stones or landmarks, to be provided for that purpose by the person or persons requiring the same to be done at any place or spot so established by him, and to make return, in writing, of such establishment, with the proper description thereof, under his hand and seal, to the Register, who shall immediately record the same in a book to be provided for that purpose, and shall file and keep the original record or paper, so returned as aforesaid, in his office. No. 6, s. 10, Feb. 14, '63. City Commissioner to fix lines of streets, &c. Boundaries of lots. Landmarks. Return to Register.

74. No owner or owners of any lot in the city shall dig or lay the foundation of any house in front of any street, lane or alley, or erect any wall or fence fronting thereon, before he, Ibid, s. 11. Lines of streets in laying foundations of houses.

she or they shall have applied to the City Commissioner to make out the true line of such street, lane or alley, unless the corners of the square upon which such improvement is to be made have been duly established, and said commissioner, so applied to, is hereby authorized and required to see that such foundation, building, house or wall does not and shall not encroach upon the highway, and said commissioner shall have a right to employ, if he deems it necessary, on every such occasion, the City Surveyor, at the cost of such owner or owners. Every person so neglecting to apply, as aforesaid, shall forfeit and pay five dollars, and a like sum for each and every day such directions are not complied with.*

Duty of City Commissioner.

City Surveyor.

Penalty.

Ibid, s. 13.

Appeal to Mayor from determination of City Commissioner.

75. If any person or persons shall think him, her or themselves aggrieved by the determination of the said commissioner, in fixing the lines of any street, lane or alley, or the boundary of any lot, or in fixing the grade of streets, lanes, and alleys, in such case every such person or persons may, within five days next after such determination, appeal from the same to the Mayor, who shall thereupon issue a warrant summoning five disinterested persons of known ability and discretion, whose compensation shall be two dollars per day each, (the determination of whom, or a majority of whom, shall be final,) to settle all matters of dispute within ten days thereafter, and return their award, in writing, to the Register, to be by him recorded; and before the persons appointed under such warrant shall proceed to the execution of their duties, they shall make oath or affirmation that they will impartially examine the proceedings of the said commissioner from which an appeal is prayed, and confirm or alter the same as in their opinion is just, without favor or partiality; and the said persons shall receive from the said commissioner all documents and information which influenced and directed him in said determination, from which the appeal is made.

Commission to disinterested persons.

Compensation.

Return of award to Register.

Oath.

* For party walls and partition fences, see p. 123, *ante*.

76. When any person or persons shall appeal from the determination of the City Commissioner, it shall not be lawful for the Mayor to grant the said appeal and issue the warrant herein mentioned, unless the person or persons so appealing shall enter into an obligation to the Mayor and City Council of Baltimore, and file the same with the Register, binding him, her or themselves to pay to the Mayor and City Council of Baltimore all the expenses which may be incurred in the said appeal, should the same be not sustained. Ibid, s. 14. Duty of Mayor. Bond for expenses.

77. The City Commissioner, with the approbation of the Mayor, shall fix and ascertain the said expenses, which shall be paid to the Register, and by him to the person or persons employed to decide the appeal. Ibid, s. 15. How expenses ascertained.

78. The City Commissioner shall have full power and authority to enter upon the lots of ground or possessions of any person or persons, or bodies corporate, through which the common sewers now or may hereafter run, to regulate or repair the same.* Ibid, s. 16. Power to enter lots or possessions. Sewers.

79. The City Commissioner is hereby directed whenever any of the bridges within the city stand in need of repairs, to mend and repair the same as he, with the approbation of the Mayor, may think fit. Ibid, s. 17. Bridges.

80. If any person or persons shall cut, break, dig down, injure or destroy any abutment, bank, mound or other public work erected or constructed by or under the orders of the City Commissioner, every person so offending shall forfeit and pay a sum not exceeding two hundred dollars, and moreover, shall be liable to pay the expenses of repairing the injury. Ibid, s. 19. Injuring or destroying abutment, mound, &c. Penalty.

81. The City Commissioner is authorized to place flag and stepping stones whenever and wherever the convenience and necessity of the public may require the same, upon proper application being made to him. Ibid, s. 21. Placing flag and stepping stones.

*See Art. XLIV, Sewers.

No. 83, Nov. 7, '68.
Repairing and cleaning private wharves, docks, streets, &c.

82. The City Commissioner is hereby authorized, upon the application of the owners of a majority of the front feet on any private wharf, dock, street, lane or alley, to cause the same to be thoroughly repaired and cleaned, and to assess and collect from the owners of the property a tax sufficient to defray the expense of the same in the manner prescribed by law.

No. 97, Oct. 8, '78.
Trenches made by gas companies.

83. The City Commissioner, when engaged in repairing streets, lanes and alleys, shall repair the same over the trenches made by the several gas companies, and collect the cost of the work from the companies over whose pipes the repairs shall have been made.

LAMPS AND GAS.

No. 100, Oct. 23, 1878; No. 8, s. 2, Feb. 29, '68; No. 6, s. 21, Feb. 14, '63.
Lamps and pillars.

84. The General Superintendent of Lamps and Inspector and Sealer of Meters, with the approbation of the Mayor, shall make all contracts for the construction, erection, repair or removal of all street lamps and lamp pillars. The said Superintendent of Lamps is directed to have pillars and gas lamps placed at two corners of every intersection of streets, and midway in the squares between streets, at a distance of not over one hundred and seventy-five feet; provided the gas mains are laid and the streets paved or contracted to be paved.

No. 104, Oct. 14, '72.
Pillars and gas lamps at two corners of intersection of streets, and midway in squares, between streets.
Proviso.

Ibid, s. 3.
Register to pay.

85. The Register of the City is hereby authorized and directed to pay upon the order of the said superintendent, approved by the Mayor, for any work done by virtue of the preceding two sections.

No. 66, May, 13, '64.
The name of streets on lamps.

86. The said superintendent is hereby authorized and directed to have the names of the streets painted on frosted glass, set in a tin frame, and placed inside of all the lamps at the corners of streets throughout the city.

Ibid, s. 3.
New lamps, names of streets on.

87. When a new lamp shall be erected on the corner of any streets, the said superintendent shall have the names of the streets placed inside the lamp, in accordance with the

above section; the cost of the same to be taken out of the annual appropriation for pillars and lamps.

88. If any person or persons shall injure or destroy any lamp post, pillar or lamp, or any other public property of any kind, he or they shall forfeit and pay a sum not exceeding ten nor less than five dollars, and also pay the expense of renewing or repairing the same.

No. 84, Sept. 18, '60. Destroying lamp posts, lamps, &c., city property. Penalty.

89. It shall and may be lawful for any person to erect a lamp or lamps opposite his or her house, with such lettering and device as such person may think proper, in a line with those erected by the city, near the kerbstones; provided, said lamps shall not be less in size than those erected by the city, and shall be erected in the same manner and of the same materials as those now used by the corporation for burning gas; and provided, also, that the glass of said lamps shall not be colored or darkened more than is necessary to place therein the lettering or device aforesaid; and any person erecting a lamp, except in conformity to the provisions herein contained, shall be subject to a fine not exceeding two dollars, and a further sum of two dollars for every day the same shall be permitted to remain.

No. 33, s. 34, R. O. Private lamps regulated. Provisos. Penalty.

90. It shall not be lawful for any person, other than such persons as are legally authorized for that purpose, to light or extinguish any of the public lamps of the city of Baltimore; and every person violating the provisions of this ordinance shall forfeit and pay the sum of five dollars for each and every offence; to be recovered as other penalties for violating city ordinances are recoverable.

No. 6, Feb. 21, '77. Lighting or extinguishing public lamps. Penalty.

SUPERINTENDENTS OF LAMPS AND LAMPLIGHTERS.

91. There shall be appointed annually, prior to the first of March, by the Mayor, four superintendents of lamps, one of whom shall be assigned by the Mayor for the eastern, mid-

No. 100, Oct. 23, '78; No. 21, s. 1, Sept. 18, '61; No. 18, Mar. 24, '66;

No. 4, Feb. 16, '66; No. 66, May 30, '66; No. 30, '66; No. 1, Dec. 17, '62; Res. No. 121, Apr. 13, '69; Res. No. 208, July 9, '69; No. 17, Mar. 5, '70; No. 64, May 2, '71; No. 22, Apr. 8, '73; No. 7, Feb. 19, '74; No. 43, June 14, '74; No. 14, Mar. 1, '71; No. 42, Apr. 21, '73; No. 59, June 15, '74; No. 34, Mar. 23, '71; No. 16, Apr. 4, '73; No. 27, Feb. 10, '70; No. 1, Dec. 16, '72; No. 10, Jan. 23, '75; No. 19, Feb. 15, '75.

Appointment by Mayor.

Duties.

Mayor to appoint lamp-lighters.

dle, western and southern districts respectively, and who shall superintend the lighting and cleaning of the city lamps, and keeping the same in repair, under the supervision and direction of the General Superintendent of Lamps and Inspector and Sealer of Gas Meters;* and the Mayor shall annually, prior to the first of March, appoint 97 lamp-lighters, who shall be assigned by the superintendents to their respective beats, and they shall light, extinguish, attend to, and clean the city lamps when required, and it shall be the duty of the General Superintendent of Lamps to prepare and have printed on cards, by the twentieth of each month, the hours when the city lamps shall be lighted and extinguished for the ensuing month, one of which cards shall be furnished to each captain, lieutenant and sergeant of police, and to the superintendents of lamps, and it shall be the duty of said superintendents to instruct the lamp-lighters as to the hours when they shall light and extinguish the lamps; the captains, lieutenants and sergeants of police shall report

* GAS.—See Ordinance No. 100, Oct. 23, 1878, entitled An ordinance to change the title of the Inspector and Sealer of Gas Meters, prescribing additional duties, and fixing his compensation. This ordinance imposes on the General Superintendent of Lamps and Inspector and Sealer of Gas Meters the duties of the office of Inspector and Sealer of Gas Meters, prescribed by Article XVIII, p. 517, &c., *ante*, in addition to other duties in that connection. The Gas Light Company of Baltimore was incorporated by Act of 1816, c. 251, and the first contract made with the company for lighting the city was by ordinance of June 17, 1816. The Act of incorporation was amended by Act of 1860, c. 195. The People's Gas Light Company of Baltimore City was incorporated by 1860, c. 291, and 1870, c. 52, and the Consumers' Gas Light Company by 1876, c. 30, also under the general incorporation law. As to obligation of Gas Company to supply gas to individuals, see *Gas Co.* v. *Colliday*, 25 Md. 1.

In City Court, Nov. 27, 1874, held by Brown, C. J.,—where a man had gas brought to his stall in the market and paid the gas company for all the gas that came through the pipes; and he allowed another for a monthly sum to tap the pipes and use the gas at an adjoining stall; and when the gas was not paid for he shut it off and was sued by the renter—that, as the contract for payment was not fulfilled by the renter, the first party had a right to shut off the gas.

to the Mayor all failures to light and extinguish the lamps at the proper time in their respective beats, and in all cases where the lamps shall be broken, and not promptly repaired, the Mayor shall have power to suspend or remove for neglect of duty, as in his judgment the case may require; and the said superintendents of lamps shall report to the said General Superintendent at such times as he may require, the condition of the lamps and the transactions of the lamplighters.

92. The General Superintendent of Lamps is authorized to have the street or public lamps lighted each and every Sunday night for such number of hours as he may deem necessary to light the city.

Res. No. 212, Oct. 22, '64. Light on Sunday night.

93. The salary of the superintendents of lamps shall be ten dollars per week, and the compensation of the lamplighters shall be eight dollars per week.

No. 13, Mar. 10, '64; No. 61, May 26, '66; No. 15, Feb. 28, '71; No. 25, Mar. 16, '71. Lamplighters' salary.

PERMITS.

94. No carter or other person shall dig, remove or carry away from or out of any of the unpaved streets, lanes or alleys of the city, any dirt, earth, sand or gravel, without a special license first had and obtained from the City Commissioner, with the approbation of the Mayor, for that purpose, specifying the time when and place from which the same is to be removed, under the penalty of one dollar for every load of dirt, earth, sand or gravel so removed.

No. 33, s. 21, R. O. Earth, &c., not to be removed from unpaved streets without permission. Penalty.

95. No person or persons shall make, dig or throw up any drain, trench, gully, gutter or canal, in, through, along or across any of the streets, lanes or alleys of the city, without a special license or permission in writing for that purpose first had and obtained from the City Commissioner, specifying the time when and place where the same is to be done, and such conditions as he may think necessary, under

Ibid, s. 22. Ditches, &c., not to be dug in lanes or alleys without permission.

Penalty. a penalty of ten dollars, if the same shall not be done in strict accordance with said permission, and the street, lane or alley kept in good repair as therein required, and the like sum weekly until the same be removed, or permission received and complied with as above required.

VAULTS, AREAS AND CELLARS.

No. 14, s. 1, R. O.
City Commissioner to give permission to construct.
Proviso.

96. The City Commissioner shall have power, with the approbation of the Mayor, to give permission to construct any vault or area in the streets; provided, in his opinion no injury will be done to the public thereby.

Ibid, s. 2.
Penalty for constructing without written permission.

97. No person shall cause or procure any vault or area to be constructed or made in any of the streets, lanes or alleys of the city, without the written permission of the City Commissioner, approved by the Mayor, under the penalty of twenty dollars, and ten dollars for each and every day the same shall remain.

Ibid, s. 3.
Application, how to be made

98. Every application for permission to erect such vault or area shall be in writing, signed by the person making the same, and shall state the number of square feet of ground which is required for the same, and the intended width and length of the same.

Ibid, s. 4.
Payment to Register.

99. After obtaining permission to construct or make such vault or area, and previous to the commencement thereof, the person so applying shall forthwith pay to the Register of the City the sum of twenty cents for each square foot of ground mentioned as required for such vault or area, under a penalty of twenty dollars.

Ibid, s. 5.
Penalty when the number of feet exceeds the number paid for

100. If it shall appear, by such certificate or otherwise, that such vault or area occupies a greater number of square feet than shall have been paid for as aforesaid, the owner of such vault or area, and the master builder by whom or under whose

direction such vault or area shall be constructed, shall, in addition to the penalty imposed by section 97, severally and respectively forfeit and pay the sum of fifty cents for each square foot of ground occupied by said vault or area over and above the number of square feet paid for as aforesaid.

101. All vaults and areas shall be completed and the ground closed over them within three weeks after they are commenced, under the penalty of five dollars for every day thereafter during which the same shall remain unclosed, to be recovered from the owner or builder of the same, severally and respectively, unless the Mayor extends the time for the completion of the same, which he is hereby authorized to do in cases where he may deem the same necessary and expedient. Ibid, s. 6. To be completed within three weeks. Proviso.

102. No area in front of any building in the city shall extend more than one-fifteenth part of the width of any street, nor in any case more than four feet and four inches, measuring from the inner wall of such area to the building; nor shall the railing of such area be placed more than six inches from the inside of the coping on the wall of such area, and no vault shall extend to a greater distance than two-fifths of the width of any street, measuring from the building line, under the penalty of twenty dollars, to be recovered from the owner and builder thereof, severally and respectively. Ibid, s. 7. Extent of areas.

103. Every area shall be enclosed with a railing, the gates of which shall be so constructed as to open inwardly, under the penalty of twenty dollars for each offence, to be recovered from the owner and builder thereof, severally and respectively; provided, however, that nothing in this ordinance shall be so construed as to prevent any person or persons from using the footways for ingress and egress by means of an area into the basement of any building.* Ibid, s. 8. Areas to be enclosed. Proviso.

* An area intended to furnish light to the basement of a house, opened in the pavement of a public street in a populous city, is a public nuisance of a

Ibid, s. 9.

What constitutes vaults and areas.

104. Every description of opening below the surface of the street, in front of any shop, store, house or other building, whether covered or open, except cellar doorways and cellar steps, shall be considered and held to be a vault or area within the meaning of this ordinance.

Ibid, s. 10.

Entrances to cellars to be covered when not in use.

105. All entrances to the cellars or basements of any store or dwelling house, in any street, lane or alley of the city, which have steps descending below the level of the sidewalk, shall be covered when not in actual use with good and sufficient iron or wooden doors or grates, on or above the level of the sidewalk, or be surrounded with good and sufficient wood or iron railings, of a height sufficient to prevent danger to the lives or limbs of persons who may be passing along said street, lane or alley, and any person violating this section shall pay a fine of ten dollars for each and every offence, and a further fine of five dollars for every ten days such entrance shall remain without such door or railing, after the first conviction.

Penalty.

Ibid, s. 11.

Cellar doors, how to be constructed.

106. All cellar doors shall have the cheeks thereof regulated, so that they shall not have a greater descent of grade than one inch and a half for each foot in length, extending from the house or building; and if any person shall refuse or neglect to conform thereto, he shall forfeit and pay the sum of five dollars, and one dollar for every day thereafter, until the aforesaid regulation is conformed to.

Ibid, s. 12.

Duty of police.

107. It shall be the duty of the police officers to give information to the Mayor and City Commissioner, whenever any vault or area is being constructed in any of the streets of the city, within their respective districts.

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dangerous character, which the owner of the house when it was erected, and all subsequent purchasers, are bound to render secure. *Irwin* v. *Sprigg*, 6 Gill, 200.

108. All such vaults shall be constructed of stone or brick, agreeably to the directions of the City Commissioner, under the penalty of twenty dollars for each and every offence, and the further penalty of twenty dollars during each and every month, until the same shall be constructed according to the provisions of this ordinance, to be paid by the person or persons who may cause or direct the same to be constructed. Ibid, s. 13. Vaults, how to be covered. Penalty.

109. The iron grates which shall be used to cover the apertures of vaults which are placed on the footways in the several streets, lanes or alleys of the city, shall be sunk not less than three inches below the surface of said foot pavements, and the same shall be securely covered by a wooden or stone frame, which shall be level with the surface of the said foot pavement, so as not to create any obstruction to walking or other proper use of said footways; and the said grates, so covered with wood or stone as aforesaid, shall be so constructed as to be fastened inwardly, and the wooden or stone frame or covering securely fastened to the iron grates, so that the same may not come apart; and if any owner or occupier of property shall hereafter cause or permit any grate to be placed upon the foot pavement attached to his or her premises not constructed conformably to the provisions of this section, he, she or they shall incur a penalty of ten dollars, and one dollar for each day it shall remain after notice given by the City Commissioner to alter, change or remove the same; provided, that the provisions of this section shall only apply to openings to vaults which project or are placed more than three feet from the building line of any street. Ibid, s. 14. Apertures of vaults, how to be covered. Penalty. Proviso.

110. The owner or occupant of any house or lot before which any vault or opening for cellar doors, areas or steps is being constructed, shall fence off the pavement on the right and left of the improvement, and during the whole of every night whilst such vault or opening is uncovered or un- Ibid, s. 15. Precautions while constructing.

Lighted lamp.

enclosed, cause a lighted lamp or lantern to be placed at some convenient spot, so as to cast its light upon such vault or opening, under the penalty of five dollars for each and every night, or part of a night, during which such lamp or lantern shall be neglected to be placed, kept or lighted as aforesaid.

Ibid, s. 16.

Removal of covering.

111. No person shall remove or cause to be removed any grate or covering to the opening or aperture of any vault in any of the streets of the city, without enclosing such aperture during the time such grate or covering is removed with a strong box or kerb, at least twelve inches high, and firmly securing the same, under a penalty of ten dollars for each and every offence.

Penalty.

REGULATIONS.

No. 33, s. 2, R. O.

Penalty for firing guns, &c.

112. If any person shall fire or discharge any gun, pistol or firearms within the city, unless it be on some occasion of military parade, and then by order of some officer having the command, every such person for every such offence shall forfeit and pay a sum not exceeding five dollars; and if any gun, pistol or firearms shall be discharged from on board any vessel within the harbor of Baltimore, the captain of the vessel, as well as the offender, shall be liable to the said penalty.

Exception.

Ibid, s. 4.

Coal and troughs in streets prohibited.

113. Every person who shall put or place any coals, or any trough for watering or feeding horses, cattle or other animals, or cause the same to be done in any public square, place, street, lane or alley of the city, and shall not remove the same on the same day before sunset, shall forfeit and pay the sum of one dollar for each offence, and the further sum of one dollar for each and every subsequent day the same shall remain therein.

Penalty.

Ibid, s. 5.

Firewood in streets, &c., regulated.

114. Firewood may remain in any public square, street, lane or alley in the city for the space of forty-eight hours next ensuing the putting or placing the same therein, and

no longer, and every person who shall put and place any firewood in any such public square, place, street, lane or alley, or cause the same to be done, or suffer the same to remain therein for a longer space of time than is above specified in this section, shall forfeit and pay the sum of one dollar for such offence, and a further sum of one dollar for each and every day the same shall remain therein beyond said space of forty-eight hours.

115. If any person or persons shall place or cause to be placed in any street, lane or alley in the city any barrel, hogshead, box, crate or other package, and shall suffer the same to remain for a longer time than twelve hours, or in any instance after nine o'clock in the evening, every person so offending shall forfeit and pay one dollar, and the further sum of one dollar for every day the same shall be suffered to remain, and in no case shall any person be permitted to use more space than one-half of the foot pavement by placing the above named articles thereupon, under a penalty of one dollar for each and every offence.

Ibid, s. 6.

Barrels, hogsheads, &c.

Not more than one-half of footway to be used.

116. No person or persons shall in any manner obstruct any of the streets, lanes or alleys of the city, or the gutters thereof, except in the immediate act of moving or removing some article in the way of their trade or business, or for the use of their families; provided, that such articles as are to be inspected or gauged under ordinances or statutes may be placed on the footways; such articles, however, to be arranged so as not to obstruct the passage through the streets or over the footways from the stone pavement to any house, store, cellar or backyard, or from any house, store, cellar or backyard to the stone pavement, without the consent of the owner or occupier; every person so offending shall forfeit and pay the sum of one dollar.

Ibid, s. 7.

When streets may be obstructed.

Goods liable to inspection regulated.

117. Any person or persons who shall place or set any goods, wares, merchandise, or vegetables or fruit, by way of

No. 68, Oct. 12, '69.

Goods, &c., not to project more than three feet.

exposing the same to sale, so as to project a distance of more than three feet from his or her house or store, shall forfeit and

Penalty.

pay a fine of five dollars for each and every such offence, to be recovered as other corporation fines and penalties are recovered.

No. 33, s. 8, R. O.

Wheelbarrows, &c., on footways prohibited.

118. No person shall wheel any wheelbarrow, or draw or push a hand cart along any of the footways of the streets, lanes or alleys of the city, or place one on the same, under the

Proviso.

penalty of one dollar; provided, that nothing in this clause shall be construed to prevent any person from using a wheelbarrow or hand cart in removing any articles of merchandise, or materials necessary for building or family use, across the said footways.

Ibid, s. 35.

Lumber, &c., in streets regulated.

119. If any person or persons shall place or cause to be placed within the streets, lanes or alleys of the city, any dirt, lumber or other obstructions to the free egress or ingress through such street, lane or alley, and shall permit the same

Notice from City Commissioner or police

to remain more than twenty-four hours after being notified by the City Commissioner or any of the police officers to remove

Penalty.

the same, he, she or they shall be subject to a fine of five dollars for each day it shall so remain; and the City Commissioner is hereby authorized and empowered to remove, or cause to be removed, all manner of obstructions to the passage through the streets, lanes or alleys which he shall find remaining in the same an unnecessary length of time; and all expenses incurred shall be chargeable to the person or persons who shall violate the provisions of this section.

Ibid, s. 15.

Horses not to be shod, or fires made in streets.

120. If any person shall cause any horse, mare or gelding to stand in any of the streets, lanes or alleys within the limits of direct taxation, whilst he is shoeing or preparing to shoe such horse, mare or gelding, or shall make any fire in any

Penalty.

street, lane or alley, every such person shall forfeit and pay a

Proviso.

sum not exceeding five dollars; provided, that it shall and may be lawful for any person to kindle and use a fire made of

charcoal or coke on any street, lane or alley in the city, for the purpose of preparing any article to be used in the construction of any house, cellar or pavement, if not more than one-fourth of the width of the street, lane or alley in front of the property to be improved be occupied, and for no longer time than six days at any one place; and provided further, that the consent of the persons occupying all the property on the square on which the improvement is to be made, be first filed in the office of the City Commissioner. When fires allowed.

121. Permission is hereby granted to all persons in the city of Baltimore to erect hitching posts in front of their dwellings or places of business, except on Baltimore street, said posts to be removed after sixty days' notice from the Mayor. No. 51, June 9, '74. Hitching posts.

122. If any person or persons shall wilfully break, pull down, hurt or destroy any tree or trees, or enclosure around the same, which are now or may hereafter be planted near the kerb or gutter of any of the streets, lanes or alleys of the city, or in any other public grounds within the city, such person or persons so offending shall forfeit and pay five dollars for every such offence; provided always, that nothing herein contained shall be so construed as to prevent the City Commissioner from removing any tree or trees, or part thereof, which he may deem so situated as to obstruct the carriage or footways, or injure any of the public pumps, or any proprietor of a lot or lots from cutting down any tree or trees near the gutter in front of his or her lot or lots. No. 13, s. 19, R. O. Penalty for injuring trees in streets, &c. Proviso. Removal of trees by City Commissioner.

123. If any person or persons shall kill, or attempt to kill, or in any manner injure or molest any sparrows, robins, wrens, or other small insectivorous birds, on any of the streets, lanes or alleys or public squares or parks in the city of Baltimore, or shall destroy or remove, or attempt to destroy or remove, any box or boxes placed in any tree or other suit- No. 16, Apr. 14, '74. Sparrows, robins, wrens, &c., protected. Bird boxes.

able place in the city of Baltimore for the use of such birds, such person or persons, and any person or persons aiding or abetting them, shall severally forfeit and pay for each and every offence the sum of five dollars.

Penalty.

No. 33, s. 11, R. O.

Water from gutters not to be thrown on streets.

124 No person or persons shall cast water contained in the gutter or gutters of any street, avenue, lane or alley, upon the bed or paved portion of such street, avenue, lane or alley, by means of a scoop, shovel, watering-pot, or by any other means or contrivance whatsoever, and any person or persons who shall violate the provisions of this section shall forfeit and pay the sum of five dollars for each and every offence; provided, that no portion of this section shall in any way impair the privileges accorded to builders in sections 14 and 15 of Article VII, [p. 113, &c., *ante.*]

Ibid, s. 31.

Snow to be removed from footways.

125. It shall be the duty of each and every person, incorporated society or public institution using or occupying in any manner, or for any purpose whatsoever, any house, store, shop, stable or tenement of any kind, and of persons having charge of churches and public buildings of every description, and of owners of unoccupied houses and unimproved lots, situate on any paved street, lane or alley in the city, within three hours after the fall of any snow, (except the snow shall have ceased to fall between the hours of three o'clock in the afternoon and six in the morning, in which case it shall be removed before eleven o'clock in the morning,) to remove and clear away, or cause to be removed and cleared away, the same from the foot pavements fronting the respective houses, stores, shops, stables, churches, buildings or lots, so used, occupied or owned by them, or under their charge, in such manner as not to obstruct the passage of the water in the gutters, under a penalty of two dollars for every neglect, beside the expense of cleaning the same away, under the direction of the police officers in the mode pro-

Exception.

Penalty.

vided in section 127. And it shall further be the duty of the said persons and agents to keep the gutter or gutters leading to and the pavements or sidewalks situate in front, rear, or sides of such tenements above enumerated, free from ice and every obstruction of whatever nature; and every such owner, tenant or person having in charge, who shall fail to remove any such obstruction by ice or any other cause, for three hours after notification duly served on him, her or them by any police officer of the district, shall forfeit and pay two dollars for such failure, and one dollar additional for each and every day the obstruction may continue, such fines and forfeitures to be recoverable as is usual in similar cases.* Ice. Notice. Penalty.

* See sec. 108, p. 417, *ante*. *Nuisances:* Held, *before the establishment of the Board of Police*, that the effect of the provision requiring the city "to prevent and remove nuisances," (sec. 1, p. 376, *ante*,) is to make the city, like individuals and private corporations at common law, responsible for causing or not removing nuisances, to any person who has received special damages therefrom; and that the passage of ordinances providing for the removal of snow and ice from the streets, so as to prevent their accumulation from being a nuisance, was not a discharge of the obligation imposed by the charter; that the city was bound to make vigorous efforts to enforce such ordinances, in order to bring itself within the saving of having used reasonable care and diligence, and where a party sustained an inconvenience or injury, experienced in common with all citizens, then the source of complaint is a common nuisance, and the remedy must be by indictment. An accumulation of ice on the footway of a city is a common nuisance. *Mayor, &c.* v. *Mariott*, 9 Md. 160. *Owings* v. *Jones*, *Ibid*, 108. See notes, pp. 622, 711, *ante*, and under Water, Art. LIII.

Mrs. Flynn, while walking with ordinary care, slipped and fell upon the ice covering the pavement of a public street in the city of Baltimore, in front of the premises occupied by the Canton Company. Snow having been allowed to accumulate on the pavement, was melted by the sun, and the water thus formed was frozen the night before the accident. Mrs. F. could not see the ice because of a slight covering of snow, which had fallen during the night. Suit was brought to recover damages for the injuries sustained in consequence of the fall. The action was brought on the neglect of the Canton Co. to comply with the ordinance of the city with regard to clearing pavements of ice and snow, (being sec. 125 above.) Held: That the action would not lie; that the neglect of the Canton Co. to perform the

No. 10, Feb. 27, '74.

No salt to be used to melt ice or snow.

126. No person or persons, or corporations, shall cast, throw, sprinkle or place salt or any other saline substance upon any pavement, street, lane, alley or car track whatever within the corporate limits of the city of Baltimore, for the purpose of removing or melting ice or snow, under a penalty of not less than fifty dollars, nor more than one hundred dollars, for each square or part of square upon which salt or any other saline substance may be cast, thrown, sprinkled or placed, said fine or fines to be collected as other corporation fines and penalties are collected.

Penalty.

Ibid, s. 32.

Duty of police with respect to snow, ice, &c.

127. It shall be the duty of the police officers to cause the snow and ice to be removed by the persons employed for the purpose of cleaning the streets, from the footways of the bridges within the city, and from the flagstones placed at the several intersections of the streets, as also to remove the ice and other obstructions to the free passage of the water at the intersections of the several streets of the city, and to cause the snow and ice to be removed from the foot pavements fronting the houses, stores, stables, churches, public buildings, lots or tenements of such persons as shall neglect or refuse to remove the same, at the expense of the city in the first instance, to be afterwards recovered from the person or persons so neglecting or refusing.

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duty or service imposed on them by the ordinance did not render them liable to a private action; that the only liability resting on them was that imposed by the ordinance itself, namely, the prescribed fine or penalty for each offence, and the cost of removal, in every instance of their refusal or neglect. *Flynn* v. *Canton Co.*, 40 Md. 312.

While recognizing the well settled principle that whenever a party causes, constructs or creates a nuisance or obstruction in a public street or highway, he is responsible in damages to any one who has received special injury in consequence thereof, the Court considered that in this case the nuisance, if such it were, was not caused or created by the act of the party sued. The ice, the occasion of the injury, was not on the property of the Canton Co., nor was it placed on the pavement through the slightest instrumentality or agency on their part; it was formed solely and exclusively by the action of the elements. *Ibid.*

128. It shall not be lawful for any person to throw any bale or bulky article from the second or higher story door or window into the street, or to use, or cause to be used, in or upon any street, lane or alley, wharf or place of public resort, any sliding board, skid, or other device or contrivance, for the purpose of receiving or delivering merchandise, without having the same well secured, so as to prevent the same from slipping; and every person who shall offend in manner aforesaid shall pay for every such offence the sum of twenty dollars; provided, that this section shall not be construed to extend to the removing of any merchandise or other article in case of danger by fire or other casualty.

No. 22, Mar. 7, '71

Bales or bulky articles not to be thrown from windows

Sliding boards, skids, &c.

Penalty.

Proviso.

129. It shall not be lawful for any person to play at bandy or ball, to fly a kite, or throw a stone or any other missile in that part of the city comprehended within the limits of direct taxation, or any street, lane or alley opened for public use within the limits of the city, under a penalty of one dollar for each offence.

No. 33, s. 51, R. O.

Penalty for playing bandy, flying kites, &c.

130. It shall not be lawful for any political organization to parade through the streets of the city of Baltimore after dark. Any person or persons violating the provisions of this section shall be guilty of misdemeanor, and liable to a penalty of not less than five nor more than twenty-five dollars.

No. 85, May. 12, '76.

Political organizations not to parade after dark.

Penalty.

DRIVING CATTLE, SHEEP OR SWINE THROUGH STREETS.

131. It shall not be lawful for any person to drive any cattle, hogs or sheep through Saratoga, Mulberry or Franklin streets, from Poppleton street to Charles street, except between the hours of 9 P. M. and 5 A. M.

No. 25, Apr. 21, '77.

Hours when cattle may be driven through certain streets.

132. Nor eastwardly or westwardly in Baltimore street, between Fremont and Eden streets.

No. 33, s. 38, R. O.

Streets.

No. 49, Apr 22, '72. Streets.

133. Nor eastwardly or westwardly along Lexington street, between Eutaw and Charles, or eastwardly or westwardly on Fayette, between Green and Gay streets, except between the hours of 9 P. M. and 5 A. M.

No. 122, Nov. 5, '74. Streets.

134. Nor along Madison avenue or Madison street, except between the hours of 9 P. M. and 5 A. M.

No. 25, Apr. 21, '77. Penalty.

135. Any person who shall violate any of the provisions of the preceding four sections shall be subject to a penalty of twenty dollars for each and every offence.

No. 64, Oct. 8, '61. Swine not permitted to lie down in streets.

136. It shall not be lawful for any person or persons owning or driving any hogs through or in any of the streets, lanes or alleys of this city, wilfully to permit the same to stop or lie down therein; and any person or persons, or their agent or agents, who shall violate this section, shall be subject to a fine of five dollars for each and every offence.

Penalty.

No. 73, June 17, '74. Driving cattle, sheep and hogs through streets prohibited except to slaughter houses or shipping points

137. It shall not be lawful for any person or persons to drive any cattle, sheep or hogs in any street, lane or alley of Baltimore, except to slaughter-houses and shipping points within the limits of the city, under a penalty of five dollars per head for each and every offence; provided, that nothing in this section shall be so construed as to prohibit the use of the streets, lanes or alleys of the city necessary to the passage of animals from the cattle pens of the Baltimore and Ohio Railroad to the cattle scales and pens of the State of Maryland; provided, moreover, that it shall not be lawful for any one to drive any cattle, swine or sheep through any street or parts of streets, except as permitted by the preceding sections 131, 133 and 134.

Exception.

Exception.

CATTLE, SWINE AND GOATS AT LARGE.

No. 63, s. 1, R. O. Cattle and swine not permitted to go at large.

138. It shall not be lawful for any cattle or swine to go at large at any time within the limits of the city; and the Mayor is hereby authorized to employ persons to take up all

swine found going at large in any of the streets, lanes or alleys of the city; and he is also authorized to enter into such arrangemets with the Trustees of the Poor for the City of Baltimore, as will induce them to receive all swine taken up according to the provisions hereof; and the owner or owners of any swine or cattle found going at large within said limits shall be fined for each and every offence the sum of five dollars, to be recovered as other fines are recovered.

When taken up, how disposed of.

No. 64, May 27, '72.

Penalty.

139. The sum of five hundred dollars is annually placed at the disposal of the Mayor to be expended as he shall deem most advisable in executing this ordinance relative to cattle and swine, to be paid out of any money in the treasury not otherwise appropriated.

No. 63, s. 2, R. O.

Appropriation.

140. It shall and may be lawful for all persons to kill or cause to be killed, or to seize and take and dispose of to his or their own use and benefit, any goat or goats running at large in any public street, lane or alley, or found within any of the enclosures of the springs or public squares of the city. The sum of fifty dollars is hereby annually placed at the disposal of the Mayor to carry out the provisions of this section, to be taken out of any unappropriated money in the treasury.

No. 62, R. O.

Goats going at large may be killed or seized.

Appropriation.

141. Should any goat be found running at large, as aforesaid, the owner or owners thereof shall forfeit and pay the sum of two dollars.

Ibid, s. 2.

Penalty on owners of goats.

DECISIONS AS TO STREETS.—The two systems for opening and condemning, and for grading and paving streets in the city of Baltimore, are entirely different—they are provided for by different laws and ordinances, executed by different officers, and governed by different rules and regulations. *Mayor, &c., v. Porter*, 18 Md. 284.

OPENING, &C. STREETS.—It is not essential to a complete dedication of land to public use, that the legal title should pass from the owner, nor that there should be any grantee of the easement *in esse* to take the fee; nor is it necessary that there should be a deed or writing in order to evidence the

dedication; but if the owner of the land has done such acts *in pais* as amount to a dedication, he is thereby estopped from denying that the public have a right to enjoy what is thus dedicated to their use, or from revoking what he has declared by his acts. *McCormick* v. *Mayor, &c.*, 45 Md. 512.

In the case of a clear act of dedication, as for a street, it is not essential to the validity of such act, that the space thus dedicated should at once be used by the public for that purpose, or that it should be so used within any limited time, in the absence of any condition to that effect. An intent on the part of the owner to dedicate his land to the particular use alleged, is absolutely essential; and unless such intention is clearly proved by the facts and circumstances of the particular case, no dedication exists. The evidence of such intention is furnished in various ways; but as dedication will be presumed where the facts and circumstances of the case clearly warrant it, so that presumption may be rebutted, and altogether prevent it from arising by circumstances incompatible with the supposition that any dedication was intended. If a street be designated on a plat made by authority or by the party himself, as passing over certain lands, and the owner subsequently conveys lots fronting or binding on such street, he remaining the owner of the fee in the bed of the street, this is held a dedication of the land over which the street passes, to the public use; and on opening the street, the owner of the fee will be entitled to nominal damages only as compensation, and will be estopped from making further claim for such use as against the public. *Ibid.*

A lot of ground in the city of Baltimore was surrendered by the owners to the Commissioners for Opening Streets, and compensation claimed for the whole lot. The lot was valued by the commissioners and damages assessed therefor. From their assessment an appeal was taken to the City Court, and upon trial the jury, on January 22d, 1874, found an inquisition, ascertaining the amount of damages to which the owners were entitled. This inquisition was confirmed by an order of court and judgment entered thereon. The amount found by the inquisition was paid by the city to the owners on December 4, 1874. At the time of the payment the owners claimed interest from January 22d, 1474, to the date of the payment, which the city refused to pay. On a *mandamus* filed by the owners to compel the city to pay the interest so claimed, it was held:

1. That the amount found by the inquisition did not bear interest.

2. That section 10, p. 1000, *ante*, under which alone the City Court was authorized to act in taking the inquisition, gave no power to pass an order of confirmation, or to enter up a judgment upon the inquisition of the jury, and such entries were therefore unauthorized and inoperative.

3. That the Act of 1870, c. 371, providing for the rendition of judgments upon the return and ratification of inquisitions in cases of condemnations of lands, has no application to these proceedings.

4. That the owners were not entitled to a *mandamus* to recover the in-

terest, either as forming part of the just compensation secured by the Constitution, or as in the nature of interest on a judgment.

5. That the city is not responsible for losses occasioned by necessary delays in taking possession of property for a proposed improvement, but when the assessments have all been finally settled, the city can fairly exercise its election to abandon the enterprise, or pay the assessments and proceed with the work.

6. That for losses to owners occasioned by delay, subsequently occurring through failure of the city authorities thus to abandon or pay, it is just and right the city should be held liable in an action for damages.

7. That as to what the measure of damages should be, no general rule applicable to all cases could be laid down. But where the property, as in this case, consisted of a vacant and unimproved lot, from which the owners derived neither rents nor profits, the standard of damages should be the interest upon the market value of the property ascertained by the inquisition for the time the delay was without justifiable cause.

8. But that a *mandamus* would not lie to enforce its payment until in such an action the jury had ascertained the amount by their verdict, and a judgment thereon had been rendered against the city. *Norris, et al.* v. *Mayor, &c., Balto.* 44 Md. 598.

The owner of certain lands, lying between Madison and Druid Hill avenues, in the city of Baltimore, offered at public auction certain portions of them marked in lots upon a map or plat. Upon this map lots and streets were laid down, and among others there was one designated as Mosher street; it ran from Madison avenue, across McCulloh street, to Druid Hill avenue. The lots advertised for sale and described as being on Mosher street, were all between Madison avenue and McCulloh street. There was no sale at auction. Subsequently, four of the lots, calling to bind on Mosher street, were disposed of at private sale. Afterwards, Mosher street, lying between Madison and Druid Hill avenues, was condemned by authority of the city. Held: 1. That the right of way or easement in Mosher street acquired by the purchasers of the lots binding thereon, extended from Madison avenue only to McCulloh street, their lots lying between these streets, and to that extent only was there a dedication of Mosher street to public use by their vendor. 2. That the vendor of the lots was entitled to substantial damages for that part of Mosher street, lying between McCulloh street and Druid Hill avenue, there having been no dedication of the same to public use. The purchaser of a lot calling to bind on a street not yet opened by the public authorities, is entitled to a right of way over it; if it be of the lands of his vendor, to its full extent and dimensions only, until it reaches some other street or public way. Under Ordinance No. 26, April 3, '66, (p. 1000, *ante*,) a person assessed for benefits arising from the opening of a street, who appeals from the return of the commissioners, can only question the propriety of his own assessment, and cannot disturb or question the return of

the commissioners, in reference to any other person who is assessed for benefits or allowed for damages. *Hawley, et al.* v. *Mayor, &c.*, 33 Md. 270.

An appeal will lie to the Court of Appeals from a decision of the Baltimore City Court in proceedings on an appeal to that court from the Commissioners for Opening Streets. The Baltimore City Court, upon an appeal to it from the Commissioners for Opening Streets, has authority to review any irregularity in the proceedings of the commissioners. In the absence of proof showing that legal notice was not given of an application for the passage of an ordinance for widening a street, the court will presume that the requirements of the law were complied with, and that the Mayor and City Council of Baltimore acted within their authority in passing the ordinance. The Street Commissioners have authority to give the notice required by s. 6, (p. 995, *ante*,) before taking the oath required by s. 2, (p. 994, *ante*,) *Page* v. *Mayor, &c.*, 34 Md. 558.

The notice under the Act of 1838, c. 226 [sec. 2, p. 985, *ante*,] given in two or more daily papers, was: "that application will be made to the Mayor and City Council to widen Belair avenue, or north Gay street, as laid down on Poppleton's plat, from Point lane to the North avenue." Held: That the powers granted by above act, are such as are essential to the existence and expansion of a great municipality, and are confided to a local legislature selected by its citizens, for the government of its concerns. That it would be fatal to the objects for which these powers are delegated by the General Assembly of the State, to require all notices of applications for ordinances to carry into effect these powers, to specify, with technical precision, the objects for which the application would be made; such particulars would embarrass all the subsequent proceedings dependent on the notices, and render the rights acquired under them so precarious as to destroy all confidence in the local legislation of the city. That the notice, in this case, was a sufficient compliance with the provision of the act above cited, in accordance with which Ordinance No. 61, of 1851, was passed. That the authority conferred by this ordinance on the commissioners, "to widen and condemn north Gay street, or Belair avenue, to the width as it is laid down on Poppleton's map," was a legitimate exercise of the power conferred by the act. *Mayor, &c.*, v. *Bouldin, et. al.* 23 Md. 328.

An ordinance of May 5, 1864, to open a street in continuation of Holliday street, required the judges of the Appeal Tax Court in the condemnation and opening of the proposed street to proceed in accordance with the provisions of Ordinance No. 15, of R. O. 1858. Section 7 of said ordinance (sec 7, p. 996, *ante*,) provided: that in every case where it shall be necessary to effect the object proposed, that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner thereof shall claim to be compensated for the whole, the commissioners shall ascertain the full value thereof as if the whole lot and improvements were necessary to be taken and used for such proposed object. It then provided for the payment to the owners of the whole of such valuation, and for the sale of the residue of the lot not necessary to be taken and used for the street; and the amount

which is derived from such sale is appropriated to the payment of the expense of the improvement, thereby diminishing to that extent the cost of the work assessed upon the parties benefited. On a bill filed for an injunction to prevent the opening of the street—held: that this provision of the ordinance is not obnoxious to the objection that it authorizes the taking of the property of a citizen, when it is not required for public use. *Mayor, &c.* v. *Clunet*, 23 Md. 449.

The Mayor and City Council having provided by ordinance for the opening of a street to pass through the lands of A. and B., B. filed a bill for and obtained an injunction to prevent the opening of said street; one of the conditions of his injunction bond being for the payment of "all damages occasioned by the granting of the injunction." The injunction was finally dissolved and the appeal dismissed by the Court of Appeals. A. afterwards sued B. upon the injunction bond claiming damages to the amount of an alleged depreciation in the value of his land between the issuing of the injunction and its final dissolution, on the ground that the injunction prevented the sale of his land for building lots at the price that could have been obtained for them at the time of the granting of the injunction, if the street had been then opened. Held: 1. That the claim of A. could only be sustained on the ground that the injunction operated to infringe or deprive him of some vested legal right, which the bond was intended to protect. 2. That under the ordinance for opening said street, passed by authority of 1838, c. 266, neither the public nor any private citizen could acquire any privilege or right to its use until the actual opening and surrender of the street to the public. 3. Limiting the liability of the appellant B. to such damages as might have arisen from the suspension or invasion of vested legal rights by the injunction, the appellee A. sustained no injury for which he could claim redress by an action on said bond. *Steuart* v. *State*, 20 Md. 97.

The modes in which the power of opening, widening and closing streets is exerted, vary according to circumstances. Sometimes it is initiated by summoning a jury upon warrant, in the nature of an inquest, *ad quod damnum;* at others, boards of assessors are appointed to appraise dues and benefits, with the right of appeal to a court of record and of review, by a jury; yet all are subject to the constitutional inhibition, "that the legislature shall enact no law authorizing private property to be taken for public use, without just compensation, (as agreed upon between the parties or awarded by a jury,) being first paid or tendered to the party entitled to such compensation." The Commissioners for Opening and Widening Streets having a special public duty and jurisdiction assigned them, to be executed in a prescribed form, their proceedings are of a legal character, and must be regarded as subject to all the incidents of proceedings in the nature of a writ of inquisition *ad quod damnum*, being but means to the same end. Regarded in their legal character, the proceedings of the commissioners, under the ordinance, are a substitute for the inquisition of a jury, to ascertain the actual cost of any projected improvement, and have no further effect. *State, ex rel., McClellan* v. *Graves et. al.*, 19 Md. 351.

A square, designated as such on Poppleton's plat of the city of Baltimore, and marked by two boundary stones, but which has never been used by the public for any purpose, but constantly held by the owners of the land, and never purchased by the city authorities, or conveyed to them, is not a square for public purposes, contemplated by the Act of 1817, c. 148, s. 13. The owner has the same right to improve the land in this square as any other portion of his property in the city limits, and the city authorities have the right to open a street through it in the same manner as through any other property; there is no necessity for them to close this square, because it never was in legal contemplation a public square. Notice, that application will be made to the city authorities "to open and condemn Baltimore street, from the east side of Fulton street, to the city limits," describes with sufficient accuracy the street designed to be opened, and is not defective in this particular. *Steuart* v. *Mayor, &c.*, 7 Md. 500.

The owner of a lot lying on the bed of a street in the city of Baltimore, which is taken for public use, is entitled to compensation precisely as if no such street was opened over it, and to ascertain this the value of neighboring and contiguous lots may be looked to, but they do not furnish an unerring standard by which to measure the value of the lot condemned. A law providing for the opening of a street or road, and imposing all the costs on those who are the more immediately benefited, instead of the community at large, is constitutional. Where a party sells property within the limits of a city, and in the deed bounds it by streets, designated as such in the deed, or on a map made by the city, or the owner, it is a dedication of the street for public use, and a subsequent purchaser from the same vendor of the lot upon the bed of such street, can claim only nominal damages for its condemnation upon the opening of the street, because he only acquired the naked fee, subject to an easement, or right of way in the public. *Moale* v. *Mayor, &c.*, 5 Md. 314.

Where the legislature conferred certain powers upon the corporate authorities of the city of Baltimore, in relation to the opening and widening of streets in said city, it is not essential to the validity of an ordinance of said corporation, executing the powers thus conferred, that it should state or indicate the Act of Assembly, in execution of which it was passed. If no power be stated as its basis, the ordinance will be regarded as emanating from that which would have warranted its passage; and if two such powers exist, it may be imputed to either, in conformity to which its provisions show it to have been adapted. The power to determine whether or not the public welfare and convenience require the widening of any particular street, is by the Act of 1838, c. 226, [sec. 1, &c. p. 984, &c. *ante.*] vested exclusively in the Mayor and City Council, and whether their judgment be right or wrong, is no subject for revision or correction in a court of equity. Where notice to all persons interested in the opening or widening of any street, has been duly given by publication, as required by law, ignorance thereof, in any party, can afford him no ground for relief, either in equity

or by appeal to Baltimore City Court. The law imputes notice, and will not admit testimony to disprove it. *M. P. Church* v. *Mayor, &c.*, 6 Gill, 391.

Proprietors of land in a city frequently divide it, so as to establish streets at points where there are none under the authority of the corporation, and lots conveyed by deeds which bound them on such streets, give the purchasers, by virtue of an implied covenant, an easement or right of way over the streets, which right is unaffected by the circumstance that at the time of sale the streets were unopened. *White* v. *Flannigan*, 1 Md. 540.

Where a deed describes city lots as bounding on certain streets, the grantor and his heirs are estopped from denying that there are such streets to the extent of the lots bounded by them. Such a description is not merely a description, but an implied covenant that there are such streets. The several Acts of Assembly authorizing the municipal authorities of Baltimore city to lay out, open, extend, widen, &c., any street, &c., considered in *White* v. *Flannigan*, 1 Md. 549.

The ordinance of the city of Baltimore, March 9, 1841, in relation to the opening, &c., of streets, directing the commissioners, after ascertaining the amount of damages and expenses to be incurred in any one case, to assess the same on all the ground and improvements within the city, the owners of which would, in the judgment of the commissioners, be benefited by accomplishing the object authorized in the ordinance; apportioning them in just proportion according to the value of the benefit, which, in the estimation of the commissioners, would accrue to each owner of any right or interest claimed in any such ground or improvements, does not subject the individuals embraced by it to an unequal and partial tax, for the prosecution of an improvement in which the whole community is interested. No burden is imposed by such an ordinance on the person on whom it operates. It is a mere requisition that the owners of property, the value of which is enhanced by the opening of the street, shall pay for the improvement in a ratio to the benefit derived from it. *Alexander & Wilson* v. *Mayor, &c.*, 5 Gill, 383.

Held, that the Act of 1838, c. 226, [sec. 1, &c., p. 984 &c. *ante*,] and the ordinances passed in pursuance thereof, were a constitutional exercise of legislative power, and that all proceedings of the city in conformity to it were valid, and that a court of equity had no jurisdiction to supervise or re-examine the proceedings and judgment of the court, to which an appeal was taken. *Alexander & Wilson* v. *Mayor, &c.*, 5 Gill, 383; *M. P. Church* v. *Mayor, &c.*, 6 Gill, 391; *Richardson* v. *Mayor, &c.*, 8 Gill, 433; *Mayor, &c.*, v. *Bouldin*, 23 Md. 330; *State* v. *Graves*, 19 Md. 351.

Upon a bill to enjoin the defendants from collecting a tax imposed by the Street Commissioners of Baltimore City, upon the property of the complainants, for widening a street, the Acts of Assembly and ordinances of the city having given to all persons considering themselves aggrieved by the proceedings of said commissioners, the right of appeal to court, which remedy the complainants failed to take, it was held, that a court of equity had no

jurisdiction, and the injunction was dissolved. *M. P. Church* v. *The Mayor, &c. of Balto.*, 2 Md. Ch. Dec. 78, 6 Gill, 391. See *Mayor, &c. of Balto.* v. *Porter*, 18 Md. 301.

Upon a bill filed by the appellants, alleging that the damages for opening and extending streets in the city of Baltimore, secured to them by the above statutes, had not been assessed to them by the street commissioners of said city, in their proceeding for the extension of said streets, and that upon appeal to court, the jury had, also, in their assessment of damages, made no assessment of damages to the complainants, who were thereby absolutely denied the rights vested in them by said act, the chancellor granted an injunction restraining the appellee from collecting the assessments made by the jury. The answer of the appellee averred that the provisions of the said act of assembly were especially brought to the attention of the jury and fully discussed, and deliberately considered by them. The chancellor thereupon ordered the injunction to be dissolved, which order was affirmed upon appeal. *Richardson* v. *Mayor, &c. of Balto.* 8 Gill, 433.

If the owner of private property taken for public uses under the Act of 1838, c. 226, [sec. 1, &c., p. 984, &c., *ante*,] does not appeal within the prescribed time, and the compensation assessed be paid or tendered, the property may be taken for public use: the neglect or refusal to appeal is considered a waiver, or abandonment of the right to have the damages awarded by a jury, and as an agreement to take the compensation determined by the assessment. *Steuart* v. *Mayor, &c.*, 7 Md. 500. See *Moale* v. *Mayor, &c.*, 5 Md. 314. *Stewart* v. *State*, 20 Md. 97. *State* v. *Graves*, 19 Md. 369.

PAVING, GRADING, &C., STREETS.—DECISIONS BEFORE THE ACT OF 1874, c. 218.—The system of grading and paving streets established by the ordinances of the city of Baltimore, is authorized by law, and no constitutional objection exists to the power conferred on the owners of a majority of front feet, of imposing a tax for such purposes, on the property of the other owners, against their wills. But the intention of the law is, that the application by the majority of owners shall be made in good faith, and any arrangement or combination among parties applying, whereby a few, who wish the work to be done, procure the signatures of others, by paying them therefor, either directly or indirectly, is a fraud upon the law and contrary to public policy. *Howard* v. *First Independent Church*, 18 Md. 451.

The powers and duties of the City Commissioner are specially defined and limited by ordinances having the force and character of public laws, ignorance of which can be presumed in favor of no one dealing with him as to matters thus conditionally within his official discretion. Under the ordinances of the city the City Commissioner may make contracts for grading and paving, and assess taxes therefor in two classes of cases, viz: 1. Upon application of the proprietors of a majority of front feet where the street has been condemned; and 2, upon the like application of all the proprietors of ground fronting on the street where it has not been formally condemned. Without such application he is entirely destitute of the official character and

power in and by which alone he can take any lawful proceedings, or make any valid contract for such work, and the power of the Mayor to approve of his determination to grade and pave, and of his contracts for the same, is limited to the same classes of cases and controlled by the same conditions. A contract made by the City Commissioner for grading and paving, upon the application of the owners of a majority of feet fronting on a street not formally condemned, is invalid and not obligatory on the city, and the contractor can maintain no action against the city on the contract, nor for damages for violating or disregarding its provisions. *Mayor, &c.* v. *Eschbach*, 18 Md. 276.

The lessee for ninety-nine years, or for ninety-nine years renewable forever, and not the owner of the fee, is the owner or proprietor to assent to the paving of unpaved streets in the city of Baltimore, under the Acts of 1797, c. 54, s. 2, and 1817, c. 148, s. 18, and 1833, c. 40, s. 3, (see sec. 7, p. 988 and sec. 33, p. 1010) *Holland* v. *Mayor, &c.*, 11 Md. 186. *Mayor, &c.* v. *Bouldin*, 23 Md. 328.

Unless the owners of a majority of the feet binding on the street to be paved, assent in writing to the paving, the proceedings of the city authorities, directing the paving to be done, are null and void, and a court of equity has, upon application of the non-assenting owners, jurisdiction to prevent, by injunction, the sale of their property to pay for such paving. *Bouldin* v. *Mayor, &c.* 15 Md. 18. *Mayor &c.* v. *Porter*, 18 Md. 284. *Lester* v. *Mayor, &c.*, 29 Md. 419. *Mayor, &c.* v. *Horn*, 26 Md. 195.

The ordinances of the city of Baltimore in relation to the paving of streets, confer on property owners not only the right to have their own lots improved by paving in front of them, but also the power to compel others to submit to and pay for such supposed improvements. The paving tax is due immediately after the commissioner makes out the list of persons assessed, and its payment may be enforced before any portion of the paving is commenced. The assent, in writing, of the proprietors of a majority of feet fronting on the street to be paved, must appear to have been given before the paving is ordered, and the want of such assent may be shown as a defence to an action to enforce collection of the tax. The certificate of the commissioner, stating that a requisite number of proprietors had assented to the paving, is not conclusive on the question of assent; it has but a *prima facie* effect as the warrant or authority to have the paving done, and those who act under it do so at their peril. The authority of the commissioner as to the paving of streets, is specified and limited, both as to its scope and effect, and when made the foundation of an action, it must appear to have been exercised according to law. *Henderson* v. *Mayor, &c.*, 8 Md. 352.

The taxes for paving streets in the city of Baltimore are imposed on the property, and not on the owner, and though a personal action for them may be maintained by the city against the owner, this does not affect the specific liability of the property. *Eschbach* v. *Pitts*, 6 Md. 71.

The charter of a cemetery company within the limits of the city of Baltimore provided that a certain number of acres "shall be forever appropriated

and set apart as a cemetery, which so long as used as such, shall not be liable to any tax or public imposition whatever." Held, that a paving tax for paving a street in front of this property is not embraced in this exemption. The intent of the Legislature was to exempt the property from all taxes or impositions imposed for the purpose of revenue, but not to relieve it from such charges as are inseparably incident to its location in regard to other property. *Mayor, &c.* v. *Greenmount Cemetery*, 7 Md. 517.

Under the Act of 1797, c. 54, s. 2, the power given to the Mayor and City Council of Baltimore, to tax any particular part, or district of the city, for paving the streets, lanes or alleys therein, or for sinking wells, or erecting pumps, which may appear for the benefit of such particular part or district, is not confined to any particular description of benefit, such as the ordinary benefit and advantage of paved streets. The preservation of the health of such particular part of the city, is a benefit within the meaning and scope of the act. The legality of laying such tax does not depend upon whether the paving does, or does not in fact benefit the particular district paved; but upon the object, the motive, of the corporation in causing the paving to be done. In an ordinance providing for such paving, and the imposition of such a special tax, it is not necessary that it should be expressly stated to be for the benefit of the particular district; if nothing appeared to the contrary, such an exercise of the special taxing power will be taken to have been in pursuance of the authority given by the charter. But where an ordinance provides for the paving of a street, &c., in a particular district, and the imposition of a special tax for that purpose, on such district, which paving appears from the ordinance to be for the general benefit of the city, and not for the benefit of the particular district, it is not in pursuance of the authority conferred by the charter, and is void. *Mayor, &c.* v. *Hughes' Adm'r*, 1 G. & J. 480. *Mayor, &c.* v. *Moore*, 6 H. & J. 375.

ARTICLE XLVIII.

SURVEYOR.

CONSTITUTION.

How elected: duties and compensation: vacancy.

STATUTES.

1. Duties and compensation.
2. Plat of the city, evidence.

ORDINANCES.

1. Oath of office.
2. Duties required of him by City Commissioner.
3. Duties required of him by Commissioners for Opening Streets.
4. Duties prescribed by Mayor and Council.
5. Fees.
6. To keep a record: to preserve field-notes, plats, &c.: to report semi-annually to Mayor.
7. Records subject to examination by Mayor, members of Council, City Commissioner and other city officers: charge for examnation.
8. Bond: return of plats, &c. to Comptroller.

CONSTITUTION.

The qualified voters of the city of Baltimore shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and on the same day in every second year thereafter, elect a Surveyor for the city of Baltimore, whose term of office shall commence on the first Monday of January next ensuing his election, and whose duties and compensation shall be the same as are now, or may hereafter be, prescribed by law.

Art. 7, sec. 2. Election.

Duties and compensation.

Vacancy. And any vacancy in the office of Surveyor shall be filled by the Mayor and City Council of Baltimore, for the residue of the term.

STATUTE.

P. L. L., art. 4, sec. 865; 1852, c. 59. Duties, &c. 1. The Mayor and City Council shall prescribe by ordinance the duties and compensation of the Surveyor.

P. G. L. Art. 37, sec. 48; 1852, c. 42. Plat of the city, evidence. 2. A copy of the plat of the city of Baltimore, from the record thereof in the Mayor's office, or from the record thereof in the office of the clerk of the Superior Court of Baltimore City, duly certified under seal by the keeper of such records, respectively, shall be evidence.*

ORDINANCES.

No. 16, s. 1, R. O. Oath of office. 1. Before entering upon the duties prescribed by this ordinance, the City Surveyor shall take the following oath or affirmation, before the Mayor of the City of Baltimore: I, ———, do solemnly swear or affirm, that I will to the utmost of my ability, faithfully and impartially discharge the duties of City Surveyor, whenever called thereto, agreeably to the ordinance to regulate the office of City Surveyor.

Ibid, s. 2. Duties required of him by City Commissioner. 2. Whenever the City Commissioner shall, in pursuance of the several duties required to be performed by him, under the provisions of the several ordinances of the city of Baltimore, contained in Art. XLVII, Streets and City Commissioner, or of any other ordinance which may hereafter be passed, regulating the duties of said City Commissioner, require the services of a surveyor, it shall be the duty of the said City

*For the City Boundaries, see note p. 9, *ante*. The limits, as laid down by the commissioners under the Act of 1816, c. 209, contain about 10,000 acres surface in land and water, and form a parallelogram of about three and a half miles from north to south, and four and a half miles from east to west.

Surveyor, to do and perform all such acts appertaining to the business of a surveyor, as may be reasonably required of him by the said City Commissioner, for which services he shall be entitled to and shall receive compensation as fixed in the table of rates contained in the fifth section hereof, and which compensation shall be collected in the manner now provided for in the several ordinances hereinbefore referred to, or which may hereafter be passed by the Mayor and City Council of Baltimore.

Ibid, s. 3.

Duties required of him by Commissioners for Opening Streets

3. Whenever the Commissioners for Opening Streets shall proceed to perform the several duties imposed upon them by virtue of the ordinance of the Mayor and City Council of Baltimore, contained in Article XLVII, Streets and City Commissioner, which may require the services of a surveyor, it shall be their duty and they are hereby required to notify the City Surveyor thereof, and it shall be the duty of the City Surveyor to do and perform all such work as may be required by the said Commissioners for Opening Streets in the discharge of their several duties, and for such work or services so performed he shall be entitled to and shall receive compensation agreeably to the rates established by the table hereinbefore mentioned to be assessed and collected in the manner prescribed by ordinance of the Mayor and City Council of Baltimore.

Ibid, s. 4.

Duties prescribed by Mayor and Council.

4. It shall be the duty of the City Surveyor to do and perform all other acts and things appertaining to the business of a surveyor, which may be required by virtue of any ordinance or resolution of the Mayor and City Council of Baltimore requiring the services of a surveyor, which are now in force or which may be hereafter passed, upon due notice to be given to him whenever said services are needed, and shall receive compensation agreeably to the rates in the table herein mentioned, or which may hereafter be specially prescribed by the Mayor and City Council of Baltimore.

No. 69, May 30, '66. Fees.

5. The compensation for the duties performed by the City Surveyor under this ordinance shall be as fixed by the following table, viz:

For surveying and establishing the lines of a lot, eight dollars.

For a plat of the same, three dollars.

For surveying and establishing from two to ten adjoining lots, each five dollars.

For a plat of the same, each two dollars.

For giving the line of a street in front of a building, five dollars.

For establishing the grade of any street, one square, five dollars.

For all over one square, each three dollars.

For profile of same, for each square, five dollars

For paving plat, each square, five dollars.

For condemnation and benefit plats furnished to the Commissioners for Opening Streets, the rates shall be as follows:

For a distance as shown on the benefit plat not exceeding two squares, for every front foot ordered, five cents.

For a distance, as above, more than two and not exceeding four squares, for every front foot ordered, three cents.

For a distance as above, exceeding four squares, for every front foot ordered, two cents.

For the damage plat he shall be allowed for his own services ten dollars per day while engaged on it, and also an additional allowance of two dollars and fifty cents per day

for each assistant; provided, that in opening any street designated on Poppleton's plat, there shall not be allowed (on said damage plat) more than one day to each square to the surveyor and his assistants, unless the bed of the street to be opened be obstructed by improvements. Proviso.

6. There shall be provided for the use of the City Surveyor, an office, which shall be known and designated as the "City Surveyor's Office;" and the said City Surveyor shall be required to have all memoranda, field notes and plats taken and made by virtue of this ordinance, and such as may be committed to his charge by any of the city officers, carefully filed and preserved in said office for the use of the city, whose property they are hereby declared to be; and it shall be the duty of the City Surveyor to report semi-annually (in January and July,) to the Mayor what field notes (so termed) and plats are in his possession belonging to the city. He shall also keep in his office a record of all the establishments made by him under the direction of the City Commissioner. No. 16, s. 6, R. O. To keep a record, to preserve field notes plats, &c. To report semi-annually to Mayor.

7. All records, memoranda, plats and field notes herein mentioned shall at all times be subject to the inspection and examination of the Mayor, the members of the City Council, the City Commissioner, the Commissioners for Opening Streets, the Counselor, Solicitor and Examiner of Titles, the Comptroller and the Register of the City; but every other person, after the expiration of twelve months from the time of the deposit of any record, memoranda, or plats in said office for such inspection, shall pay to the City Surveyor, for the use of the city, the sum of twelve and a half cents; and it shall be the duty of the City Surveyor to furnish a copy of any record in his office to any person requiring the same, on the payment of ten cents for every one hundred words embraced in such copy. Ibid, s. 7. Records subject to examination by Mayor, members of Council, City Commissioner, and other city officers. Charge for examination.

Ibid, s. 8.

Bond.

Return of plats, &c., to Comptroller.

8. Before entering upon the duties of his office, the City Surveyor shall give bond with securities, in the sum of five thousand dollars, conditioned for the faithful performance of his duty as City Surveyor, and for the return to the Comptroller of the City of all memoranda, field notes, plats, copies of plats and records, made by him as City Surveyor, or which may have been committed to his charge, whenever the same shall be required of him by the Mayor of the City or by the Comptroller, under the orders of the Mayor.

ARTICLE XLIX.

TAXES.

STATUTES.

1. Corporation authorized to lay a direct tax.
2. Powers to levy taxes defined: provisos: exemptions.
3. Limits of direct taxation: proviso.
4. Collection of taxes: enforcement of payment.

SALE AND REDEMPTION.

5. Sale: notice: plat.
6. Purchase money: credit.
7. Redemption: deed to purchaser: payment to Register.
8. Owner of property: investment in city stock, &c.
9. Redemption within a year and a day.
10. Collector to report to judge of Circuit Court sales of lands for taxes: notice to show cause: new sale: proceedings in court: burden of proof.
11. Within what time taxes to be collected, &c.
12. Penalty for collecting taxes after four years.

BRIDGES AND HIGHWAYS.

13. Tax by Mayor and City Council.
14. How to be applied.

APPEAL TAX COURT.

15. Appointment of: duties.
16. Vacancies: compensation.
17. Oath.
18. Register to make list of holders city stock for Appeal Tax Court
19. Duty of Appeal Tax Court.
20. Duty of Register.
21. Failure of Register to make list: duty of Appeal Tax Court: certificate.
22. Compensation.

COLLECTOR OF STATE TAXES.

23 Appointment: compensation: per centage.
24. Collector's bond.
25. Deposits to credit of treasurer: in what bank: removal and suit.
26. Examination of books.
27. When Governor to appoint collector: bond.
28. Levy for commissions: per centage.

ORDINANCES.

APPEAL TAX COURT AND ASSESSORS.

1. Appeal Tax Court: duties and powers: bond: clerks: duties: assessor: salaries.
2. Assessors' duties: powers.
3. Office hours of Appeal Tax Court.

Article XLIX.

4. Notice that they will receive lists of property of those liable to taxation: time allowed for appealing: alterations, additions or deductions: when the valuation shall be final.
5. Statement to Comptroller of amount of assessable property: report to Mayor.
6. To fix value of stock of corporations.
7. Clerk of Superior Court to furnish list of alienations of property and mortages entered on record: releases of mortgages.
8. When to abate assessments: when to close accounts: when to charge to suspended accounts.
9. When to refund taxes paid in error: limitation: list of claims: statement: alleged payment.
10. To correct errors: to make transfers.
11. Persons removing into city required to give account of personal property liable to be assessed: penalties.
12. Appeal Tax Court to find out value of all property liable to taxation: proviso.
13. List of rates allowed to bailiffs.
14. Bailiffs to act as assessors: salary.
15. Judges of Appeal Tax Court constituted a board of arbitration: clerk: record:
16. Decisions not to conflict with existing laws, &c.
17. To investigate cases of dispute and report to Mayor.
18. Cases in which decisions of board shall be final: bond.
19. Board empowered to investigate cases of grievance by any officer of city.
20. Mayor authorized to fill vacancies.
21. Faith of city pledged to exemption of city stock from taxation.

PERMITS TO ERECT BUILDINGS.

22. Permit for each house.
23. Penalty: duty of bailiffs.
24. Plats of ground to be improved.
25. No charge: record to be kept.
26. Refusing to show permit to officer: penalty.
27. Police to see that permits are applied for.

COLLECTOR.

28. Appointment: bond: conditions: payment to Register: statement under oath.
29. Term of office.
30. Removal from office: delivery of money, books, &c., to Register: when Register to act as Collector.
31. Charges against Collector: suspension: answering.
32. When Mayor to convene Council.
33. Books for ensuing year.
34. Accounts for collection: payments, insolvencies, abatements and transfers: accounts of tax payers.
35. Deposits in bank: when Register to draw money.
36. Notice: publication: tax bills.
37. Taxes on real estate, personal chattels, &c.: discounts.
38. Enforcement of payment.
39. Discounts: when interest added
40. When bills to be delivered: notice on bills: bailiffs: memorandum: notice to be published.
41. To draw on Register for expenses, &c.: duty of Register.
42. Distress, &c., for State taxes.
43. Jurors' orders, how received.
44. Distraining: post office.

Article XLIX.—Statutes.

45. Surveyor's fees: proviso: fees and commissions.
46. Charge, pro rata.
47. Lots of ground: when to sell leasehold interest: proviso: when to sell fee simple: proviso: notice of lease.
48. Auction fees, &c.: credit of year and day: deed: balance of purchase money: investment in city stock: Register to take charge of certificates.
49. Redemption within a year and a day: interest: refunding to purchaser.
50. Paving tax: enforcing payment.
51. Paving contractors: commissions.
52. Paving tax: plat: lien: how tax collected.
53. When Collector to notify parties assessed for benefits: six months: enforcement of payment.
54. Opening streets: deeds: balance of purchase money to Register.
55. City Commissioner to issue warrant: paving, &c., footways: lien: list of persons assessed: bills: thirty days.
56. Lists of property sold for taxes: book in Collector's office open to inspection.
57. Title to property: examination: certificate: Examiner of Titles.
58. State taxes.
59. Salaries and officers: salaries: compliance with ordinances: Collector responsible.
60. Collector of State Taxes: commissions.

COMPTROLLER.

61. Duty of Comptroller: certificate from Collector.
62. Description of lots condemned for opening streets, &c., to be furnished Appeal Tax Court: lots bought or sold by city.

LIMITS OF DIRECT TAXATION.

63. Direct tax line.

STATUTES.

1. The Mayor and City Council of Baltimore are hereby authorized and empowered to levy annually upon the assessable property of the city, by direct tax, with full power to provide by ordinance for the collection of the same, such sum of money as may be necessary, in the judgment of the said Mayor and City Council, for the purpose of defraying the expenses of said corporation over and exclusive of all expenses, charges and sums of money which the said Mayor and City Council are, or shall be, required by law to collect for other purposes.* 1874, c. 180. Authority to levy a direct tax.

* Const. Art. 3, sec. 51, provides that: the personal property of residents of this State shall be subject to taxation in the county or city where the resident *bona fide* resides for the greater part of the year, for which the tax

1865, c. 119.

Powers to levy taxes defined.

2. The Mayor and City Council of Baltimore are hereby empowered to levy and collect taxes upon every description of property found within the corporate limits of said city, which they are now authorized by law to levy taxes upon for the purpose of defraying the expenses of the municipal government, whether the owners thereof reside within or without the limits of said corporation; provided, that no stocks, bonds, mortgages, certificates or other evidences of indebtedness of any bank or other corporation situate within the limits of said city, which are owned or held by persons residing without such limits, shall be subject to taxation for the purpose above set forth; and provided further, that no authority is given by this act to impose taxes on any property which is now or may hereafter be exempted from taxation by any general or special Act of the General Assembly of Maryland, nor upon any property which may be stored or deposited in the city of Baltimore for temporary purposes.

Proviso.

Proviso.

Exemptions.

1874, c. 39.

Limits of direct taxation.

3. They may extend the limits of direct taxation within the said city from time to time, as they shall deem it expedient.

P. L. L. art. 4, sec. 873.

Collection of taxes.

Enforcement of payment.

4. The Mayor and City Council have power to provide by ordinance or otherwise for the prompt collection of taxes due the city, and have power to sell real estate, as well as personal property, for the payment of taxes.*

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may, or shall be levied, and not elsewhere, except goods and chattels permanently located, which shall be taxed in the city or county where they are so located. 1862, c. 251, explained by 1865, c. 119. (sec. 2 above,) was intended to subject to city taxation every species of property actually situate within the city, notwithstanding the residence of the owner might be elsewhere. *Ins. Co.* v. *Mayor, &c.*, 23 Md. 296.

* Taxes levied for the city of Baltimore on real estate, prior to 1840, c. 63 [sec. 4, above,] were not liens on the land where there was a sufficiency of, personal property on the premises taxed to pay the same. *Dallam et. al.* v. *Oliver's ex'rs.* 3 Gill, 445. *Mayor, &c.*, v. *Chase*, 2 G. & J. 376.

The ordinance of the city of Baltimore authorizing the sale of real estate

SALE AND REDEMPTION.

1878, c, 227; 1862, c. 148. Sale.

5. Whenever it shall become necessary to sell any part or parcel of ground in the city of Baltimore, improved or unimproved, for the payment of any taxes or assessment of any nature or kind whatever, levied or charged, the Collector shall first give notice by advertisement published once a week for four successive weeks in two of the daily newspapers published in said city, one of which shall be in the German language, that he will sell at public auction on the day in the said advertisement mentioned; said notice shall state the name of the person or persons, when known, to whom such parcel of ground is assessed, the amount of taxes due on the same, and what improvements, if any, are on said parcel of ground, and in any such notice it shall be sufficient to describe the parcel of ground as located upon whatever official plat of the city the said Mayor and City Council of Baltimore shall from time to time adopt and designate for the purpose.

Notice.

Plat.

P. L. L., art. 4, sec. 875, 1862, c. 148.

6. The Collector shall require the purchaser of such property on the day of sale, or the day next succeeding, to pay on account of said purchase the amount assessed or taxed on the lot so sold, together with all costs and charges, and no more, and the residue of the purchase money shall remain on a credit of one year and a day.

Purchase money.

Credit.

Ibid, s. 876, 1862, c. 148. Redemption.

7. If the property so sold shall not be redeemed at the expiration of a year and a day from the day of sale, the Collector shall, when required, and on payment of the full amount of

to pay taxes due the city is a legitimate exercise of the power conferred by the Act of 1840, c. 63, [sec. 4, above,] and makes the taxes a lien on the realty as much as a judgment at law. *Eschbach* v. *Pitts*, 6 Md. 71.

* The office of auditor, created by Ord. No. 58, June 18, 1852, and supplements thereto, and 1858, c. 369, was finally abolished by Ord. No. 6, Feb. 28, 1861, and Res. No. 16, Mar. 1, 1862, and its duties confided by the Act of 1862, c. 148, to the collector or other officer on whom they may be conferred by ordinance of the Mayor and City Council.

Deed to purchaser. Payment to Register.

the purchase money, execute a deed for the same to the purchaser, and the balance of the purchase money so received by him shall be paid to the City Register.

Ibid, s. 877, 1862, c. 148. Owner of property.

8. If it shall appear that the owner of the said lot or parcel of ground, prior to the execution of the deed for the same by the Collector, cannot after reasonable effort be found, or shall refuse to receive said balance of money, then in either case the City Register shall invest the same in any public debt of the State of Maryland or city of Baltimore, and shall safely keep the same, and from time to time collect the interest due thereon, and invest the interest from time to time in the said stock.

Investment in city stock, &c.

Ibid, s. 878. 1862, c. 148. Redemption within a year and a day.

9. When any lot or parcel of ground in the said city shall be sold by reason of the non-payment of the tax or assessment due thereon, the owner, or other persons having an estate or interest therein, shall have power to redeem the same at any time within one year and a day from the day of sale, on paying or tendering in payment to the Collector the whole amount of money received by such Collector from the sale of the lot or parcel of ground required to be released, and a further sum of one-half per cent. per month interest from the time of sale to the time of such tender, and the sums so paid shall be by the Collector delivered or tendered to the purchaser, whose right in the property so purchased shall thenceforth cease and determine.

1874, c. 483, s. 51. Collector to report to judge of Circuit Court sales of lands for taxes.

10. In all cases where lands held in fee simple or by lease have been sold, or shall be sold, for payment of taxes in arrears, according to the provisions of existing laws, it shall be the duty of the Collector of Taxes to report the said sale, together with all the proceedings had in relation thereto, to the Circuit Court of the county where said lands are situate, or when said lands are situate in the city of Baltimore, to the Circuit Court of said city. The court to which such report shall be made

shall examine the said proceedings, and if the same appear to be regular, and the provisions of law in relation thereto have been complied with, shall order notice to be given by advertisement published in such newspapers as the court shall direct, warning all persons interested in the property sold to be and appear by a certain day in the said notice to be named, to show cause, if any they have, why said sale should not be ratified and confirmed, and if no cause or an insufficient cause be shown against the said ratification, the said sale shall, by order of said court, be ratified and confirmed, and the purchaser shall, on payment of the purchase money, have a good title to the property sold; but if good cause, in the judgment of the said court, be shown in the premises, the said sale shall be set aside; in which case the said Collector shall proceed to a new sale of the property and bring the proceeds into court, out of which the purchaser shall be repaid the purchase money paid by him to the collector on said rejected sale, and all taxes assessed on said real estate and paid by said purchaser since said sale, and all costs and expenses properly incurred in the said court, with interest on all such sums from the time of payment; and if the purchaser has not paid the purchase money or the subsequent taxes, to apply said proceeds to the payment of the taxes for which said real property may have been sold, and all subsequent taxes thereon then in arrears, with interest on the same according to law, and the cost of the proceedings; but such sale shall not be set aside if the provisions of law shall appear to have been substantially complied with, and the burden of proof shall be on the exceptant, to show the same to be invalid under the law.*

Notice to show cause.

Ratification of sale and purchaser's title.

New sale.

Proceedings in court.

Burden of proof.

* This section is a re-enactment of section 63 of the Act of 1872, c. 384, which repealed and re-enacted the Act of 1870, c. 312, on the same subject.

The order required by the Act of 1870, c. 312, to be given by the court upon the report of a sale of land for taxes in arrears, warning all persons interested in the property sold to appear by a day certain and show cause, if any they have, against its ratification, is not final and conclusive. Irre-

Article XLIX.—Statutes.

1861, c. 94, s. 1. Within what time taxes to be collected, &c.

11. All taxes now levied, or which hereafter may be levied in the city of Baltimore, shall be collected within four years from the levying of the same; and the collection of taxes shall not be enforced by law after the lapse of said four years, and the party from whom said taxes may be demanded may plead this section in bar of any recovery of the same.

Ibid, s. 2. Penalty for collecting taxes after four years.

12. Any person enforcing or attempting to enforce the collection of any tax after the lapse of four years, as provided in the preceding section, shall be liable to a penalty of twenty dollars for each and every offence, recoverable before a justice of the peace, in the name of the State; one-half to the informer, the other half to the city of Baltimore.

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gularities upon the face of the proceedings in relation to such sale are open to examination at the final hearing for ratification. *Co. Comm'rs. P. Geo's. Co. &c.*, v. *Clarke et al.*, 36 Md. 207.

Sections 874, [now 1878, c. 227,] 875, 876 and 878, of Article IV, of the Public Local Laws, [sections 5, 6, 7 and 9 of this article,] relating to taxes in the city of Baltimore, are not repealed by the Act of 1872, c. 384, nor by the Act of 1874, c. 483, entitled an Act to repeal art. 81 of the Code of Public General Laws, entitled Revenue and Taxes, and to re-enact the same with amendments. Although it may be well, always in the notice of sales for taxes, to state the time within which the debtor may redeem, there is nothing in the law which requires it, and the omission to insert it, or if inserted a mis-statement of the time would not affect the validity of the sale.

The Local Law applicable to the city of Baltimore does not direct *where* sales for taxes shall take place. A notice which states that the sale will take place at the Courthouse door "*or at such other place as may hereafter be designated*," is fatally defective. In the notice of sale both *time* and *place* of sale should be certain and fixed.

Section 63 of the Act of 1872, c. 384, requiring reports of sales to be made to the court by the Collector of Taxes, provides, that the judge shall examine the proceedings, and if they appear to be regular shall order notice to be given by advertisement, &c., and if no cause be shown against the ratification, the sale shall be ratified and confirmed, "but if good cause, in the judgment of said court, be shown in the premises the said sale shall be set aside. Held: that the judge may set aside such sale without said notice by advertisement, if he find, upon the preliminary examination, that the proceedings are *not* regular and in conformity with law. *Exparte in the matter of the Tax Sale of Lot* 172, &c., 42 Md. 196.

BRIDGES AND HIGHWAYS.

13. The Mayor and City Council may lay and collect a direct tax, not exceeding fifty cents in the hundred dollars, on the assessed value of all lands and houses in said city, lying without the limits of direct taxation and within the exterior limits of said city, and may enforce the payment thereof as other direct taxes, and the tenants in possession shall be liable to the payment of said tax imposed upon the premises occupied by them, without its operating, however, to alter the nature of contracts between landlords and tenants. P. L. L. art. 4, sec. 136. Tax by Mayor and Council.

14. The taxes thus levied, after deducting the expenses of collection, shall be annually applied in making and repairing such of the public highways and bridges within the limits whereon the same is levied as they may deem most important, and they may provide by ordinance for the collection and expenditure thereof. Ibid, s. 137. How to be applied.

APPEAL TAX COURT.

15. The Mayor and City Council of Baltimore shall annually appoint a board to consist of at least three persons, to be styled the Appeal Tax Court, who shall meet from time to time, for the purpose of hearing appeals and making transfers and correcting the accounts of assessable property charged to tax payers, and the assessment thereof; the said Mayor and City Council may also appoint such number of assessors as they may deem necessary in investigating and ascertaining all omitted property, and assessing and returning the same to the Appeal Tax Court. 1874, c. 183, s. 13. Appointment of board. Duties.

16. The Mayor and City Council shall fill all vacancies in said Appeal Tax Court, as soon as practicable after any may happen therein, in the manner provided for in such cases of vacancies of other city officers; and the members of said Ibid, s. 14. Vacancies.

Compensation. board shall receive such compensation as the Mayor and City Council shall provide, to be paid by the city.

Ibid, s. 15. 17. The persons appointed to compose said Appeal Tax Court, and the said assessors, shall, before they enter upon the performance of their duties, take an oath before the Mayor of Baltimore City that they will well and faithfully perform the duties required by law, without favor, affection or partiality.

Oath.

Ibid, s. 90. 18. The Register of the City of Baltimore shall, within one month after the first day of April, annually, make out and deliver to the Appeal Tax Court for the city of Baltimore, a full and accurate list of the holders of the stock loans of said city, on the first day of April in the year for which said list is made, showing the several amounts held by the said stock-holders respectively.

Register to make out list of holders of city stocks.

Ibid, s. 91, 19. The said Appeal Tax Court shall in each year carefully examine the said list, and correct the same, by striking therefrom all the holders of said stock who may be exempt from taxation on said stock, and shall on or before the first day of June, annually, deliver one copy of the said list, as corrected by them, to the said Register, and one copy thereof to the Comptroller, setting forth distinctly in said copies the assessed value of the stock mentioned therein.

Duty of Appeal Tax Court.

Ibid, s. 92. 20. The Register of the City of Baltimore shall, on the first day of July in each year, set apart and pay over to the Treasurer of this State, out of the funds in his hands for the payment of the interest becoming annually due and payable on the first day of July, the State tax imposed by article 81 of Public General Laws, on all that part of said stock loan included in the said corrected list returned to him by the Appeal Tax Court, and shall deduct from the interest due and payable thereon, to each holder of said stock, his proportion of the amount so retained and paid to the Treasurer.

Duty of Register.

21. If the said Register shall at any time fail to make out and deliver to the Appeal Tax Court the list of holders of the said stock loan, as herein required, it shall be the duty of the Appeal Tax Court to ascertain in such manner as they may deem most accurate, the amount of said stock loans of the city of Baltimore, outstanding on the first day of April in the year in which such failure or refusal shall take place, and on or before the first day of June in said year, make and deliver one copy of a statement certified by them, showing the amount of said stock so ascertained by them, and its assessed value, to the said Register, and one copy thereof to the Comptroller of the State; and the Register shall thereupon set apart and pay the tax aforesaid, and deduct the same from the interest as aforesaid; but the said Register shall not be required to set apart and pay over the said tax on any part of said stock loans which he may satisfy the Comptroller by a certificate to that effect signed by the Appeal Tax Court, or by other satisfactory evidence, was held on the first day of April in the year for which the tax may become due, by any person entitled under the laws of this State to hold the same free from taxation.

Ibid, s. 93.

Failure of Register to make list.

Duty of Appeal Tax Court.

Certificate.

22. Each member of the Appeal Tax Court shall receive fifty dollars, annually, for the service required in the preceding sections; and the Register of the City of Baltimore the sum of three hundred dollars for the services therein required of him; the said sums to be paid by the Treasurer on the warrant of the Comptroller.*

Ibid, s. 94.

Compensation.

*For additional duties of Appeal Tax Court and County Commissioners see the Act of 1874, c. 483, see also the Act of 1878, c. 178, as to duties of State Tax Commissioner and Appeal Tax Court in re-assessing property, and valuing the stock and real estate of corporations.

COLLECTOR OF STATE TAXES.

1874, c. 483, s. 30. Appointment.

23. The Mayor and City Council shall, on or before the third Tuesday in April in each year, or as soon as thereafter may be, appoint one collector for Baltimore city, for the collection of all State taxes levied or to be levied for the current year; and it shall not be lawful for the municipal authorities of said city to provide any fixed annual or other stated compensation for the collection of the State taxes, or a salary of any kind, to the said Collector for his services in collecting the State taxes, otherwise than by a per centum on the amount of his collections, as contemplated in section 28 hereof.

Ibid, s. 32. Bond.

24. Every collector of State taxes in the city of Baltimore, before he acts as such, shall give a bond to the State of Maryland in a penalty of seventy-five thousand dollars, to be approved by the Governor, with the condition that if the above bound ——— shall well and faithfully execute his office, and shall account with the Comptroller for, and pay to the treasurer of the State, the several sums of money which he shall receive for the State, or be answerable for by law, at such times as the law shall direct, then such obligation to be void, otherwise to remain in full force and virtue in law. The said Collector's bond, when approved by the proper authorities in the city of Baltimore, shall be recorded in the office of the clerk of the Superior Court of Baltimore City, and when approved by the Governor, shall be filed in the office of the Comptroller of the treasury.

Record of bond.

Ibid, s. 33. Deposits to credit of treasurer.

25. Every collector of State taxes in the city of Baltimore shall make daily deposits of such sums of money as he shall receive for State taxes collected by him, less the amount of commission allowed him for the collection of the same, to the credit of the Treasurer of the State of Maryland, in

some bank in said city which pays to the State the bonus or school tax, as provided by law, to be designated by the said treasurer, and shall send to the treasurer a statement of the amount so deposited within the first ten days of each month, with a certificate of the bank that the same is so deposited, and on failure to make such daily deposits and to send such certificate, he shall, on proof thereof to the satisfaction of the Governor, be liable to removal from office by the Governor, and the Comptroller shall immediately enter suit upon his bond. In what bank. Statements. Removal and suit.

26. The Treasurer of the State may make weekly examination of the books of the collector of State taxes in Baltimore city, whose books shall always be open to such inspection. Ibid, s. 34. Examination of Books.

27. If there be no collector of State taxes qualified and compensated in conformity with the foregoing provisions in said city by the fifteenth day of May in any year, the Governor shall appoint from any part of the State a collector for the said city, who shall give bond, with sureties to be approved by the Governor, and be in all respects on a footing with other State Collectors' bonds, as provided in Article 81, P. G. L., and the said Collector shall have all the powers of other Collectors. Ibid, s. 38. When Governor to appoint collector. Bond.

28. The Mayor and City Council of Baltimore shall levy upon the city of Baltimore such commission as will in its judgment insure a speedy collection of said taxes, not exceeding two per centum on the amount, to be placed in the hands of said Collector for the city of Baltimore, said commission to be levied for the use of said Collector, and to be collected as other charges are collected.* Ibid, s. 67. Levy for commissions. Percentage.

*This act of 1874, c. 483, repeals article 81, Revenue and Taxes, Public General Laws, and all acts or parts of acts inconsistent with its provisions, and revises and codifies the Revenue Law of the State. See this Act for

ORDINANCES.

APPEAL TAX COURT AND ASSESSORS.

No. 22, Feb. 21, '59; No. 27, Apl. 1, '64; No. 65, Oct. 23, '65; No. 35, July 1, '68; No. 20, Feb. 28, '71; No. 30, Mar. 17, '71; No. 6, Jan. 13, '71; No. 21, Apr. 4, '73.

Appeal Tax Court.

Duties and powers.

Bond.

Clerks.

Duties.

Assessor.

Salaries.

1. Annually, in the month of February, there shall be appointed as other city officers are appointed, three sensible and discreet persons to constitute and be styled the Appeal Tax Court, upon whom shall devolve all the duties and powers provided by the several Acts of Assembly and the ordinances relating to the valuation and assessment of taxable property; which said persons shall be appointed and commissioned, and shall give bond for the faithful discharge of their duties, as other officers of the city, in such amount as the Mayor may approve. There shall also be appointed at the same time, and in the same manner, a clerk of the Appeal Tax Court, who shall, by virtue of his appointment, be one of the assessors of tax, and shall perform such other duties as the Appeal Tax Court may require. There shall also be appointed one assessor, besides the one who shall be appointed clerk. There shall also be appointed an assistant clerk to the Appeal Tax Court, whose duties shall be such as may from time to time be prescribed by the judges of said court. The salary of said judges shall be each eighteen hundred dollars per annum. The salary of their clerk as such, as assessor and as clerk of the board of arbitration, shall be sixteen hundred dollars; the salary of the assessor shall be fourteen hundred dollars per annum; and the salary of the assistant clerk shall be twelve hundred dollars; and in consideration of the sums named, each of said officers shall be required to perform all the duties imposed on them

general provisions applicable as well to counties as to the city of Baltimore; see also the Act of 1876, c. 340, (which amends this Act of 1874, c. 483,) and the Act of 1876, c. 260, which provides for the general valuation and assessment of property in the State, and the Act of 1878, c. 413, which amends the preceding acts. The Act of 1878, c. 330, prescribes the rate of levy of State taxes.

by the provisions of this ordinance, or any duties hereafter required of them by the Mayor and City Council.

Ibid, s. 2.

2. The assessors of tax shall, under the direction of the Appeal Tax Court, assess all the property in the city of Baltimore, or so much thereof as the said court may deem necessary, at its cash value, in conformity with the provisions of the several Acts of Assembly and ordinances in relation thereto. The said assessors shall have and exercise all the powers granted to assessors under said Acts of Assembly and ordinances.

Assessors' duties.

Powers.

No. 54, Apr. 24, '72.

3. The judges of the Appeal Tax Court shall, with their clerks, meet at their office daily at 9 o'clock A. M., and remain until 3 o'clock P. M., to attend to the duties required of them by the ordinances of the Mayor and City Council of Baltimore.

Office hours of Appeal Tax Court.

No. 22, s. 3. Feb. 21, '59.

4. The judges of the Appeal Tax Court shall give public notice at least two weeks previous to the first Monday in March, annually, in all the daily papers of the city, that they will receive from all persons liable to taxation, true and correct lists of all their property, both real and personal, except such as may be exempt from taxation, until the first Monday in June, and at the expiration of said term the assessors shall ascertain, value and assess, agreeably to their best judgment, the property liable to taxation of all such persons as have failed to render a list of the same, and the property so assessed is that which shall be held by, or in the possession of, the person or persons to whom it may be assessed on the first day of March in each and every year. After the assessors shall have completed the valuation as aforesaid, and on or before the first day of November, the Appeal Tax Court shall give at least two weeks notice of the same in all the daily papers of the city of Baltimore, and require all persons who may feel themselves aggrieved

Notice that they will receive lists of property of those liable to taxation.

Time allowed for appealing.

by the valuation and assessment aforesaid to appeal; and any aggrieved person or persons may, on or before the first Monday in December, appeal to said court; and alterations, additions, or deductions may be made, although there be no appeal, if the Appeal Tax Court shall deem such alterations requisite; and the valuation of the property as it shall appear upon the assessors' books on the first Monday in March, shall be final and conclusive, and constitute the basis upon which the taxes for the ensuing year shall be assessed and levied.

Alterations, additions or deductions.

When the valuation shall be final.

Ibid, s. 4.

5. On the first Monday in March in each and every year, it shall be the duty of the Appeal Tax Court to render to the Comptroller, in writing, a statement of the whole amount of assessable property on which taxes may be levied, and a detailed written statement showing the amounts of the additional assessments made on which taxes have not been levied for the preceding year; it shall also be the duty of the Appeal Tax Court to make a written report, in detail, to the Mayor, on or before the first Monday in March, annually, showing the amount of assessable property abated during the preceding year, and the amount which is to be placed to the credit of the collector for said abatements, together with the amounts ordered to be charged to suspended accounts; and on the same day make up a statement of the assessable property of the city, and sign and enclose the same to the Comptroller of the Treasury of the State of Maryland.

Statement of amount of assessable property to Comptroller.

Report to Mayor.

Ibid, s. 5.

6. Upon the application of any bank, insurance company, or other private corporation, the Appeal Tax Court may make such arrangements with said banks, insurance companies or private corporations, in an equitable manner, so as to fix the value of the stocks of each corporation on the first day of March annually, on which the taxes may be paid by the corporation without resort to individual stockholders.

To fix value of stock of corporations.

7. The clerk of the Superior Court of Baltimore City shall annually, between the first day of January and the first day of February, make out for and deliver to the Appeal Tax Court a list of alienations of real, leasehold, household and other property in said city entered on record during the past year from incorporated institutions to individuals, and all mortgages given in favor of residents of the city of Baltimore, and a list of releases of such mortgages as had previously been reported to the Appeal Tax Court. Ibid, s. 6. Clerk of Superior Court to furnish list of alienations of property and mortgages entered on record. Releases of mortgages.

8. The Appeal Tax Court are authorized to abate assessments on the books whenever the Collector shall on his affidavit declare that in his judgment and opinion the taxes so reported cannot be collected, or upon other satisfactory evidence, the Appeal Tax Court shall direct the Collector to close up said accounts on his books. And the said Collector may present to the Appeal Tax Court any account on his books, the collection of which, in his opinion, is deemed doubtful, and upon the declaration of the Collector that diligent inquiry has been made in reference to such account, then the amount shall be charged to suspended accounts for the year in which the taxes were due; and the Appeal Tax Court may give such directions as may be deemed best calculated to secure the payment of any or all such accounts, and so much thereof as may be collected shall be credited on the suspended accounts. Ibid, s. 7. When to abate assessments. When to close accounts. When to charge to suspended accounts.

9. It shall be the duty of the Appeal Tax Court to examine into all claims for a return of taxes alleged to have been paid in error, and if upon examination by the Appeal Tax Court it shall clearly appear that such claim or claims are well founded, and that such taxes have been paid erroneously, the court may direct the Register by order or orders in writing to refund or repay the same, and shall reject all such claims as may be considered doubtful or not well No. 88, June 17, '73. Refunding taxes paid in error.

Limitation. founded, provided not more than four years have elapsed from the first day of May in the year in which the levy was made for said taxes to the time application is made for the refunding of the same. And the Appeal Tax Court shall keep a List of claims. correct list or account of all claims for taxes presented to or examined by said court, which shall contain the name or names of the person or persons presenting such claims, and the amount of each, including those rejected, and transmit Statement. a copy thereof annually in February, setting forth those allowed as well as those rejected, with the reason for rejecting the same, and upon the representation of any taxpayer that Alleged payment. he or she has paid the taxes for which the Collector has demanded payment, the Appeal Tax Court are hereby authorized to investigate the case, if the party shall declare his or her receipt has been destroyed or lost, and if undoubted proof or satisfactory evidence is given that the said bill has been paid, the claim shall be abated.

No 22, s. 9, Feb. 21, '59. 10. The Appeal Tax Court may correct errors discovered To correct errors. on the assessment books in the description of property, in the ownership of property, and errors in calculations, may make deductions in whole or in part, in cases of loss by fire, or of perishable property, where satisfactory evidence of To make transfers. such loss is given. Said Appeal Tax Court may make transfers of property if the taxes are paid up to and including the year in which the transfer is proposed to be made. In case of sale or transfer it shall be the duty of the Appeal Tax Court to interrogate the person or persons, on oath, in reference to acquisitions or investments made by persons applying for transfers or abatements, and the amount of such acquisitions in any description of security shall be added to the assessable property of the person so applying, and if the party making application refuse to answer, no allowance whatever shall be made.

11. Every person who shall remove to the city from the county, district or city in which his or her property is or may have been valued, or from any other place without the State, and where personal property shall not have been valued in said city, shall give, and he, she or they are hereby directed and required to give to the Appeal Tax Court a full account of his, her, or their personal property in said city liable to be assessed in said city, and the name of the person to whom any property owned by them, or under their control, or management belongs; and any person refusing to give such account after ten days' notice shall be subject to the penalties imposed on persons refusing or neglecting to account to assessors as herein provided. And the Appeal Tax Court shall direct the assessors to proceed to value the property for such sum as they may believe the same to be worth, and record the same on the assessors' books. Ibid, s. 10. Persons removing into city required to give account of personal property liable to be assessed. Penalties.

12. It shall be the duty of the Appeal Tax Court and the assessors of tax to inform themselves by all lawful ways and means, in such manner as they may deem best, in reference to all property in the city liable to taxation, and which may have escaped, or which may have been omitted in the regular course of valuation, and the assessors shall value such property, and record the same on the assessment books; provided no person shall be assessed unless they own or possess property to the value of fifty dollars. Ibid, s. 11. Appeal Tax Court to find out value of all property liable to taxation. Proviso. Limit.

13. The Appeal Tax Court shall prepare a list of the rates allowed by law to bailiffs in the Collector's office, and specify the cases wherein bailiffs are allowed by law to make an additional charge on the tax bills as made out by the Collector. The rates and other regulations for bailiffs shall be printed, and placed in the office of the Appeal Tax Court, and in conspicuous places in the Collector's office. Ibid, s. 12. List of rates allowed to bailiffs. Bailiffs' rates to be printed.

14. The bailiffs appointed by the Collector shall have and exercise, under the direction of the Appeal Tax Court, all No. 34, May 31, '65; No. 110, Oct. 26, '72; No. 31, Mar. 29, '76.

Collector's bailiffs to act as assessors.

Salary.

the powers of assessors, as provided in this ordinance, and for their services as assessors they shall each receive the sum of two hundred and twenty-seven dollars and twenty-seven cents per annum, payable monthly; provided, not more than twenty-two bailiffs shall be so employed.

No. 22, s. 13, Feb. 21, '59.

Judges of Appeal Tax Court constituted a board of arbitration.

Clerk.

Record.

15. The judges of the Appeal Tax Court, as provided in the first section of this ordinance, are hereby constituted and established a board of arbitration, for the purpose of adjusting and correcting matters at issue or in dispute, wherein the city is one of the parties, in such cases as are or may hereafter be provided. The clerk of the Appeal Tax Court shall also be clerk of the board of arbitrators; the said clerk shall keep a fair and full record of their proceedings, and perform all other duties the board may direct. No member of the board nor the clerk shall make any charge whatever for their services as arbitrators or clerk to the board. The said board of arbitrators shall hold their sessions in the office of the Appeal Tax Court, at such a day and hour as the Appeal Tax Court may designate, and at such time as their services may be required as arbitrators.

Ibid, s. 14.

Decisions not to conflict with existing laws, &c.

16. The action and decisions of said board shall in no case conflict with existing laws, ordinances or other established regulations of the city government, and said board shall not interrupt, interfere with or prevent any officer of the city in the prosecution or performance of his legitimate duty.

Ibid, s. 15.

To investigate cases of dispute and report to Mayor.

17. In case any account, bill, claim or demand, for or against the city, shall be rejected or disputed, the party demurring may submit the case to said board for correction or adjustment, and if either party in the case fail to appear they shall proceed to investigate the case on the best evidence that can be obtained, and if both parties appear, the board shall hear the case stated by the party demurring and

then by the defendant, and examine such evidence as may be produced, and report their proceedings to the Mayor for his approval or rejection.

Ibid, s. 16.

18. Whenever any officer of the corporation, with the approval of the Mayor, and the concurrence of all the parties concerned, shall agree to submit any case in controversy to the board for arbitration or correction, on giving bond when required, to abide by the decision, the board shall examine the case submitted, in all its bearings, and give their decision or award, which shall be final as far as the city is concerned.

Cases in which decision of board shall be final.

Bond.

Ibid, s. 17.

19. On the representation of two or more responsible persons, made in writing to the board of arbitration, declaring themselves aggrieved by any officer of the city in an unlawful manner, the board may inquire into the case, and if it be of such nature as to require investigation, the board may call before them the officer against whom complaint has been made, and examine the charge, and if necessary, hear testimony or evidence, on oath or otherwise, and submit their decision to the Mayor.

Board empowered to investigate cases of grievance by any officer of city.

Ibid, s. 18; No. 21, Apr. 4, '73.

20. In case of death, dismissal, or removal from office, the Mayor is hereby authorized to fill any vacancy that may occur for the unexpired term of the judges of the Appeal Tax Court and the clerks or the assessors.

The Mayor authorized to fill vacancies.

June 1, '39.

21. The faith of the city is pledged, that no tax shall be levied or collected by the corporate authorities thereof on any stock debt of said city.

Faith of city pledged to exemption of city stock from taxation.

PERMITS TO ERECT BUILDINGS.

No. 37, s. 1, Apl. 11, '64; No. 116, s. 2, Oct. 27, '74.

22. It shall not be lawful for any person, without a permit from the Appeal Tax Court, to erect within the limits of the city any building upon a new foundation, whether in connection with an existing building or not, or to pull down any old

Permits.

building or part of a building to the ground, and build upon the old foundation, or to put an additional story upon any building or part of a building by increasing the height of the walls; and any party or parties who may build within the city of Baltimore shall be required to take out a permit for each and every house he or they may purpose to build.

Permit for each house.

No. 116, s. 3, Oct. 27, '74; No. 37, s. 2, Apr. 11, '64.

23. Any party or parties offending against the preceding section shall be subject to a penalty of not more than twenty dollars and not less than five dollars, and it shall be the duty of the bailiffs employed in the Collector's office to attend to the collection of such fines.

Penalty.

Duty of bailiffs.

No. 89, Oct. 13, '74.

Plats of ground to be improved.

24. Whenever application is made to the judges of the Appeal Tax Court for a permit or permits to erect any new building or buildings, the party or parties making such application shall be required, before such permit or permits are granted, to file with the said Appeal Tax Court a plat accurately describing the piece or parcel of ground to be improved, giving the front and depth thereof, its distance from the nearest established corner of a street, lane or alley, and the number of improvements (if more than one) proposed to be erected thereon.

No. 37, s. 2, Apr. 11, '64; No. 23, Mar. 9, '76.

Record to be kept.

25. It shall be the duty of the judges of the Appeal Tax Court to grant such permits on application without charge, and to keep a record of all permits issued.

No. 27, Apr. 30, '69.

Refusing to show permit to police officer, &c.

Penalty.

26. Any person who has received a permit from the Appeal Tax Court, as herein provided, and who shall refuse to exhibit said permit when thereto required by any police officer or officer of the city, shall forfeit and pay a fine of five dollars.

Res. No. 27, Jan. 27, '74.

Police to see that permits are applied for.

27. The Board of Police Commissioners are requested to instruct their officers to make diligent inquiry of all parties building within the limits of the city if they have procured the proper permits as herein required.

COLLECTOR.

28. There shall be appointed annually, in the month of February, as other city officers are appointed, a collector of taxes, to be styled the City Collector, whose duty it shall be to collect all taxes of every description levied or assessed by the Mayor and City Council of Baltimore, or by the General Assembly of Maryland; who, before entering on the duties of his office, shall give bond to the corporation, with security to be approved by the Mayor and the Presidents of the two Branches of the City Council, or any two of them, the Mayor being one,* in the penal sum of seventy-five thousand dollars, conditioned for the true and faithful performance of the trust confided to him, and of the duties required of him by the Acts of Assembly and ordinances of the city of Baltimore, now existing or that may hereafter be passed, and also for the payment, on or before the fifth day of each and every month, to the Register of the City, or such other officer or officers, person or persons, as may be authorized to receive the same, of all such sum or sums of money as he may have received since the previous payment, with a detailed statement, to be rendered under oath, showing the particular sources from which the money was received.

No. 46, s. 1, June 2, '62; No. 68, Nov. 17, '63.

Appointment.

Bond.

Conditions.

Payment to Register.

Statement under oath.

29. The Collector shall enter upon the discharge of the duties of his office on the first Monday in March in each and every year, and his term of office shall expire, and all his authority as Collector shall cease on the day next preceding the first Monday in March following, unless he shall have been re-appointed as provided in the preceding section.

Ibid, s. 2.

Term of office.

* The Act of 1874, c. 483, prescribes the following as the condition of such bond: If the above bound —— shall well and faithfully execute his office, and shall account for and pay to the Mayor and City Council of Baltimore the several sums of money which he shall receive for the city, or be answerable for by law, at such times as the law shall direct, then the said obligation shall be void; otherwise, &c.

Ibid, s. 3.

Removal from office.

30. Any City Collector appointed by virtue of this ordinance may be removed or suspended for cause by the Mayor, with the concurrence of a majority of both branches of the City Council, or he may be removed by a vote of two-thirds of each branch of the said council without the concurrence of the Mayor; and it shall be the duty of the Collector, when so removed or suspended from office, as herein provided,

Delivery of money, books, &c. to Register.

forthwith to deliver to the Register all the money, books and papers that may be in his possession at the time of such removal or suspension; and in case of the suspension, removal, resignation or death of the Collector, the Register is

When Register to act as Collector.

hereby authorized and required to perform all the duties of Collector, until he, the said Collector, is reinstated, or his successor has been appointed, and shall have duly qualified, as the case may be.

Ibid, s. 4.

Charges against Collector.

31. As soon as charges are preferred against said Collector by the Mayor or either branch of the City Council, which affect his official character, it shall be the duty of the Mayor

Suspension.

immediately to suspend him from office, and at the same time furnish him with a copy of the charges against him;

Answering.

and the said Collector shall have the privilege of answering the same before the City Council in convention, by attorney or otherwise.

Ibid, s. 5

When Mayor to convene Council.

32. It shall be the duty of the Mayor, in case of resignation, suspension from office, or death of the Collector, during a recess of the City Council, to convene said council within three days thereafter, for the purpose of examining the charges preferred against him, and of filling the vacancy in case of removal, resignation or death of said Collector.

Ibid, s. 6.

Books for ensuing year.

33. It shall be the duty of the Collector to cause to have prepared annually, in the month of December, all the books required for conducting the business of his office during the ensuing year.*

* See p. 571, &c.

34. It shall be the duty of the Collector to enter in the books of his office all accounts of taxes and money to be by him collected; and also to enter in said books the names of all the owners of property taken from the assessment lists, with a particular description of the same, and all other taxable articles, with the rate and amount of taxes charged to each of said owners; and he shall also enter the payments received, insolvencies and abatements allowed, and transfers made; and it shall be the further duty of said Collector to enter on his ledgers, alphabetically, the entire account of each tax-payer, in one place, so that the whole may be seen and examined by the several persons to whom the taxes are assessed. Ibid, s. 7. Accounts for collection. Payments, insolvencies, abatements and transfers. Accounts of tax payers.

35. It shall be the duty of the Collector daily to deposit to his credit, as Collector of the City, in the bank designated by ordinance for the keeping of the account of the Register, all monies collected by him; and in case of the death, resignation, removal or suspension from office of the said Collector, the amount of money so deposited shall be drawn by the Register, upon an order countersigned by the Mayor and Comptroller. Ibid, s. 8. Deposits in bank. When Register to draw money.

36. It shall be the duty of the Collector, within one week after the final passage of each annual levy for city taxes, and the reception of the same by him, to give notice by advertisement in all of the regular daily papers published in the city, including those published in the German language, for at least one week, that the tax bills on such levy are ready for delivery, and requesting all persons liable to taxation to call at his office and receive the same. Ibid, s. 9. Notice. Publication. Tax bills.

37. It shall be the duty of the Collector, as soon as each annual levy is made, to separate the tax on real estate and chattels real, from the tax on personal chattels, stocks of incorporated institutions and other like securities, in all bills Ibid, s. 10. Taxes on real estate, personal chattels, &c.

or charges issued by him for the collection of city taxes, and he shall require the latter tax to be paid within five months from the first day of May in each and every year; and the said Collector is hereby authorized and directed to allow on the respective bills so made or charged, on personal chattels, stocks and other like securieties, as aforesaid, a discount of eight per cent. if paid on or before the first day of May, in the year for which said taxes are imposed; if paid on or before the first day of June, six per cent.; if paid on or before the first day of July, four per cent.; if paid on or before the first day of August, two per cent.; and if paid on or before the first day of September, one per cent.

Discounts on personalty.

Ibid, s. 11.

38. If said taxes levied on personal chattels, stocks and securieties as aforesaid, be not paid on or before the first day of October, in the year for which the levy is made, payment of the same shall be enforced under any enactment existing for the collection by distress, sale or otherwise, of real or personal property for the non-payment of taxes.

Enforcement of payment.

Ibid, s. 12.

39. If the said taxes levied on real estate and chattels real, be paid on or before the first day of May,* in the year for which said taxes are imposed, the Collector is hereby authorized and directed to allow on the respective bills so made and charged, a discount of five per cent.; if paid on or before the first day of June, four and one-half per cent.; if paid on or before the first day of July, four per cent., if paid on or before the first day of August, three and one-half per cent.; if paid on or before the first day of September, three per cent.; if paid on or before the first day of October, two and one-half per cent.; if paid on or before the first day of November, two per cent.; if paid on or before the first day of December, one per cent.; and if paid on or before the thirty-first day of December, one-half of one per cent. On all of

Discount on realty.

*For discount on State taxes, see 1874, c. 483, sec. 45.

said bills not paid on or before the first day of January next succeeding the year for which said taxes are imposed, interest at the rate of six per cent. per annum shall be added, computing from said first day of January until paid. When interest added.

40. It shall be the duty of said Collector to cause to have made out and delivered, a bill, on or before the first day of November, in each year, to each person assessed for city or State taxes on real estate and chattels real, as aforesaid, or to his, her or their agent, or left at the place of abode of such person or agent of the property so charged, and not calling for a copy of his, her or their bill of taxes for the current year; and further giving notice at the same time on the back or face of said bills, that unless the taxes shall be paid on or before the first day of January next ensuing, the said bills will be placed in the hands of bailiffs, who shall at once proceed to collect the same as provided for by existing laws; and further, the agent or agents of said Collector, delivering the bills as aforesaid, shall keep a memorandum book, in which he or they shall accurately note the names of persons so notified, with the place and time of delivery of said bills; and in order that all due information may be given to the taxpayer, in reference especially to the various rates of discount allowed for prompt payment of the several kinds of taxes, as well as the condition of interest for non-payment, the Collector is hereby authorized and directed, towards the close of each month, to give a short notice in all of the regular daily papers published in the city, including those in the German language, at least twice, in which the said rates of discount allowed or interest chargeable, as the case may be, shall be distinctly stated. Ibid, s. 13. When bills to be delivered. Notice on bills. Bailiffs. Memorandum book. Notice to be published.

41. The said Collector is hereby authorized to draw on the Register for all expenses incurred by him for books, stationery, printing of notices and bills, also for all advertisements necessary to carry out the several provisions of this Ibid, s. 14. To draw on Register for expenses, &c.

Duty of Register. ordinance, to be charged on the books of said Register as a part of the general expenses of the city government.

Ibid, s. 15. 42. All the provisions of this ordinance in relation to Distress, &c., for State taxes. enforcing payment by distress, sale or otherwise, of city taxes, shall be made to apply, in all respects, to the collection of State taxes.

Ibid, s. 16. 43. The Collector shall receive as cash in payment of Jurors' orders, how received. taxes due the city all orders drawn in favor of jurors upon and accepted by the Register, and for such amounts as shall have been allowed upon the returns made by the clerk of the court in which said jurors may have served.*

Ibid, s. 18. 44. The Collector shall not order distress for any arrear- Notice before distraining. ages of taxes until he has first given to the person or persons so in arrears, or has left at his, her or their residence, or last known residence, or if neither can be found, on the premises, a statement of his, her or their indebtedness, and not less than thirty days' notice of his (the said Collector's) intention, if the bill is not paid within the time named, to enforce payment thereof; and in case the aforesaid person or persons reside out of the city, said statement and notice shall be forwarded through Post office. the postoffice to his, her or their place of residence, if known.

Ibid, s. 19. 45. Whenever it may, in the opinion of the Collector, be Plats. necessary to have a plat made of the property to be offered for sale for State or city taxes, the said Collector is hereby author- Surveyor's fees. ized to allow the City Surveyor five dollars for each plat consisting of not more than two pieces or parcels of adjoining ground to be offered for sale; if said plat shall exceed two adjoining lots Proviso. or parcels of ground, two and a half dollars for each; provided that for no one plat shall he be allowed more than ten dollars, and in no case shall the Surveyor be allowed more than the sums named in this section for any plat made by him by direction of

* See p. 567, *ante.*

the Collector; and in no case shall the said Collector charge or exact any fees or commissions from the parties whose property may have been advertised, offered for sale, or sold, other than those provided by law or ordinance. Fees and commissions.

46. The Collector is hereby authorized and directed to make a charge on such unpaid tax bills, pro rata, for the space occupied by each, for the actual cost incurred by said advertisement, and the actual cost of the plat when made, in addition to the interest due. Ibid, s. 20. Charge pro rata.

47. When any lot or lots of ground, improved or unimproved, may be chargeable with the payment of taxes, and such lot or lots are subject to ground rent or lease for a term of years, renewable forever, it shall be the duty of the Collector, in the sale of such lots for the non-payment of taxes, to sell the leasehold interest only, with the improvements erected thereon, if any; provided, however, that in case the said leasehold interest and improvements shall not sell for the amount necessary to pay the taxes due on said lots, together with the lawful costs, charges and interest as aforesaid, then the said Collector shall sell the whole fee simple of such lots; and provided further, that the provisions of this section shall not apply in cases where the books of the city do not disclose the fact that the lot or lots are on lease as aforesaid, or unless the Collector shall have actual notice of such lease prior to the sale thereof. Ibid s. 21. Lots of ground. When to sell leasehold interest. Proviso. When to sell fee simple. Proviso. Notice of lease.

48. Whenever it shall become necessary to sell any part or parcel of ground for the payment of any tax or assessment due, of any kind whatever, levied or charged, the Collector shall require the purchaser at the time of sale to pay on account of said purchase the sum of two dollars as auction fees, also the expenses of advertising, and other costs accruing, together with the amount assessed or taxed on the lot or parcel of ground so sold, and no more; the residue or balance of the purchase money shall remain on a credit of one year and a Ibid, s. 22. Purchaser to pay auction fees, expenses, &c. Credit of year and day.

day; and if the property so sold be not redeemed within the time, and as provided for in this ordinance, the said Collector, on receiving the balance of the purchase money, shall execute a good and sufficient deed of the same in favor of the purchaser or purchasers, subject to any ground rent reserved thereon; the balance of said purchase money so received shall be paid, or tendered in payment, to the owner or owners of the lot or parcel of ground sold as aforesaid; and if it shall so happen that said owner or owners, after reasonable efforts, cannot be found, or he, she or they, or their agents, shall refuse to receive said balance, then, in either case, the Collector shall invest the same in any public debt of the city of Baltimore, bearing interest at the rate of six per cent. per annum, for the benefit of such owner or owners, and deliver the certificates to the Register of the City, who shall keep and take an account of the same, and from time to time collect the interest due thereon, and invest the amount so received in like securities.

Deed.

Balance of purchase money.

Investment in city stock.

Register to take charge of certificates.

Ibid, s. 23.

49. When any lot or parcel of ground, improved or unimproved, shall have been sold under any law or ordinance, by reason of the non-payment of any tax or assessment due thereon, the owner or owners, or other persons having an estate or interest therein, and they only, shall have the right and privilege to redeem the same, at any time within one year and a day from the day of sale, on his, her or their paying, or tendering in payment to the Collector, the whole amount received from the purchaser or purchasers of said lot or parcel of ground, and the further sum of one-half of one per cent. per month, as damages, estimating from the day of sale to the time of such tender; and the sum thus received by the Collector shall be by him paid or tendered in payment to the said purchaser or purchasers, whose right in and to the property purchased as aforesaid, shall at once cease; and the said Collector is hereby authorized and directed to refund to the said purchaser or purchasers the purchase money received for any

Redemption within a year and a day.

Interest.

Refunding to purchaser.

sales made by him as aforesaid, or by any previous Collector of taxes for the city of Baltimore, for arrearages of taxes, when, in the opinion of the City Counselor, such sale was not lawfully made from any cause whatever. Counselor.

50. Whenever any tax that has been assessed by the City Commissioner for paving any street, lane or alley, or any part thereof, in the city of Baltimore, shall have remained unpaid for the space of four months after said paving has been completed, for which the assessment was made, the Collector is hereby authorized and required to proceed to enforce payment thereof, as herein provided for the collection of taxes in arrears on real estate. Ibid, s. 24. Paving tax. Enforcing payment.

51. When any contractor or contractors for paving or repaving any street, lane or alley in the city of Baltimore, shall withdraw from the Collector any bill or bills for said paving or repaving, as the case may be, which he or they are hereby authorized to do, on paying, or securing to be paid to the city, the commission of three per cent. on all such bill or bills, and after the same has been withdrawn, the said Collector and his sureties shall cease to be liable in any way for the collection of said bill or bills, and the amount shall be charged to the account of said contractor or contractors, as if collected by the City Collector and paid over to him or them in cash. Ibid, s. 25. Paving contractors. Commission of three per cent.

52. In all cases where a tax shall be assessed for paving or repaving any street, lane or alley as aforesaid, which is hereby made the duty of the Collector to collect, the City Commissioner is hereby authorized to have a plat made out of the property, giving the width of the front, depth and full description of each lot of ground on which said tax has been assessed, which tax shall be a lien on the property, taking precedence of all other liens, except for other taxes previously assessed, and binding upon each and all interests in said property; which taxes the said Collector is hereby directed to collect, as herein provided for the collection of taxes in arrears on real estate. Ibid, s. 26. Paving. Plat. Lien. How tax collected.

Ibid, s. 27.

When collector to notify parties assessed for benefits.

53. After the expiration of the time allowed by law or ordinance for making appeals from assessments made by the Commissioners for Opening Streets, when required to open any street, lane or alley, and no appeal has been made, or after the return of an appeal has been made to the Register, said return, together with the return made by the said commissioners, shall be handed over to the Collector, who shall at once proceed to notify the several parties assessed for benefits, by means of bills specifying the sums so assessed to each, with a deduction for damages allowed, if any; and if the same be not paid within six months from the time said return or returns were received by the Collector, he shall proceed to enforce the collection of said bills in same manner as herein provided for the collection of taxes in arrears on real estate.

Six months.

Enforcing payment.

Ibid, s. 28.

Opening streets.

Deed.

54. The Collector, on receiving the full amount of purchase money for sales of property made in consequence of opening streets, lanes or alleys as aforesaid, shall execute a deed of conveyance in favor of the purchaser or purchasers, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property; and after deducting the costs of sale, advertising and other necessary expenses, he shall pay the balance of the purchase money to the Register of the City, who shall pay over the same to the person or persons entitled thereto, first deducting the sum, if any, assessed as benefits to said person or persons; the payment to be made on demand, without interest.

Balance of purchase money to Register.

Ibid, s. 29.

City Commissioner to issue warrant.

Paving, &c., footways.

Lien.

List of persons assessed.

55. After the City Commissioner shall have issued his warrant, approved by the Mayor, to the Collector, for the collection of any tax or assessment for the paving or repairing of footways, which tax shall be a lien on the lot or lots in front of which said paving or repairs have been made, and shall have also delivered to the Collector a list of the names of the person or persons by whom the taxes or assessments are due, with the amount due by each, it shall be the duty of said Collector,

and he is hereby required to deliver bills of the same to said person or persons, with a notice that if not paid within thirty days thereafter, he will proceed to collect the same in like manner as herein provided for taxes in arrears on real estate. Bills. Thirty days.

56. In order to afford every facility to tax payers in ascertaining when any of their property has been sold to pay taxes in arrears as aforesaid, and that they may have the opportunity to redeem the same within the time allowed by law, the Collector is hereby required to have lists made out within sixty days from the day on which any property may be thus sold, with the date of sale, name of party to whom assessed, location of property, amount of taxes and costs, year or years for which due, amount sold for and name of purchasers, clearly stated; said lists to be entered in a book kept for the purpose in the Collector's office, each entry embraced in a single line when practicable, and open to the inspection of parties interested, to whom all explanations shall be made by said Collector, when so requested, to enable them to identify their property. Ibid, s. 30. Lists of property sold for taxes. Book in Collector's office open to inspection.

57. Whenever any money is in the care or custody of the Register or City Collector to be paid to any person or persons whomsoever, for or on account of the balance of the purchase money in the sale of any property for the non-payment of taxes or money due to any person or persons for damages assessed for the opening of any street, lane or alley, or money claimed by any person or persons as owners of any property whatsoever, or where an examination of title shall be necessary before the payment of any money by the Register or Collector, the Examiner of Titles shall first be satisfied, as prescribed in Article XIII, that the person or persons applying for or claiming the payment of any money by the Register or Collector are the owners of the property so sold as aforesaid, or upon which damages are awarded as aforesaid, or upon which any money shall be so asked or demanded as aforesaid, and the Collector or Register shall not be authorized to pay No. 20, April 17, '63; 114, June 21, '75. Title to property. Examination. Examiner of Titles.

Certificate.

out any such money, until he shall have received the certificate of the Examiner of Titles as aforesaid, together with an abstract of title.

Ibid, s. 31.

State taxes.

58. The said Collector shall collect from the State of Maryland the State's proportion of the expenses incurred in the collection of the State taxes, as is now or may hereafter be fixed by law, and pay the same into the city treasury.

Ibid, s. 32; No. 54, May 27, '68; No. 36, June 9, '65; No. 21, Mar. 24, '66; No. 14, Mar. 10, '64; No. 91, Oct. 11, '73; No. 8, Feb. 27, '74; No. 124, Nov. 5, '74; No. 2, Dec. 16, '72; No. 31, Mar. 29, '76; No. 32, Mar. 29, '76.

Collector and officers.

Salaries.

59. The Collector shall receive as full compensation for the duties that are now or hereafter may be required to be performed by him, by the laws of the State and ordinances of the city, the yearly salary of two thousand dollars; and he shall have authority to appoint and remove one deputy collector, whose duty it shall be to take charge of all arrears of taxes, and assist the Collector, and whose salary shall be eighteen hundred dollars per annum; one cashier, whose salary shall be sixteen hundred dollars per annum; one assisiant cashier, whose salary shall be fourteen hundred dollars per annum; one book-keeper, whose salary shall be sixteen hundred dollars per annum; and one general cash book-keeper, whose salary shall be sixteen hundred dollars per annum; ten ledger clerks and one transfer clerk, who shall each receive a salary of thirteen hundred dollars per annum, and twenty-two bailiffs. All of said appointees being hereby required to comply with all ordinances of the city in the same manner as if appointed by the Mayor and City Council; and for all of their acts the Collector shall be held responsible under his bond.

To comply with ordinances.

Collector responsible.

No. 28, April 25, '68.

Collector of State taxes.

Commissions.

60. The Collector of State taxes in the city of Baltimore shall receive as a compensation for his services, one per centum on the amount of State taxes collected by him, to be collected as provided for in the Acts of Assembly.*

* See sec. 28, p. 1069, *ante*.

Article XLIX.—Ordinances.

COMPTROLLER.

61. It shall be the duty of the Comptroller, before issuing a warrant for the payment of damages awarded for property condemned for the opening of streets, lanes or alleys, or other public purposes, to require the claimant or claimants to present a certificate from the Collector of Taxes that all taxes due thereon have been paid.

No. 12, Mar. 13, '74. Duty of Comptroller. Certificate from Collector.

62. It shall be the duty of the Comptroller to furnish to the Appeal Tax Court a description of all lots of ground and premises condemned for the opening of streets or other purposes, and for which damages have been awarded and paid, also of all lots or parcels of ground and improvements purchased or sold by the city, to enable said Appeal Tax Court to abate the property purchased, or assess that which has been sold to the purchaser or purchasers thereof.

Ibid, s. 2. Description of lots condemned for opening streets, &c., to be furnished Appeal Tax Court. Lots bought or sold by city.

LIMITS OF DIRECT TAXATION.

63. The lines of direct taxation shall be extended to the following bounds, and embrace the district herein described; that is to say, beginning for the same at the southeastern limits of the city and East avenue, northwardly along East avenue until it intersects North avenue, westwardly along North avenue until it intersects the western boundary of the city, thence southwardly along the western boundary of the city to the centre of Gwynn's falls, thence eastwardly along the centre of Gwynn's falls, and the centre of the Patapsco river to the place of beginning.*

No. 55, June 9, '74. Direct tax line.

* This ordinance was enacted to conform to sec. 3, p. 1060, *ante*. The previous ordinances extending the limits of direct taxation, are as follows: No. 82, May 13, '59; No. 34, June 11, '58; No. 36, May 9, '53; No. 48, June 10, '50; No. 5, March 14, 50; March 25, '46; Act of 1830, c. 139, and report of commissioners thereunder, of Nov. 5, 1831. No. 65, June 28, '68; No. 109, Oct. 24, '72, and No. 9, March 15, '73.

Article XLIX.—Ordinances.

DECISIONS.—The power of a tax collector to make sale of real estate for the payment of taxes so as to convey a valid title to the purchaser is one which is specially delegated and must be strictly pursued. A series of acts, preliminary in their character, are required by law to precede the execution of the power; each and every one of which is separate, independent and essential, and if any one of them be wanting, the whole proceeding is defective for want of sufficient authority to support it. *Polk* v. *Rose et al.*, 25 Md. 153. *Alexander* v. *Walter*, 8 Gill, 239. Held in *Ins. Co.* v. *Mayor &c.*, 23 Md. 296, that the Firemen's Insurance Co., a joint stock company, was bound by the terms of the revenue laws, to furnish to the Appeal Tax Court the list of stockholders, with their places of residence and amount of stock held by each, and having failed or refused to do so, the appropriate mode of enforcing compliance was by the writ of *mandamus*. The corporation however, might agree with the Appeal Tax Court to pay an ascertained amount of money as a tax on the stock liable to city taxation, in lieu of an assessment on the individual shares. The shares of stock of joint stock companies are liable to be assessed at their cash value, at the time of the assessment. *Ins. Co.* v. *Mayor, &c.*, 23 Md. 296. See *Donavin* v. *Firemen's Ins. Co.*, 30 Md. 155; *Gordon's Ex.* v. *Mayor, &c.*, 5 Gill, 231.

The revenue laws treat the stockholder as the owner of so much property, to be estimated at the actual value of his stock, and subject to be taxed thereon for local purposes. *Ibid.* See *Emory* v. *State*, 41 Md. 55.

In an action for the recovery of taxes upon mortgages of real estate lying in the city of Baltimore, assessed to the trustee of said property, residing at the time of the assessment and of the institution of the suit in Howard county, the *cestuis que trust* residing at the same time in said city; held: that taxes assessed upon a trust estate constitute a legal cause of action against the holder of the legal estate; that L. was the holder of the legal estate upon the valuation of which the taxes sought to be recovered was imposed; and upon the construction given to the Bill of Rights, as well as upon the general rule above stated, he was the proper person to be assessed for their payment; and the assessment of the tax to the holder of the real estate, through him, reaches and fastens upon the beneficial owner. That a like construction should be given to the acts requiring "all property owned by persons residents of the State, and not permanently located elsewhere within the State, to be valued to the owner in the county, district or city wherein he or she may reside," that these provisions contemplate the holding of the legal estate. Upon the principle that the possession of personalty follows the person owning the legal title, the mortgages on the valuation of the amount of which the assessment of the taxes was made, so far as they could be made the basis of an assessment, were beyond the jurisdiction of the city of Baltimore. The recording of a mortgage in another county or district than that of the creditor's residence, cannot have the effect of locating the debt where the mortgage is recorded. *Latrobe, Trustee,* v. *Mayor, &c.*, 19 Md. 12. Where property held in trust by trustees who reside, one in Baltimore city and the other in

Baltimore county, is taxable, the same should be taxed in equal proportion as of the place of residence of each trustee. *Mayor, &c.* v. *Sterling et al.*, 29 Md. 48.

Scott, C. J., held in 1869, *Gill* v. *Mayor, &c.*, that where a party sells property, gives a deed, and takes a mortgage to secure the payment of the balance of the purchase money, that the city has no right to tax said mortgage given for purchase money; that the property being taxed to the owner, a tax on a mortgage of this kind would be a double tax, and cannot be recovered.

As to the Act of 1870, c. 394, exempting mortgages from taxation. See *Emory* v. *State*, 41 Md. 38; see 1878, c. 413.

A purchaser of a house and lot in the city of Baltimore, sold by the City Collector in 1858 for non-payment of an assessment levied thereon for opening the street upon which it was located, paid the purchase money, received from the Collector a deed for the property, and entered into possession. Subsequently he was ejected by the owners upon the ground that the Collector had omitted to give the notice, as required by ordinance, of such sales, and was obliged to pay costs and *mesne* profits. He thereupon brought an action to recover damages from the City Collector. Held: That the purchaser was bound to inquire whether the City Collector, in selling the property, acted in conformity with the law authorizing the sale; and coming strictly and rigidly within the rule of *caveat emptor*, he is not entitled to recover. *Hamilton* v. *Valiant*, 30 Md. 139.

As to voluntary payment of taxes when the right to impose, &c., is denied, see *Lester* v. *Mayor, &c.*, 29 Md. 418; 34 Md. 435; 38 Md. 228.

As to tax titles, see *Polk* v. *Rose*, 25 Md. 153; *Polk* v. *Pendleton*, 31 Md. 125. *Co. Comm'rs P. Geo.'s Co., &c.*, v. *Clarke et al.*, 36 Md. 207; *Exparte in the matter of the Tax Sale of Lot No.* 172, *&c.*, 42 Md. 196.

ARTICLE L.

TENANTS FOR YEARS OR AT WILL.

STATUTES.

1. Ninety days' notice to terminate tenancy from year to year.
2. Thirty days' notice to terminate tenancy for less time.
3. Thirty days' notice to terminate tenancy at will, sufferance, or *pur autre vie*.
4. Tenant may terminate either by thirty days' notice.
5. Notice to be in writing: on whom and how to be served.
6. What sufficient notice.
7. No other notice necessary.
8. Notice may be fixed by agreement.
9. One justice to have jurisdiction.
10. Upon *non est*, second summons to issue for tenant: if not found, copy to be left with occupant: if vacant, copy to be left on premises.
11. Landlord may file interrogatories: copy to be served.
12. Interrogatories to be answered, or taken as confessed.
13. Manner of serving copy.
14. Jury to assess damages and expenses for landlord.
15. When for tenant.
16. On failure to assess, jury to be re-summoned.
17. Notice of second meeting: other jurors to be summoned if any have died or are absent.
18. Tenant may be made to pay double rent.
19. Appeal given.
20. Not removable except by appeal.
21. Proceedings not to be reversed for form.
22. Appeal to be tried at first term.
23. Heirs, executors and assigns to have benefit of.
24. Jurors not attending may be attached.

STATUTES.

P. L. L. art. 4, sec. 882. Ninety days' notice to terminate tenancy from year to year.

1. Where any lands or tenements in the city of Baltimore are held from year to year, the tenancy shall be terminated if the lessor give to the tenant ninety days' notice before the end of the year.

2. If land be held in said city under a lease for a month, or any less period than a year, and the tenant continues to occupy under such lease after its expiration, he shall be deemed a tenant for such period as the premises were originally leased to him, and so from such period to such period, and if his landlord give him thirty days' notice before the termination of any period of his tenancy, it shall terminate such tenancy. Ibid, sec. 883. Thirty days' notice to terminate tenancy for less time.

3. If lands or tenements be held in said city by tenancy at will, at sufferance, or *pur autre vie*, thirty days' notice by the landlord or reversioner to the tenant or occupant shall terminate such tenancy at the expiration of thirty days. Ibid, sec. 884. Thirty days' notice to terminate tenancy at will, sufferance, &c.

4. Any of the tenancies mentioned in the preceding three sections may be terminated by the tenants giving notice to the landlord thirty days previous to the end of the year, or other period for which he holds the same. Ibid, sec. 885. Tenant may terminate either by thirty days' notice.

5. The notice required by the preceding sections shall be in writing, and served on the tenant or left at his place of abode or business, or served on his agent or servant, or served on any occupant of the premises, and if there be no person living on the premises, the same may be served by being set up on a conspicuous part of the premises. Ibid, sec. 886. Notice to be in writing. On whom and how to be served.

6. Such notice shall be sufficient in form if it contain a request by the landlord to the tenant to leave the premises, or if it state the intention of the tenant to leave the same, and it need not state the time when the tenant is requested to leave the same, or when the tenant intends to do so. Ibid, sec. 887. What sufficient notice.

7. Such notice without any additional notice, shall entitle the landlord to the benefit of the law providing for the speedy recovery of the possession of lands or tenements held over by tenants. Ibid, sec. 888. No other notice necessary.

Ibid, sec. 889.

Notice may be fixed by agreement.

8. If by agreement of the parties the time and manner of notice is specified, such notice shall be given as the agreement provides, and when given by the landlord, shall entitle him to all the benefits of the preceding sections without any other notice.

1861, c. 96.

One justice to have powers.

Appeal.

9. One justice of the peace of said city shall have all the powers conferred upon two justices and a jury by the Public General Laws in relation to landlords and tenants, subject to appeals as in other cases of judgments by justices of the peace in said city.

P. L. L., art. 4, sec. 891.

Upon *non est*, second summon to issue for tenant. If not found copy to be left with occupant or on premises.

10. If the summons issued for the tenant in a proceeding to dispossess him be returned *non est*, a second summons, returnable in not less than five days, shall be issued, and if the tenant shall not be found, a copy of the second summons shall be left with the occupant of the premises, or if they be vacant, affixed to some principal building, or if no building, then set up on the premises, and on the day assigned in the summons for the appearance of the party the justice shall proceed as if he had appeared.

Ibid, sec. 892

Landlord may file interrogatories, copy to be served.

11. The landlord or reversioner may file with the justice interrogatories to be answered by the tenant touching the tenancy or notice, or for any other matter of evidence in support of the pretensions of said landlord or reversioner, in and about such proceeding.

Ibid, sec. 893.

Interrogatories to be answered or taken as confessed.

12. If a copy of such interrogatories be served on the tenant, he shall answer the same before the third day, exclusive of the day of service; and upon his failure to answer the matters inquired of by such interrogatories, they shall be taken as confessed by him, but on cause shown the justice may give further time for answering, not exceeding eight days in the whole, from and exclusive of the day of service.

13. The copies of the interrogatories herein directed to be served may be served in the same manner that notices to quit are herein directed to be served. Ibid, sec. 894. Manner of serving copy.

14. If in any proceeding by a landlord to dispossess a tenant the inquisition or verdict shall be found in his favor, the jury shall assess against the tenant holding over the premises damages not exceeding double the rate of the rent of said tenancy, and also for the expenses of said landlord or reversioner in and about said proceeding over and above the legal costs thereof, and shall render a verdict for the amount of said damages and expenses, for which amount, as well as the costs, the justice shall render judgment in favor of the lessor or reversioner, to be enforced by execution. Ibid, sec. 895. When jury to assess damages and expenses for landlord.

15. But if the jury shall find against the landlord or reversioner, they shall assess such damages as they shall deem just to be paid by him to the tenant, for which, and costs, judgment shall be rendered and enforced as aforesaid. Ibid, sec. 896. When for tenant.

16. If the jury shall omit to assess damages, the said justice may, at any time before the eleventh day after and exclusive of the day of rendering the verdict, by warrant to the Sheriff of the city, order said jury to be re-summoned to make said assessment and render a verdict thereon, which verdict shall have the same effect as if rendered immediately on rendering said principal verdict. Ibid, sec. 897. On failure to assess, jury to be re-summoned.

17. Such reasonable notice shall be given to the tenant as the justice shall deem proper, of the time of the second meeting of said jury, and the said justice may summon other jurors in place of any of said jury who shall have died or who shall be returned by the Sheriff as sick or not to be found. Ibid, sec. 898. Notice of second meeting. Other jurors.

Ibid, sec. 899.

When tenant may be made to pay double rent.

18. In all cases of tenancy mentioned in this law, if the tenant, after notice, fail to quit at the end of the term, or at the period when he shall begin as aforesaid to be holding over, such tenant, his executors or administrators, may, at the election of the lessor, his heirs, executors or administrators or assigns, be held as a tenant and bound to pay double the rent to which the said tenancy was subject, and payable and recoverable in all respects and to every effect as if, by the original agreement or the understanding as to such tenancy, said double rent were the reserved rent of the demised premises, according to the terms and conditions of payment of such originally reserved rent.

Ibid, sec. 900.

Right of appeal.

19. An appeal may be prosecuted from any judgment of a justice of the peace rendered under the provisions of this law, to the Baltimore City Court, in the manner and under the rules prescribed in cases within the ordinary jurisdiction of justices of the peace; the tenant, or his executors or administrators, in order to stay any execution of the judgment against them, giving on such appeals, bond, with security, with condition to prosecute the appeal with effect, and to answer to the landlord, his executors and administrators, all costs and damages mentioned in the judgment, and such as shall be further incurred and sustained by reason of said appeal and the delay thence arising.

Ibid, sec. 901.

Not removable except by appeal.

20. Such cases shall not be removable to the Baltimore City Court, at any stage thereof, save by and upon appeal as aforesaid.

Ibid, sec. 902.

Proceedings not to be reversed for form.

21. No proceedings to dispossess a tenant holding over had before any justice of the peace and removed by appeal to the Baltimore City Court, shall by such court be reversed or set aside for matter of form; and any case thus removed by appeal, if the proceeding thereunder shall be set aside or appear to be substantially defective, shall be proceeded with

in said court in the same manner and to the same effect, upon the claim and complaint and merits, and upon evidence to be adduced therein as it was or might have been competent to said justice of the peace to have proceeded therewith.

Ibid, sec. 903.

Appeal to be tried at first term.

22. Every such appeal shall be tried and finally determined and proceeded with at the first term to which such case shall be removed to the said court, unless for cause shown upon affidavit the court shall otherwise order.

Ibid, sec. 904.

Heirs, executors and assigns to have benefit of.

23. The provisions of the preceding sections of this article, relating to tenants holding over, shall extend to the heirs, executors and assigns of lessors, and reversioners, and to the executors and all persons holding under tenants, and to all cases where there are two or more tenants, in which case each tenant shall be entitled to the notices and the benefit of each condition contained in the preceding sections.

Ibid, sec. 905.

Jurors not attending may be attached.

24. The justice has full power to enforce the attendance by attachment of the jurors who may be summoned in any proceeding under the general law in relation to tenants holding over, or under the preceding sections relating thereto.

DECISIONS.—Bill for injunction, filed by M. to restrain D. from enforcing by execution a judgment against him, rendered by the Court of Common Pleas, (before Constitution of 1867,) on appeal from a justice's judgment, in a proceeding by M., under this article, to oust D. as a tenant holding over. Held: that the appellate powers in such cases being then vested in the Court of Common Pleas, (now Baltimore City Court,) a court of Equity is necessarily excluded from the exercise of that power, by injunction or otherwise. *Miller v. Duvall*, 26 Md. 47.

The bill of complaint of O. alleged that O. having been for many years the tenant of S. and being in possession of the premises under a lease from February 1, 1864, for one year, at a rent of $1,100, towards the close of that year it was verbally agreed between them that if O. would pay the increased rent of $1,500, S. would execute to him a lease for one year with the privilege of two or three, in O's discretion; that O. remained in possession after the termination of the lease of 1864, and paid the increased rent of $1,500, "as part and parcel of the agreement aforesaid, in performance and consideration thereof," that S. having failed to execute the lease accord-

ing to the agreements, O. notified him that he would enforce its specific performance, at the same time making his election to take the property for the whole three years; and that S. replied by instituting summary proceedings before a justice to eject O. from the premises. Whereupon O. filed a bill for the specific performance of the agreement, and for an injunction as incident thereto pending the proceedings. Held: that if S. had executed the lease, O. would have been bound to pay the rent; on the other hand, if the tenant paid the rent "on the foot of the agreement," S. was bound to execute the lease according to the terms agreed on: that the bill of complaint presented a case entitling *prima facie* the complainant to an injunction until the coming in of the answer or further order. *Spear* v. *Orendorf*, 26 Md. 37.

Where the relation of landlord and tenant exists, and through failure of the landlord to take the necessary steps, as provided by law, to terminate the tenancy at its expiration and summarily eject the tenant holding over, the tenant has acquired the right to continue the tenancy at sufferance or for another year, a court of equity will not intervene, and oust him because he is a bad manager, or is vicious and disagreeable to his landlord, or is insolvent. *Blain* v. *Everitt et al.*, 36 Md. 73.

An agreement by A. to let B. retain possession of certain property from 1st July, 1866, to 1st July, 1867, upon his giving the same rent that A. "might be able to obtain from other parties," is not such an agreement as a court of equity will enforce, as it lacks certainty and mutuality. *Gelston & Meyenberg* v. *Sigmund*, 27 Md. 334, 353.

In a summary proceeding by a landlord to eject his tenant, the latter is entitled to avail himself by way of defence, before the justice of the peace and in the court on appeal from the justice, of whatever equitable right or claim he may possess under a contract for the renewal or extension of his lease; and if the matter be decided against him in that tribunal, he is not entitled to resort to a court of equity for relief. *Ibid.*

To summary proceedings instituted by A. against B. his tenant for a term which ended 30th June, 1866, to obtain possession of premises, it would be no answer or legal defence to show, that A. had made a contract of lease of the same to C. to begin 1st July, 1866; such a lease to begin after the termination of B's term, was executory merely and would furnish no legal ground for asserting that there was an outstanding adversary title in C. as against A., such as is mentioned in sec. 5, of Art. 53, P. G. L. And B. would not be entitled upon the allegation of such adversary title in C. to a production of the evidences of A's title to the premises, and to an injunction to restrain him from proceeding to enforce his judgment, recovered in a proper tribunal for a restitution of the same. *Gelston* v. *Sigmund*, 27 Md. 345.

H. leased certain premises to B., the tenancy to continue until 1st July, 1860. Pending this tenancy, H. leased the same premises to S., whose tenancy was to begin on that day. B. refused to surrender the premises on the expiration of his tenancy, and S. was unable to enter; held: that S. having the legal right of entry under his lease, and failing to obtain possession of

the premises through the wrongful act of B. has his right of action against B., as a wrongdoer, but is not entitled to maintain an action against H. his lessor. *Sigmund* v. *Howard Bank*, 29 Md. 324.

In a proceeding instituted by a landlord against a tenant for years, wrongfully holding over after the expiration of his term, judgment was rendered by the justice of the peace for the tenant. The landlord appealed to the Baltimore City Court, and a summons was issued for the tenant and returned *non est*. Thereupon, a petition was filed by the landlord, alleging that, although the summons was returned *non est*, it had been in fact served by being made known to the family of the tenant, and also by service upon his attorney; the petition asked that the Sheriff might be directed to amend his return by stating the facts specially in regard to the service of the writ. Without notice to the tenant, an order was passed by the court directing the Sheriff so to amend his return, which he did; and the court proceeded to try the case *ex parte*, and rendered judgment of restitution, together with damages and costs. From this judgment the tenant appealed. Held: that the tenant, not having been returned summoned, and only *one* return of *non est* having been made, the Baltimore City Court had no jurisdiction of the case, and its judgment therein unwarrantably pronounced, may be reviewed on appeal and should be reversed. *Mears* v. *Remare*, 33 Md. 246.

Afterwards, on the application of the tenant, in the above case, a writ of restitution was issued by the clerk of the Court of Appeals. On the petition of the landlord this writ was quashed. On the motion by the tenant to rescind the order quashing the writ it was held: that the writ of restitution was not only irregularly issued, but it was void for want of a judgment in the Court of Appeals, upon which it could be founded; that the effect of the judgment of reversal of the Court of Appeals, was to leave the case standing in the City Court precisely as if no trial had occurred in that court, and it was competent for the appellant in that court to proceed to give the legal notice to the adverse party, and thereupon proceed to trial in the usual way. A writ of restitution can only be issued upon the special award of the court. *Mears* v. *Remare*, 34 Md. 333.

An action was instituted by a landlord to recover a year's rent from his tenant upon the theory that he rented the house for one year, held over for a second year, and left without legal notice, thereby becoming liable for a third year. The suit was brought to recover the rent for the third year: the defence was, that the lease was for a two years' term certain. A memorandum made by the landlord's agent, stated, that he had rented the house to the defendant "for $700 per year, rent to commence July 1st, 1867." Held: that the memorandum not specifying any term of renting, was not contradictory of testimony, which showed that it was limited to one year, and the party offering it as evidence to the jury, would not be estopped thereby from showing that the renting was for two years: where an agent was authorized by his principal to rent certain premises for one year only, and he rented them for two years, and the tenant retained them for that period, and the principal received the rent originally agreed upon, for the second year, the

jury would be at liberty to infer that the principal ratified the contract for the two years. *Reynolds & Sauerwein* v. *Davison*, 34 Md. 662.

M. made a lease of certain premises to S. and K. for three years, beginning on the 1st October, 1869, at $35 a month, with the privilege of renewal for two years, at $40 a month. S. and K. went into possession of the premises and occupied them for about two years and a half, when S. went out, and K. continued the occupation together with H. who was his partner in the business, carried on upon the premises, paying rent for the residue of the original term of three years at the rate of $35 a month, and after that time $40 a month, until the 1st October, 1873, when, without giving any notice in writing to M. they left the premises, and H. tendered the key to M. which he refused to accept. M. did not take possession of the premises until about 1st March, 1874, (other proceedings having been instituted to recover rent for the months of October and November, 1873,) it was held:

1st. That the removal of S. from the premises and the occupancy by H. with K. as his partner, and the recognition by M. of K. and H. as her tenants by accepting rent from them, was evidence of the surrender by S. of his tenancy and the acceptance by M. of H. as tenant in the place of S.

2d. That K. and H. having continued in possession as tenants after the expiration of the original term of three years, and continuing to pay rent thereafter at the rate of $40 a month, were liable to M. for the amount claimed, by reason of their failure to terminate the tenancy by giving written notice as required by sections 4 and 5 of this article. *Kinsey & Haslup* v. *Minnick*, 43 Md. 112.

E. A. Frick v. *S. M. Bonaparte*, in City Court, March 24, 1874: Premises on North Street were leased by Bonaparte to Frick at $116.66 per month, to be vacated by tenant on receiving thirty days' notice. Notice was duly given by landlord, and proceedings to obtain summary possession instituted before Myers, J. P.: the notice was to appear on the premises on 26th September; but there was no appearance by the landlord and justice on that day, although the tenant and his counsel were there.

On 29th September the justice and sheriff appeared on the premises: and the justice thereupon gave judgment in favor of the landlord for restitution of the premises, and also for $66.56 damages and $19.65 costs: the tenant entered a protest and appealed.

It was contended by tenant on appeal that: the justice should have proceeded on the *special* day named in the summons as directed by section 10 of this article, (see also secs. 2 and 3, of Art. 53, P. G. L.) The landlord contended: that by sec. 21 of this article, the defective proceedings of the justice were of no material importance, and that the decision must be on the merits.

Brown, C. J., held: that this latter view was correct. By sec. 14, of this article, the jury is authorized and required to assess against tenant damages not exceeding double the rate of rent, and also for expenses of landlord over and above legal costs; and by section 9 of this article one justice has all the

powers of two justices and jury. Judgment was accordingly rendered against tenant for restitution of property and $950 damages and costs, (*i. e.* rent $700, and damages and costs $250.) The court also held that: a notice of thirty days "from date," excludes day of date. 1 Pickering's R. 485; Taylor on Landlord and Tenant, p. 350.

Kearney v. *Smith*, in City Court, January 8, 1876.—In this case Edward Kearney rented a room to Manson Smith for three months, to be used by a glee club (of which Smith was treasurer) for two nights in each week; the room to be lighted and heated by Kearney. The room was occupied for about one month, but was so inadequately heated that the club did not have the beneficial use of the room: Smith then abandoned the room without notice to Kearney. The latter before the end of the three months, but exactly when did not appear, put a large stove in the room quite sufficient to heat it. Smith offered to pay Kearney for the nights he had used the room, but Kearney demanded the three months' rent. Brown, C. J., held, that: the failure to heat the room properly did not amount to an *eviction*; that there was a failure on the part of Kearney to comply with his contract of heating, to such an extent as to deprive the defendant of a beneficial use of the room, that this court sitting on an appeal from a judgment of a justice of the peace is required to decide "according to law and equity and right of the matter," and there should, therefore, be an abatement of the rent; and in making the abatement the court took into consideration the saving of coal and gas by Kearney for the time after the club had abandoned the room.

ARTICLE LI.

THEATRICAL EXHIBITIONS.

STATUTES.

1. Women and girls not to be employed as waiters in theatres or places of amusement.
2. Penalty for non-compliance.

ORDINANCES.

1. Penalty for indecent exhibitions.
2. Penalty for sparring exhibitions.
3. Acrobatic feats; net work to be provided.
4. Penalty.

STATUTES.

1864, c. 399, s. 5.

Women and girls not to be employed as waiters in theatres or places of amusement.

1. It shall not be lawful for any proprietor, lessee or manager of any theatre, museum or other place of amusement, to employ women or girls as waiters, or to permit them to act in such theatre or place of amusement, or among the audience or frequenters of such theatre or place of amusement, as waiters, or for the purpose, or under the pretence of selling, serving, receiving orders or pay for spirituous or malt liquors, wines, lager beer, or any other refreshments or merchandise.*

Ibid, s. 3.

Penalty for non-compliance.

2. Any person violating the provisions of the preceding section shall be deemed guilty of a misdemeanor, and on conviction thereof in the Criminal Court of Baltimore, shall be sentenced to pay a fine of not less than one hundred nor more than one thousand dollars, or to imprisonment in jail not less than one month nor more than six months, or to both fine and imprisonment, at the discretion of the court, and to forfeiture of license; one-half the fine to be paid to the informer and the other half to the State.

* See sec. 16, &c., of Art. LII, Vagrants.

Article LI.—Ordinances.

ORDINANCES.

1. Every person who shall within the city of Baltimore act, exhibit, show or perform in, or cause to be acted, exhibited, shown or performed, or be in any manner concerned in the acting, exhibition, showing or performance of any indecent or blasphemous play, farce, opera, public exhibition, show or entertainment or performance whatsoever, or of any indecent or blasphemous part of any play, farce, opera, public exhibition, show, entertainment or performance whatsoever, shall forfeit and pay for every such offence the sum of twenty dollars.* No. 37, s. 5, R. O. Penalty for indecent exhibitions.

2. Every person who shall within the city of Baltimore give or perform in, or be in any manner concerned in any public sparring exhibition, shall forfeit and pay for every such offence the sum of twenty dollars. No. 36, s. 16, R. O. Penalty for sparring exhibitions.

3. No agent, owner or lessee of any house of public amusement, or any agent, owner or lessee of any show, circus or public exhibition of any kind whatsoever, shall suffer or permit any person whomsoever to do or perform those acts in which feats of strength and skill are exbibited by the performer from apparatus suspended at an extraordinary elevation above the stage, without first providing a network of such character and materials as in the event of any miscalculation on the part of the performer will be the means of saving him, her or them from accident or injury. No. 104, Mar. 21, '73. Acrobatic feats. Net work to be provided.

4. Any agent, owner or lessee of any house of public amusement, or any agent, owner or lessee of any show, circus or public exhibition of any kind whatsoever, offending against the provisions of the preceding section, shall forfeit and pay a fine of fifty dollars for every time such offence may be committed in his, her or their house or place of public amusement, to be recovered as other fines are recoverable. Ibid, s. 2. Penalty.

*The city is authorized by sec. 10, Art. XXXIII, Licenses, (p. 577, *ante*,) to regulate or restrain theatrical or other public amusements.

ARTICLE LII.

VAGRANTS.

STATUTES.

1. Warrant to arrest, by whom issued: when returnable.
2. Who deemed vagrants.
3. Upon proof of vagrancy to be sent to almshouse, &c.
4. May be sent to House of Refuge, House of Correction, &c.
5. Officers to detain.
6. To compel work.
7. Terms of confinement.
8. Officers to make rules and regulations.
9. Guardian of minor to be summoned.
10. Minor may be bound by judge or justice.
11. Who deemed minors.
12. Orphans' Court to have jurisdiction in case of minors.
13. When cases to be tried in Criminal Court.
14. If jury trial demanded, justice may certify case to Criminal Court: case to be there tried.
15. Costs, what and how paid.

VAGRANT CHILDREN.

16. Children excluded from dance-houses, concert saloons, &c.: exception: penalty.
17. Habitual begging: care of child.
18. What children to be arrested: to what institutions such children to be committed: news-boys excepted.
19. Persons representing themselves as parents or guardians of such children: penalty.

HOME OF THE FRIENDLESS.

20. What children may be sent to Home: by whom to be sent.
21. To remain in care of home.
22. Managers may bind.
23. Indentures, how executed and recorded.
24. Powers of managers over children.
25. Powers of constables, police, &c.

HENRY WATSON CHILDREN'S AID SOCIETY.

26. How vagrant minors may be taken care of, and who authorized to commit, &c.: powers of society: regulations.

BOYS' HOME.

27. Objects.
28. Commitment to House of Refuge, &c.
29. Powers.

DOLAN CHILDREN'S AID SOCIETY.

30. Objects and powers

HEBREW ORPHAN ASYLUM.

31. Objects and powers.
32. Children, how subject.

Article LII.—Statutes.

PROTESTANT INFANT ASYLUM.
33. Care of foundlings, orphans and destitute children: powers of Orphans' Court and justices of the peace: when children to be bound out as apprentices: evidence: records of children received, &c.
34. Powers of asylum over children committed.

STATUTES.

1. The judge of the Criminal Court of Baltimore, or any justice of the peace of the city of Baltimore, upon information that any person in said city is a pauper, an habitual beggar, a vagrant, a vagabond or disorderly person, shall issue a warrant or order, to be directed to the sheriff or any constable or police officer of said city, commanding him to bring the person against whom the information is given, before said court or said justice on a day to be named therein, not more than one week from the date of the warrant, to answer to the said charge.

P. L. L., art. 4, sec. 907. Warrant to arrest.

By whom issued.

When returnable.

2. Every person who has no visible means of maintenance from property or personal labor, or is not permanently supported by his or her friends or relatives, and lives idle, without employment, shall be deemed a pauper; and every person who habitually wanders about and begs in the streets, or from house to house, or sits, stands or takes a position in any place and begs from passers-by, either by words or gestures, shall be deemed an habitual beggar; and every person who wanders about and lodges in out-houses, market-places, or other public buildings or places, or in the open air, and has no permanent place of abode, or visible means of maintenance, shall be deemed a vagrant; and every person who leads a dissolute and disorderly course of life, and cannot give an account of the means by which he procures a livelihood, and every fortune teller or common gambler, shall be deemed a vagabond or disorderly person.

Ibid, sec. 908.

Who deemed vagrants.

Fortune tellers and gamblers.

3. The said court or said justice, upon proof that any person is a pauper, an habitual beggar, a vagrant, a vaga-

Ibid, sec. 909.

Upon proof of vagrancy, to be sent to almshouse, &c.

bond or disorderly person as aforesaid, shall send such person to the almshouse for said city, or to such other suitable place as may be provided for such purpose by the Mayor and City Council of Baltimore.

Ibid, sec. 910.

May be sent to House of Refuge, House of Correction, &c.

4. Whenever any house of refuge, house of correction, work-house or other house, building or place shall be provided by the Mayor and City Council of Baltimore, to which persons convicted under this law may be sent, the said court or said justice may send them to any such house, building or place, if the judge of said court or said justice consider it to be a more suitable place for the purpose than the almshouse.*

Ibid, sec. 911.

Officers to detain.

5. The trustees of the almshouse, and the officers of the other places to which persons convicted under the preceding two sections may be sent, shall keep them during the time for which they are to be kept, so that they cannot escape from said place.

Ibid, sec. 912.

To compel to work.

6. The said trustees and other officers shall put such of said persons so convicted as are able to work, to the work which they are respectively best able to do.

Ibid, sec. 913.

Terms of confinement.

7. The time for which any person shall be sent to the almshouse or other place as aforesaid shall not be less than one week nor more than two months, for the first occasion; and not less than one month nor more than six months for the second or any subsequent occasion.

Ibid, sec. 914.

Officers to make rules and regulations.

8. The trustees of the almshouse and managers of the house of refuge, and officers of the other places to which persons may be sent as aforesaid, shall have the right to make all proper rules and regulations for the purpose of carrying out the aforesaid provisions.

* See Article XXVI, Houses of Refuge and Reformation.

9. Whenever any minor shall be brought before the judge or justice as aforesaid, the parents or guardians of such minor, if they be resident within the city of Baltimore, and their names and place of residence be made known to such judge or justice, shall be summoned to show cause, if any they have, why such minor should not be sent to the almshouse or other suitable place, or be otherwise punished according to law. Ibid, sec. 915. Guardian of minor to be summoned.

10. The said judge or justice shall, if a suitable master or mistress can be found, and he judges it best for the minor, bind such minor an apprentice to some useful art, trade or occupation, in the same manner and on the same conditions as apprentices may now be bound by the laws of this State. Ibid, sec. 916. Minor may be bound by judge or justice.

11. Every unmarried male under twenty-one years of age, and unmarried female under eighteen years of age, shall be considered minors within the meaning of the preceding section. Ibid, sec. 917. Who deemed minors.

12. The Orphans' Court of Baltimore City shall have concurrent jurisdiction over all cases of minors under the preceding sections, and exercise all the powers in relation to them which are hereinbefore granted to the Criminal Court and to justices of the peace of said city. Ibid, sec. 918. Orphans' Court to have jurisdiction in case of minors.

13. The Criminal Court of Baltimore shall try all cases which may be brought before it in relation to vagrants and beggars, in the same manner and at the same time as cases for assault and battery are now tried by said court; provided, that the trial shall be by jury, if demanded by the party charged. Ibid, sec. 919. When cases to be tried in Criminal Court. Proviso.

14. If in any case which may be brought before a justice of the peace, or before the Orphans' Court, the party charged shall demand a jury trial, the said justice or said court shall certify said case to the Criminal Court of Baltimore, to be Ibid, sec. 920. If jury trial demanded, Orphans' Court or justice may certify case to Criminal Court.

Case to be there tried.

proceeded with and tried by said court, in the same manner as if the case had been originally brought before said court.

Ibid, sec. 921.

Costs, what and how paid.

15. The justice of the peace, and the clerk of the Criminal Court, and Register of Wills of the Orphans' Court aforesaid, respectively, shall receive the sum of twenty-five cents for issuing every warrant, and fifty cents for making out every commitment or indenture of apprenticeship of such vagrants or beggars, and the constable, sheriff or police officer for serving said warrant, and bringing the person charged before either of said courts, or before said justice, shall receive the sum of fifty cents, and for carrying any person committed to the place of commitment, the sum of fifty cents, which several sums shall be paid as other costs in criminal cases are now paid, but either of said courts, or said justice, may at discretion adjudge that the said costs shall be paid by the informer, in cases where the person charged is acquitted.

VAGRANT CHILDREN.

1878, c. 473.

Children excluded from dance-houses, concert saloons, &c.

16. No minor, if a girl under the age of sixteen years, and if a boy under the age of fourteen years, shall be admitted to or permitted to remain in any saloon, place of entertainment or amusement known as dance-houses, concert saloon, theatre or varieties, where immoral, indecent, obscene or vulgar language, display or performance is permitted, allowed or carried on, or where any spirituous liquors, wines, intoxicating or malt liquors are sold, exchanged or given away, unless accompanied by parents or guardian. Any proprietor, keeper or manager of any such place, who shall admit such minor to or permit him or her to remain in such place, unless accompanied by parent or guardian, shall be guilty of a misdemeanor, and shall, upon

Exception.

conviction by any court of competent jurisdiction, be fined ten dollars and costs for each and every offence.* Penalty.

17. Every person having the custody of any girl under the age of sixteen years, and of any boy under the age of fourteen years, shall restrain such child from habitually begging, whether actually begging or under the pretence of peddling. Any person offending under this section shall be considered and deemed as incapable of taking care of and providing for such child, and such child shall, by reason thereof, be deemed as coming within the conditions of the next succeeding section. 1878, c. 473. Habitual begging. Care of child.

18. Any girl apparently under the age of sixteen years, and any boy apparently under the age of fourteen years, that comes within any of the following descriptions named: that is known to be habitually begging or receiving or gathering alms, whether actually begging or under the pretence of peddling or offering for sale anything, or being in any street, road or public place for the purpose of so begging, 1878, c. 473. What children to be arrested.

*As to mendicant and vagrant children, the Act of 1876, c. 392, provides, that: any person whether as parent, relative, guardian, employer or otherwise having in his care, custody or control any child under the age of sixteen years, who shall sell, apprentice, give away, let out or otherwise dispose of any such child to any person, under any name, title or pretence whatever, and any person who shall take, receive, hire, employ, use, or have in custody any such child for the vocation, use, occupation, calling, service, or purpose of singing, playing on musical instruments, rope walking, dancing, begging, peddling or any mendicant or wandering business whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace or other competent tribunal shall be fined in a sum not less than fifty nor more than two hundred and fifty dollars, or suffer imprisonment in a county jail for a period not less than thirty days nor more than one year, or both such fine and imprisonment, in the discretion of the court. And if on any examination before any magistrate, it shall be proved that any child was engaged in any business or vocation designated, and in the manner mentioned in this act, he shall be deemed a vagrant and shall be committed to the custody of the poor or almshouse authorities to be dealt with according to law.

gathering or receiving alms; that is found wandering and not having any home or settled place of abode or proper guardianship, or visible means of subsistence; that is found destitute, either being an orphan or having a vicious parent who is undergoing penal servitude or imprisonment; that frequents the company of reputed thieves or prostitutes, or houses of assignation or prostitution, or dance houses, concert saloons, varieties, or places specified in section 16 hereof, without parent or guardian, shall be arrested and brought before a court or magistrate. When, upon examination before a court or magistrate, it shall appear that any such child has been engaged in any of the aforesaid acts, or comes within any of the aforesaid descriptions, such court or magistrate, when it shall deem it expedient for the welfare of the child, shall commit such child to an orphan asylum, charitable or other institute, or make such other disposition thereof as now is or may hereafter be provided by law in case of vagrants, truant, disorderly, pauper or destitute children; provided, however, that none of the provisions of this act shall be construed so as to prevent children from selling or offering for sale newspapers.

To what institutions such children to be committed.

Newsboys excepted.

1878, c. 473.

Persons representing themselves as parents or guardians of such children.

19. Any person or persons representing himself, herself or themselves to be, or passing himself, herself or themselves off as, the parent or guardian of a child, or children, referred to in any of the aforesaid sections of this act, and it shall appear that such person is not either the parent or guardian of said child, such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction by any court of competent jurisdiction, shall be fined not more than twenty dollars and costs for each and every offence.

Penalty.

HOME OF THE FRIENDLESS.

1870, c. 225.
1852, c. 231.
1858, c. 429.

20. The justices of the peace for Baltimore city, the trustees of the poor for said city, and the ward managers of the poor in said city, may commit to the care and charge of the

Home of the Friendless, instead of sending to the almshouse, all children, whether male or female, who are destitute or suffering for want of support, or who may be found begging about the streets of the city, or who are children of beggars. Vagrant children may be sent to Home of the Friendless.

21. The children thus committed to the care of said corporation, shall remain under the care of the corporation, and of the managers thereof, and shall be obedient to the rules, regulations and discipline as apprentices, and be subject to all laws concerning the duties and liabilities of apprentices. P. L. L., art. 4, sec. 922. To remain in care of Home

22. The Home of the Friendless, and the managers thereof, may retain the said children under their care until they shall be eighteen years, or any shorter period, and may bind them out for a time not to exceed the age of eighteen years in the case of females, and of twenty-one years in the case of males, as apprentices to learn any trade or business, or in the case of females also to learn to be useful in house wifery, or may under terms proper in view of the said managers and to be by them stipulated, place them for adoption, or as inmates with any families or persons; and the said corporation in the exercise of any of the powers vested in them by this section, of binding or placing out said minors, shall not be limited to places within the State. 1870, c. 225. Managers may bind.

23. All instruments binding or placing out said children, shall be in writing, signed by the president and at least two managers of said corporation, and by the persons taking the children as apprentices or otherwise, and shall be acknowledged by the persons signing the same before a justice of the peace for Baltimore city, and within six months from the date thereof recorded in the office of the Register of Wills of said city. P. L. L., art. 4, sec. 925. Indentures—how executed and recorded.

24. If any parent or guardian or any judge of the Orphans' Court of Baltimore city, or any justice of the peace for said city shall place under the care and control of the Home of the Friendless any child whether male or female under the age of eighteen 1870, c. 225. Power of managers over children.

years, of the description of children hereinbefore mentioned, or as suffering through the extreme indigence or vagrancy or bad habits or neglect of parents, or from cruelty of intemperate parents, or as being illegitimate, or children of persons out of the State without sufficient sustenance, the said corporation and the managers thereof shall hold and control such children, with power to bind or place them out as hereinbefore provided.

1870, c. 225.

Constables, &c., may take children before Orphans' Court, &c., for commitment.

25. Any constable or police officer of said city, upon application of any manager of the Home of the Friendless, or of his own accord, may carry before any judge of the Orphans' Court for said city, or any justice of the peace, any child of the description mentioned in the preceding section, to be dealt with as therein provided.

HENRY WATSON CHILDREN'S AID SOCIETY.

1864, c. 296.

How vagrant minors may be taken care of, and who authorized to commit, &c.

26. The judges of the Orphans' Court of Baltimore City, the judge of the Criminal Court, any justice of the peace, the Trustees of the Poor and the ward managers of the poor and any police officer or constable of said city, are hereby authorized and empowered to deal with and commit to the president and board of managers of the Children's Aid Society of Baltimore,* any minor, whether male or female, in the same manner and under the same circumstances, as they are authorized to deal with and commit minors to the care and charge of the Home of the Friendless, under this article; and the

*By the Act of 1872, c. 14, the name of the Children's Aid Society of Baltimore was changed to the Henry Watson Children's Aid Society of Baltimore. This act declares, that the object of the society shall be to improve the condition of poor and destitute children of the city of Baltimore, and especially by procuring them homes in the country, and that all legacies given by persons dying, after the date of the act [Feb. 12, 1872,] and intended for this society, but given by its former name of The Children's Aid Society of Baltimore, instead of its name as fixed by this act, shall remain and inure to the benefit of The Henry Watson Children's Aid Society of Baltimore. This act was further amended by the Act of 1876, c. 81.

president and board of managers of said Children's Aid Society of Baltimore are hereby vested in regard to all minors, male or female, with all the rights, powers and authority which the Home of the Friendless, or the president and managers thereof by this article are vested with; and are to observe the same forms and regulations in regard to the binding out, adopting or otherwise disposing of minors, male and female, committed to them by virtue of this section. Powers of Children's Aid Society. Regulations.

BOYS' HOME.

27. The special objects and purposes of the Boys' Home Society shall be to shelter and protect destitute and homeless boys, to furnish them with food, raiment and lodging, to stimulate them to honest efforts to earn a livelihood, to instruct them after working hours in moral and religious truths, and in the rudiments of education, to aid and encourage them out of vagrancy and ignorance to rise up into a better life of virtue, industry and usefulness, and generally to stand in the relation of parent to such homeless boys. 1874, c. 68, s. 1. Objects.

28. The Boys' Home shall have authority to procure the commitment of any minor in the home, either to the House of Refuge or to any other reformatory institution, in all cases where, by reason of incorrigible or vicious conduct, such minor has rendered his control beyond the power of the superintendent of said Home, and made it manifestly requisite that, from regard for the morals and future welfare of such minor, and the peace and order of society, he should be placed in such reformatory institution; and the said society shall proceed in all such cases in the same manner in all respects as the parent or guardian of such minor might or could do under existing laws. Ibid, s. 6. Commitment to House of Refuge, &c.

29. The said society shall have power to place the boys committed to their care, during the minority of such boys, at such employments, and cause them to be instructed in such Ibid, s. 8. Powers.

branches of useful knowledge, as may be suited to their years and capacities.*

DOLAN CHILDREN'S AID SOCIETY.

1872, c. 205, s. 8. Objects and powers.

30. The Dolan Children's Aid Society, under the charge of the Young Catholics' Friend Society, may exercise all the powers conferred by law upon any other children's aid society in the city of Baltimore.†

HEBREW ORPHAN ASYLUM.

1874, c. 340, s. 2. Objects and powers.

31. The Hebrew Orphan Asylum of Baltimore City, and the officers and board of directors thereof, shall have the exclusive care, charge, custody and control of all children whom they shall receive into said asylum, until they shall be, if males, twenty-one years old; if females, eighteen years old, or any shorter period for which they may be received by said corporation; and to bind them out for a time not exceeding said ages of twenty-one and eighteen years respectively, or such shorter period as aforesaid, as apprentices to learn any profession, trade, business, or useful occupation; or may under terms proper in the view of the said officers and board of directors, and to be by them stipulated, place them for adoption, or as inmates with any families or persons; said corporation, in the exercise of any of these powers of binding or placing out not

* See Act of 1878, c. 267, p. 459, sec. 12, *ante*.

† The Act of 1872, c, 21, recites that the Rev. James Dolan, late of the city of Baltimore, deceased, by his last will and testament, duly probated, &c., did bequeath the one-third part of his estate, real, personal and mixed, to the Young Catholics' Friend Society of the City of Baltimore, for the purpose of establishing a Children's Aid Society; and that as doubts may exist as to the vesting of said estate in said society, that in order to give validity to said bequest, and to carry out the charitable design of said Dolan, it enacts that the said devise and bequest, as also the specific devise of a house and lot on Gough street, to the Young Catholics' Friend Society, for the purpose expressed in his last will and testament, is hereby confirmed, and the said society is hereby authorized to hold the same for the said purposes. The Act of 1872, c. 205, incorporated this society.

being limited to places within this State, and all such acts of binding or placing out being required to be in writing, signed by the president or vice president of said corporation, and by the persons taking the children as apprentices as aforesaid, and by said signers acknowledged before a justice of the peace of Baltimore city, notary public, or a commissioner of deeds of the State of Maryland, and recorded in the office of Register of Wills of Baltimore City.

Ibid, s. 4.

Children—how subject.

32. The children received under the care and charge aforesaid shall be subject to all the rules, regulations and discipline of said corporation to every effect as apprentices are bound in respect to their masters and mistresses, and subject to all the laws concerning the duties, liabilities and probation of apprentices.

PROTESTANT INFANT ASYLUM.

1878, c. 297.

Care of foundlings, orphans and destitute infants.

Powers of Orphans' Court and justices of the peace.

When children to be bound out as apprentices.

33. The Protestant Infant Asylum of Baltimore City, a corporation duly incorporated under the laws of this State, is hereby authorized and empowered to receive into its custody, care and control, all such foundlings and orphans and other destitute infants under the age of four years as shall be committed, by instrument of writing, under the hand of the party so committing to its keeping, by the parents, guardians or others having the right of disposition, or by any Orphans' Court or justice of the peace of this State, (if of the class of children whom such court or justice could lawfully bind out as apprentices, which commitment to the said Protestant Infant Asylum of Baltimore City such Orphans' Courts and justices are hereby empowered to make,) and retain under its care, charge and restraint each of such foundlings and infant children so committed to its keeping until he or she shall have attained the full age of fourteen years, or for any shorter period, and at or before said age to bind out any and every one of said foundlings and infants for a

term of time not exceeding the age of twenty-one years if the child be a male, or of eighteen years if the child be a female, as an apprentice to learn any trade or business suitable to the sex of the child, or to learn to be useful in housewifery, or to place them for adoption or as inmates with any families or persons, or transfer them to the custody, charge, care and training of any corporate or other home, asylum or other association authorized by law to receive such children, and retain or bind them out in this State; provided, that all such acts of binding, placing or transferring shall be evidenced by instrument of writing, signed by the president of said Protestant Infant Asylum of Baltimore City, and by the person or corporation taking such child as apprentice, or for adoption, or for subsequent custody, care and rearing, and by such signers acknowledged before a justice of the peace of this State, and within one month from the date thereof recorded in the office of the Register of Wills of Baltimore City, at the expense of the party so taking, receiving or adopting; and provided, also, that the said Protestant Infant Asylum of Baltimore City shall keep a fair record in a suitable book of the admission of all children so received into its custody and care, in which shall be stated the date of admission, the name and age of the child at the time of admission, the name of the person or justice by whom or the court by which committed, and the name of the nearest relatives when known to the corporation or its officer charged with the admission of inmates.

Evidence.

Where instruments to be recorded.

Records of children received, &c.

Ibid, s. 2.

Powers of Asylum over children committed

34. The foundlings and infant orphan and other destitute children under the care and charge of the said corporation, shall be and remain under its control and restraint and under its charge, and of the officers and managers and agents thereof, and bound to obedience to its rules, regulations and discipline, to every effect as apprentices are bound in respect of their masters and mistresses, and subject to all laws concerning the duties, liabilities, privileges and rights of apprentices.

ARTICLE LIII.

WATER.

STATUTES.

ACQUISITION OF LANDS, WATERS AND WATER-COURSES.

1. Power to corporation to purchase, &c., land, &c., to introduce water into city.
2. Agreement with owners of lands, water, &c.
3. Power to condemn: warrant from justice of the peace to Sheriff: jury: notice.
4. Jury.
5. Power of jury.
6. Oath of jurors.
7. Inquisition.
8. Another inquisition: appeal to the Court of Appeals: time within which to be taken: costs.
9. What inquisition to contain: effect of same.
10. Jury.
11. Compensation to jurors, Sheriff, &c.: how paid.

WATER RATES, &C.

12. Corporation to issue certificates of stock: water rates: how collected: watchmen and police force: fines and penalties.

BALTIMORE WATER COMPANY.

13. Power to purchase right of companies: water tax.

LAKE ROLAND, RESERVOIRS, DAMS.

14. Polluting the water in lakes, dams, &c.: penalty.
15. Erecting privies, hog pens, &c.: penalty.
16. Injuring dam: penalty.

FINES AND FORFEITURES.

17. Fines and forfeitures, how recoverable.
18. Action of damages.

PUMPS.

19. Power to erect and regulate.

ORDINANCES.

WATER BOARD.

1. Six commissioners: president: secretary: quorum: vacancies: rules and regulations, &c.: appointment of police and watchmen.
2. Meetings.
3. Title papers: books: monthly statement: report to Council: receipts and disbursements.
4. Officers not to be interested in contracts, &c.: when contracts void.

Article LIII.

5. Water department: officers: salaries: bonds.

WATER REGISTRAR.

6. The Water Registrar: duties: water rates: books: collectors: depositing funds.
7. Daily payments to City Register:
8. Register to open account in bank: payment of interest on water stock.
9. How funds drawn from Register.
10. Monthly payments by Board.
11. Accounts with Registrar: abatements.
12. Registrar to make monthly statement: water takers: receipts and expenditures.

WATER ENGINEER.

13. Duties: record of water takers, &c.
14. To make out bills: to employ labor: monthly and annual statements: to hold no other office.

WATER RATES.

15. When payable: discounts: how bills collected.
16. Water rates: steam boilers used for generating steam for engines.
17. No charge for water used for building purposes.
18. Completion of building to be certified to Water Registrar: penalty
19. Water meters for railroads, hotels, &c.: charges: when supply cut off.
20. When abatements made in Registrar's office.
21. When water may be stopped: fine for permitting others to use water: for tapping pipe, &c.: proviso.
22. Officers to report to Registrar.
23. Rates printed on bills.
24. Free use of water by municipality: proviso: to what not applicable.

WORKS.—LAYING PIPES IN STREETS.

25. Permission to lay pipes: streets to be restored to their former condition.
26. Streets when dug up, how to be repaired: rubbish, &c.: when to be removed.
27. Defective pipes to be repaired.
28. What pipes: notice: duty of Water Board relative to defective pipes: penalty for refusing to allow Board to repair defective pipes.

PAVEMENTS.

29. Pavements taken up, when to be repaved.
30. Pavements not to be broken up without permission.
31. Repaving regulated.
32. Paving, &c., streets: bricks to mark water stops: penalty.
33. Water stops: penalty.

HYDRANTS AND FIRE PLUGS.

34. Unlawful to erect hydrants that waste in the earth: penalty.
35. Hydrants regulated: penalty.
36. Penalty for allowing water to flow from hydrants.
37. Penalty for injuring fire plugs or opening the same.

INJURING WATER WORKS.

38. Penalty for injuring water works.

NEW HYDRANTS AND FIRE PLUGS.

39. New hydrants, principle to be approved by Board: penalty.
40. Board to erect fire plugs: proviso.
41. Appropriation.

CONTROL OF REGISTRAR.

42. Connection not to be made or water turned on without consent of Registrar.

43. Penalty for refusing to allow Registrar to visit premises.

FINES AND PENALTIES, AND POLICE.

44. Fines and penalties, how recovered.
45. Police to report violations of ordinance.

FOUNTAINS.

46. Public fountains.

PRIVATE PUMPS.

47. Private wells: use of water.
48. Care of private pumps: when ceded to city.
49. Penalty.

PUMPS.

50. Application for erection of pumps: duty of Water Engineer: apportionment: duty of Water Registrar.
51. Water Registrar to furnish each person assessed for pumps, bills for same: enforcing payment.
52. Pumps out of limits of direct taxation.
53. Appeal to Water Board: referees.

ARTESIAN WELLS.

54. Artesian wells: proviso.

CARE OF PUMPS AND FIRE PLUGS.

55. Repairs of wells and pumps: proviso: report to Water Board.
56. Water Engineer to examine pumps.
57. Persons breaking, defacing, &c.: penalty.
58. Water Board to receive pumps erected by individuals: proviso.

ASSESSMEMT FOR SINKING WELL OR ERECTING PUMP.

59 Water Engineer to make assessment, and return same to Registrar, &c.: provisos: appropriation.

REMOVAL OF PUMPS.

60. Removal of pumps.
61. Wells to be covered.
62. Places to be marked.
63. Penalty for removing marks.

PIPES OR SEWERS.

64. Not to be introduced into wells: penalty.

OBSTRUCTION OF PUMPS, HYDRANTS OR FOUNTAINS.

65. Pumps and hydrants not to be obstructed: penalty.
66. Pumps, fountains, &c., protected from nuisances: penalty.

LAKES AND RESERVOIRS IN DRUID HILL PARK.

67. Lakes, &c., in Druid Hill Park: storage of water.
68. Power of Water Board: proviso.

GUNPOWDER RIVER.

69. Water Board authorized to introduce water of Gunpowder river.
70. Contract for construction of works.
71. Basis and substance of contract: 10,000,000 gallons per diem: pumping engine: pipes: estimate of work: certificate.
72. Sum to be paid not to exceed what amount: bond from contracting party.
73. Rights of way, &c.

WATER STOCK OF 1916.

74. Authority to issue.
75. $5,000,000.

GUNPOWDER RIVER STOCK OF 1894.

76. Authority to issue.

STATUTES.

ACQUISITION OF LAND, WATER AND WATER COURSES.

P. L. L. art. 4, sec. 928, 1853, c. 376.

1. The Mayor and City Council of Baltimore may, from time to time, contract for, purchase, lease and hold to them and their successors, in fee simple, or for a term of years, any land, real estate, spring, brook, water and water-course, and also the right to use and occupy, forever or for a term of years, any land, real estate, spring, brook, water or water-course which they may conceive expedient and necessary for the purpose of conveying water into the said city, for the use of the said city, and for the health and convenience of the inhabitants thereof, and also the right to enter and pass through, from time to time, as occasion may require, and to use and occupy the said lands through which they may deem it necessary to convey the said water, and they are hereby invested with all the rights and powers necessary for the introduction of water into said city, and to enact and pass all ordinances from time to time which shall be deemed necessary and proper to exercise the powers and effect the objects above specified.

Power to Mayor and City Council to purchase, &c., land water, &c., to introduce water into city.

To pass ordinances for effectuating the introduction of water into city.

Ibid, sec. 929.

2. The Mayor and City Council of Baltimore, or any agent by them authorized, may agree with the owner or owners of any land, real estate, spring, brook, water or water-course as aforesaid, earth, timber, stone or other materials which the said Mayor and City Council may conceive expedient or necessary to purchase and hold, for the purpose of introducing water into the said city.

Agreement with owners of land, &c.

Ibid, sec. 930.

3. If they cannot agree, or if there be any incapacity or disability to contract with the owner or owners of such land or real estate, spring, brook, water, or water-course as aforesaid, earth, timber, stone or other materials, or with the owner or owners of such lands through which the said Mayor and City Council may find it necessary to have a right of entry and passage, for the purpose of conveying the said water into the

Power to condemn.

said city, or if such owner or owners shall be absent, out of the State, or unknown, it shall be lawful, on the application of the Mayor and City Council, for any justice of the peace of the county in which such lands, earth or other property or materials as aforesaid are situate, to issue his warrant to the sheriff of said county, commanding him to summon from the said county a jury of twenty freeholders, inhabitants of said county, not related to the owner or owners or persons interested, as aforesaid, in the said real estate or other property, to meet on the premises which is to be valued, on some certain day to be named in said warrant, of which said warrant and the day therein named for the meeting of the jury, twenty days' notice shall be given previous to such day by the Mayor and City Council to every owner or person interested as aforesaid, or if any owner be an infant or lunatic, or feme covert, to his or her guardian or her husband, or in either case, left at his or her place of abode, or if out of the State or unknown, such notice shall be published not less than eight weeks successively in some one or more of the daily newspapers of Baltimore city, and in one or more of the newspapers of the county in which such property may be located, if any newspaper be published in such county.

Warrant from justice of the peace to sheriff.

Jury.

Notice.

4. From the list of jurors so returned and attending, the person, the condemnation of whose property may be desired, may strike four, and the said Mayor and City Council strike four, so that the number of jurors be reduced to twelve; and in case either party shall neglect or refuse to strike off the names of jurors, then it shall be the duty of the sheriff or his deputy, who shall attend as hereinafter directed, to strike off jurors for the party so refusing or neglecting, so that the number of jurors be reduced to twelve, as aforesaid.

Ibid, sec. 931.

Jury.

5. The jurors so remaining shall inquire into, assess and ascertain the sum or sums of money to be paid by the said Mayor and City Council of Baltimore, for the land, spring, brook, water-rights or other property which they may deem necessary to purchase and hold or use for the purpose aforesaid.

Ibid, sec. 932.

Power of jury.

Ibid, s. 733.
Oath of Jurors.

6. Before the said jury act as such, the said sheriff or his deputy shall administer to each of them an oath, that he will justly and impartially value the damages which the owners or parties holding an interest therein will sustain by the use and occupation of said property by the Mayor and City Council of Baltimore.

Ibid, s. 934.
Inquisition.

7. The said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the said sheriff to the clerk of the Circuit Court of said county, and be by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown; and when confirmed shall be recorded by the said clerk at the expense of the Mayor and City Council of Baltimore.

1876, c. 19.
New Inquisition.
Appeal to Court of Appeals.
Time within which to be taken.
Costs.

8. If not confirmed, the said court may direct another inquisition in the manner above described. From any decision on matter of law made by said court on a hearing for confirmation, an appeal may be taken to the Court of Appeals, provided such appeal be taken within ten days after such decision shall be made, and the Court of Appeals may award costs to either party in its discretion

P. L. L. art. 4, s. 936.
What inquisition to contain.
Effect of same.
Title.
Valuation.

9. The inquisition shall describe the property taken or the bounds of the land condemned, and the quantity or duration of the interest in the same, valued to the Mayor and City Council of Baltimore, and such valuation, when paid or tendered to the owner or owners of said property, or his or their legal representatives, shall entitle the said Mayor and City Council of Baltimore to the use, estate and interest in the same thus valued, as fully as if it had been conveyed by the owner or owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received from the Mayor and City Council of Baltimore, without in-

terest, by the said owner or owners, or his or their legal representative or representatives.

10. If the twenty jurors summoned as aforesaid shall not appear at the time and place appointed as aforesaid, the sheriff or his deputy, as the case may be, shall forthwith summon other freeholders of the county from the bystanders or others qualified as aforesaid, to make up the said jury to the number of twelve. Ibid, s. 937. Jury.

11. The jurors so summoned and attending shall be allowed the same compensation as is allowed to the jurors in the Circuit Court of the county; and the sheriff shall be allowed similar fees as are by law allowed for the summoning jurors to attend the Circuit Court of the county, and also a per diem of two dollars for every day he or his deputy shall be in attendance upon an inquisition; and such expenses shall be paid by the said Mayor and City Council of Baltimore, except in cases of objections to the confirmation of inquisitions before the Circuit Court, when the costs in said court may be awarded in the discretion of the court. Ibid, s. 938. Compensation to jurors, sheriff, &c. How paid.

WATER RATES, &c.

12. For the purpose of defraying all the expenses and costs of said lands, waters and water-rights as shall have been taken for the purposes aforesaid, and of constructing all works necessary to the accomplishment of said purposes, and all expenses incident thereto, the said Mayor and City Council of Baltimore shall have authority in the name of the city to issue certificates of debt to be denominated on the face, Baltimore water stock,* to an amount not exceeding five million dollars, bearing interest not exceeding six per cent. per annum, and to provide by ordinance for the redemption of the same at a certain time, 1868, c. 467; 1870, c. 24. Corporation to issue certificates of stock.

* As to Redemption of Stock of 1875, and acts and ordinances, see Stock, in this article.

and under such provisions as the Mayor and City Council may deem expedient and proper; the said Mayor and City Council

Water rates. are hereby authorized and empowered to assess rates for the supply and use of water at any point in Baltimore city and county,* and the Mayor and City Council are hereby authorized to enforce payment for the use of water, and other expenses incurred in the introduction of water from the water mains, according to the rates established by the said Mayor and City

How collected. Council, said payments to be enforced by the same process that city or State taxes are collected, or they may be collected by process before a justice of the peace, or in any of the courts of the city of Baltimore having jurisdiction in such cases; and the said Mayor and City Council are hereby anthorized and

Watchmen and police force. empowered to appoint watchmen or such police force as may be necessary for the protection of their water-works in the city and county of Baltimore, and to impose fines and penalties for interference with or injury to the works or their appendages, to prevent the water from being obstructed or contaminated, and to prohibit all meddling or tampering with the water-

Fines and penalties. works and their appurtenances; said fines and penalties shall be enforced as provided in Art. XIX, Fines and Forfeitures.

BALTIMORE WATER COMPANY.

P. L. L., art. 4, sec. 940. 13. The Mayor and City Council of Baltimore are hereby

Power to purchase. authorized to purchase all the property, estates, rights and

Right of companies. privileges of any chartered company authorized to introduce, or which may hereafter be authorized to introduce water into

* WATER TAX.—The Act of 1868, c. 467, repealed 1866, c. 38, and is identical therewith, except that after the words "at any point in Baltimore city and county," the clause, (in the Act of 1866, c. 38, and also in the Act of 1862, c. 83, which the Act of 1866 repealed,) viz: "*to assess a water-tax on houses and other buildings in said city within three hundred feet of the line of water-pipes; provided, they shall not assess a water-tax on any building where the water is not taken on the premises, for a sum greater than five dollars, nor less than one dollar per annum,*" is omitted and repealed.

said city, upon such terms as may be agreed upon by the Mayor and City Council of Baltimore and such corporation or corporations, in the manner prescribed in their respective charters, or in the absence of such provisions as shall be agreed upon by the said Mayor and City Council of Baltimore and such corporation or corporations, and such corporation is hereby authorized to execute a conveyance or conveyances to the Mayor and City Council of Baltimore, of all the franchises and property of said corporation, and all such rights, privileges and franchises shall be vested in the Mayor and City Council of Baltimore, to be held, exercised and enjoyed by the said Mayor and City Council of Baltimore, as fully in every respect as might or could have been done by any such corporation or corporations under their respective charters. Title.

LAKE ROLAND, RESERVOIRS, DAMS.

14. If any person shall wilfully pollute the water in any lake, dam, reservoir, line of conduit, water-pipe, gate-house, or other work constructed or used for supplying the city of Baltimore with water, by swimming, bathing or washing therein, or by washing, or causing to be washed therein, or so near thereto as to pollute the water therein, any clothes, the skin of any dead animal, or any impure, fetid or noxious animal or vegetable matter; or shall throw, or cause to be thrown therein, or so near thereto as to pollute the water therein, any impure, fetid or noxious animal or vegetable matter, the person or persons so offending shall forfeit and pay a sum not less than five nor more than fifty dollars for each offence. 1870, c. 25. Polluting water in lakes, dams, &c. Penalty.

15. If any person shall erect, or cause to be erected, any privy, hog pen, bleaching or dyeing establishment, or other thing, over any lake, dam, reservoir, line of conduit, water-pipe, gate-house or other work constructed or used for sup- Ibid, s. 2. Erecting privies, hog pens, &c, over lake, dam, &c.

plying the city of Baltimore with water, or so near thereto as to pollute or discolor the water therein, the person or persons so offending shall forfeit and pay a sum not exceeding fifty dollars, and the further sum of ten dollars for each and every day the same shall remain after notice to remove the same shall have been given.

Penalty.

1861, c. 240, s. 3.

16. If any person shall injure, or cause to be injured, deface or destroyed, any dam, reservoir, line of conduit, water-pipe, gate-house, stop-cock, or other thing used for supplying the city of Baltimore with water, the person so offending shall forfeit and pay a sum of not less than five nor more than fifty dollars for each offence.

Injuring dam, &c.

Penalty.

1861, c. 240 s. 4.

17. All fines and forfeitures imposed by the last preceding section shall be recoverable by warrant before any justice of the peace in and for the city of Baltimore, or in and for Baltimore county, according to the respective jurisdiction under which any of the offences herein set forth may be committed; one-half to the informer and the other half to the Mayor and City Council of Baltimore.

Fines and forfeitures, how recoverable.

Ibid, s. 5.

18. The preceding two sections shall not be construed to exempt any person or persons who may have been fined for a violation thereof, or who may be charged with a violation thereof, from an action of damages for any injury or destruction of any part of the works used in supplying the city of Baltimore with water, in any suit for damages on account of said injury, brought by the Mayor and City Council of Baltimore.

Action of damages.

PUMPS.

P. L. L., art. 4, s. 823.

19. The Mayor and City Council have power to erect and regulate pumps in the streets, lanes and alleys.

Pumps.

NOTE.—Section 941 of Article 4, Public Local Laws, section 14 of City Code of '69, relating to dams at Raven's Rocks, was repealed by the Act of 1876, c. 17.

ORDINANCES.

WATER BOARD.

1. There shall be appointed biennially, in the month of March, as other city officers are appointed, a board of six commissioners, who shall be residents of the city of Baltimore, who, with the Mayor, shall be styled the Water Board of the City of Baltimore; said commissioners to be men of undoubted character, and selected with a view to skill and efficiency. The Mayor shall be the president of said Board, and preside at all meetings which may be held to deliberate upon the affairs of the Water Department. Any four members of said Board shall constitute a quorum for the transaction of business. The Board shall have authority to appoint a secretary, whose duty it shall be to keep a record of the proceedings, and perform such duties as may be assigned to him by the Board. They shall have authority to fill any vacancy or vacancies that may occur in their body, by reason of the death, resignation or removal from the city of any of its members during the recess of the City Council, and in the absence of the Mayor, to appoint a president pro tempore; to make and pass all rules and regulations for the government of the Board, the laying and tapping of pipes, or for the protection and preservation of the said pipes, or other property and appurtenances of the water-works; and to affix penalties, and to enforce the same for any violation of their rules and regulations; to appoint or secure the appointment of such police force and watchmen as may be necessary for the protection, care and preservation of, and to prevent obstruction or injury to the water-works and their appendages, and to adopt all necessary regulations to preserve the purity of the water, and to enact and enforce such rules, regulations and penalties as they may deem necessary, in accordance with section 12, statutes, of this article.

No. 10, s. 1, Mar. 27, 1862; No. 83, Oct. 3, 1866.

Six commissioners.

President.

Quorum.

Secretary.

Vacancies.

Rules and regulations.

Appointment of police & watchmen.

Ibid, s. 1.
Meetings.

2. It shall be the duty of said Board to meet once in every month, and oftener if required, to mature and decide upon all plans in reference to the general policy, details and management of all other matters touching the city's interest in said Water Department, consistent with existing laws.

Ibid, s. 2.
Title papers.
Books.
Monthly statement.
Report to Council.
Receipts and disbursements.
Report of engineer and registrar.

3. The said Water Board shall arrange and keep all the title papers, and copy the same in a book to be kept in the office. The Board shall provide suitable books in which the general accounts shall be regularly posted, showing an aggregate of all the transactions of the department; and a statement of said general accounts shall be made at each monthly meeting of the Board. And on or before the twenty-fifth day of January, annually, the Board shall present to the City Council a report containing a full statement of the condition of the water-works, and of the lands and other property connected therewith, with a statement of the general accounts, and of all receipts and expenditures for the preceding year, together with any information or suggestions the commissioners may deem important. And they shall at the same time transmit to the City Council the annual report of the Engineer and Registrar.

Ibid, s. 3.
Officers not to be interested in contracts, &c.
When contracts void.

4. No member of the Water Board, and no person appointed to office under this ordinance, shall be interested, directly or indirectly, in any contract, bargain, sale or agreement in relation to the water-works, or any matter or thing connected therewith, wherein the city is interested, without an express vote of the City Council; and any and all contracts, bargains, sales or agreements made in violation of this section, shall be utterly void as to the city, and said office to be vacated.

No. 64, May 21, '70.
Officers of water department.

5. The said Water Board shall have authority to appoint a Water Engineer, a Civil Engineer, a Water Registrar, four clerks and two collectors in the Registrar's Department, and one clerk in the Engineer's Department, and such gate-keepers, super-

intendents and watchmen or police as may be necessary; and the salaries and duties of all such appointees shall be determined upon by the Water Board, and they may be dismissed at any time by the Board; provided, however, that no salary of any employee of said Water Board shall exceed that now paid the Water Engineer. The Board shall take bonds from any or all employees, to be approved by the Mayor, in such penal sum as may be required.

Salaries.

Proviso.

Bonds from employees.

WATER REGISTRAR.

6. There shall be appointed annually in the month of December, by the said Water Board, a Water Registrar, who shall hold office until his successor is appointed. He shall, under the direction of the Board, with the assistance of the collectors, assess the water-rates on all buildings where the rates are established by law; and with the assistance of the clerks in his department, shall keep suitable books, in which shall be entered all transactions of his department, the names of all persons who take the water, the kind of building, the name and number of the street, the number of taps, and the amount charged, the names of the owners of all buildings, with the street and number of the building, and the front feet. He shall in due time prepare bills for rents and other accounts due the Water Board, and require the collectors to deliver said bills and accounts promptly; and he shall supervise all books and accounts the Board may direct to be kept in his office. All funds received from every source on account of the Water Board shall be paid to the Water Registrar, and the same shall be deposited daily as the ordinances of the city may direct.

No. 83, Oct. 3, '66, s. 5.

The Water Registrar.

Duties.

Water rates.

Books.

Bills.

Collectors.

Depositing funds.

7. It shall be the duty of the Water Registrar to pay over daily to the City Register each and every sum of money received by him on account of rents or other dues of the said Water Department.

No. 10, s. 12, March 27, '62.

Daily payments to City Register.

Ibid, s. 11.

Register to open account in bank

8. And the Register is hereby authorized and directed to open an account in such bank as the Commissioners of Finance may direct, where all moneys received by the Water Department shall be deposited; the fund so deposited to be withdrawn from said bank as may be required to pay the expenses incurred by the Water Board; and on or before the first day of May and November in each year, a sum sufficient to pay the interest on the water stock debt of the city; and after said expenses and the interest on the water stock shall have been paid, the surplus shall be applied on the first day of May and November in each year to the sinking fund of the water stock.

Payment of interest on water stock.

Sinking fund.

Ibid, s. 12.

How funds drawn from Register.

9. And no funds shall at any time be drawn from the Register, unless duly authorized by the Water Board, and recorded on the journal; all checks, drafts or orders on the Register, so ordered by the Water Board, shall be signed by the president and secretary of the Board.

Ibid, s. 12.

Monthly payments by Board.

10. All claims upon the Board shall be paid monthly, and no payments shall be made unless the bill or claim be certified by the officer or other person duly authorized to make an agreement or contract for the Water Board, and all payments shall be ordered by the Board, and the order recorded on its journals.

No. 85, Oct 3, '66, s. 6.

Account with Registrar.

11. The Water Board shall keep an account with the Water Registrar, in which he shall be charged with the water-rents and other indebtedness due, the number of water-takers, and the amount paid. All money collected and paid over by the Registrar shall be credited on said account, and all abatements or deductions proposed shall be submitted to the Board, and if approved by the Board, the abatements may be made, and the Registrar's account credited with the amount.

Abatements.

Ibid, s. 7.

Registrar to make statement monthly

12. The Water Registrar shall, on or before the first Monday in each and every month, make a detailed statement for the previous month, of the operations of his department, to

the Board, and on or before the first Monday of January, annually, shall present to the Water Board a report, containing a statement of water-takers, the number of cases where the water has been cut off, the number and amount of abatements, the new supplies made, the receipts and expenditures of the Water Board, and such other matters as he may deem expedient. Water-takers. Receipts and expenditures.

WATER ENGINEER.

13. The Water Board shall appoint, annually, in the month of December, a Water Engineer, who shall hold his office until a successor is appointed. He shall take charge of all the works connected with or in any way appertaining to the Water Department, and have the general out-door arrangement of all matters relating to the water-works, and the appurtenances thereto, as the Water Board may from time to time direct. He shall make all connections of service pipe extending from the water-mains to the outside of any building where the water is taken; and no lead pipe shall be laid connecting with the main pipe less than thirty-six inches beneath the surface; and the quality and size of all service pipe used by the engineer must be approved by the Water Board. He shall keep a record in his office, showing the number of water-takers, their location, and the prices charged to each, and a record showing the streets, lanes, alleys, &c., wherever the water pipes are or may hereafter be laid, the size of the pipes, the openings in the mains, the number and position of fire plugs, and of all new supplies, and all cases where the supply has been stopped off, and the reasons for stopping off the water. And no pipe or main shall be tapped, opened or re-opened for a supply of water, unless it be done under the direction of the Water Engineer exclusively. Ibid, s. 8. Duties. Record of water-takers, &c. Pipes, &c.

14. He shall make out bills as soon as the work is done for tapping, laying service pipe and other charges for new supplies, and all bills for materials sold by order of the Board, Ibid, s. 8. To make out bills.

and deliver said bills to the Registrar for collection. And it shall be the duty of the said Engineer, with the sanction of the Water Board, to employ such labor, and conduct such operations as may be needed from time to time; to report to the board at its monthly meeting, a detailed statement, showing the operations of his department for the preceding month, and annually, on the first Monday in January, a full statement of the work under his charge; the amount expended during the year, for what purpose, the quantity and value of materials on hand, and all such other information as may be required by the board. He shall be responsible to the Board for the good condition of the works, and for the faithful performance of the duties of all persons employed on the water-works, or in extending, repairing or removing water-mains, and all other work in his department; and during the period for which he is appointed, he shall hold no other public office whatever.

To employ labor.

Monthly and annual statements.

To hold no other public office.

WATER RATES.

Ibid, s. 10; No. 62, May 9, '64.

15. All charges for water-rates shall be made for the current calendar year, and shall be due and payable yearly in advance, on the first day of January, in each and every year; and all bills for water-rates charged by the year, if paid at the office of the Water Registrar on or before the first day of March, shall be entitled to a deduction of ten per cent.; if paid on or before the first day of April, eight per cent.; if paid on or before the first day of May, six per cent.; if paid on or before the first day of July, four per cent.; if paid on or before the first day of September, two per cent. No discount shall be made after the first day of September, and all bills not paid by the first day of October shall be placed in the hands of collectors, and shall then be collected in the same manner and subject to the same costs as the City Collector is or may be authorized to demand in collecting taxes overdue to the city, or they may be collected as other small debts are collected, before a justice of the peace.

When payable.

Discounts.

How bills collected.

16. The following charges or rates for the use of hydrant water shall be for one year as follows, viz: Ibid, s. 11; No. 41, May 23, '62. Water rates.

For stores and warehouses not occupied as dwellings, 22 feet front and over	$10 00
For stores and warehouses not occupied as dwellings, 17 feet and less than 22 feet front	8 00
For stores and warehouses not occupied as dwellings, under 17 feet front	6 00
For a private family in a house over 22 feet front	14 00
For a private family in a house over 17 feet front and not over 22 feet front	12 00
For a private family in a house over 14 feet front and not over 17 feet front	9 00
For a private family in a house over 12 feet front and not over 14 feet front	7 50
For a private family in a house 12 feet front and under	5 00
For a house occupied by more than two families, for each additional family, $2 extra.	
For bath tubs for each house occupied by a private family	2 00
For attachments to hydrants for washing pavements, &c	3 00
For bathing tubs for public hire or use, each	10 00
For water closets in private families, each house	2 00
For horses, each	1 50
For carriages, each	1 50
For cows, when stabled, each	1 00
For taverns, refectories, livery stables, lager beer houses, boarding houses, barber shops, daguerreotype saloons and offices, and for the use of water in any form (unless otherwise herein expressly provided) the charges or rates may be prescribed by the Water Board, as they deem proper, and in the assessment of water-rates on buildings of large front and comparatively	

small depth, not exceeding twenty-four feet, the Water Board is authorized to modify the assessment of water-rates.

No. 65, Apl. 28. '76.
Steam boilers used for generating steam for engines.

The charge per annum for all steam boilers used for generating steam for engines only, when using the water supplied by the city, shall be fixed at the rate of five dollars per horse-power, but in case other excessive uses are required for the water, a meter may be substituted, by which the usual rates will be charged.

No. 66, April 29, '76.
No charge for water used for building purposes.

17. No charge shall be made for the use of water for building purposes, and all persons using water for building purposes shall have the use of it under such restrictions as may be prescribed by the Water Department.

No. 66, Apl. 29, 1876.
Completion of building, to be certified to Water Registrar.
Penalty.

18. Parties using water for building purposes, shall, within one week after the completion of the building or buildings, certify the fact to the Water Registrar, under a penalty of ten dollars failure or neglect so to do, the fine to be collected as other fines and penalties are collected.

No. 7, Dec. 22, '69.
Water Meters for railroads, hotels, &c.

19. Where large quantities of water are required, as in the case of railroads, hotels, manufacturing and other establishments, whether for steam engines or otherwise, the Water Board shall have power to ascertain by meters the amount of water used, and the proprietors or occupants of hotels, taverns, boarding houses or any other establishments using large quantities of water shall also have authority to place within their premises, at their own expense, a sufficient water-meter, to be approved by the Water Registrar, for the purpose of measuring the quantity of water by them respectively used; the charge for the use of water by meter shall be two cents for one hundred gallons, to be collected quarterly by the Water Registrar; and all such bills shall be paid within ten days thereafter, or the Water Registrar shall cut off the supply.

Charges.

When supply cut off.

20. No abatement from the above charges will be made unless the property be reported at the office as vacant, and the supply having been stopped off for three months; all abatements must be made at the office of the Water Registrar; where parties have paid their bills in advance, the Water Board may direct the amount of the abatement to be returned, and no abatement will be made unless the parties show that they have applied at the Registrar's office to have the water shut off. No. 41, s 11, May 23, '62. When abatements made at Registrar's office.

21. All bills in arrears may be deemed a sufficient reason for stopping the water until all arrears are paid; whenever the water is stopped off for non-payment of water-rents, one dollar shall be paid to the Water Registrar before the supply is turned on again; the owners of property will in all cases be held responsible for the payment of water-rates; all persons using the hydrant water without the knowledge of the Engineer or Registrar, and all persons permitting their neighbors not entitled to use the water without a written permit, will be subject to a fine of not less than one dollar nor more than three dollars for each offence; and, in such cases, the Registrar shall shut off the water from the premises of all such persons; and no person or persons will be permitted to introduce the hydrant water on his, her or their premises, without the authority of the Water Board, and in case of discovery, the water shall be stopped off; provided that nothing herein contained shall be so construed as to prevent any citizen from furnishing water, in necessitous cases, in quantities not exceeding two gallons. Any person tapping, or causing to be tapped, any pipe belonging to the city, or any private pipe connecting with the city pipe, will be subject to a fine of twenty dollars; all fines to be collected as other fines and forfeitures are now collectable. Ibid, s. 11; No. 83, Oct. 3, '66. When water may be stopped. Owners responsible. Fine for permitting others to use water. Proviso. Fine for tapping pipes, &c.

22. And all the officers and employees of the Water Board are hereby directed to report at the Water Registrar's office all cases coming to their knowledge of persons using the Ibid, s. 11. Officers to report to Registrar.

hydrant water without authority, as provided in the preceding section.

Ibid, s. 14.

Rates printed on bills.

23. The Water Board is hereby authorized and required to have printed on the back of each bill distributed to the water consumers, the tariff of rates upon which water is served to them, together with the terms, discounts, fines and penalties prescribed by this ordinance.

No. 55, May 14, '78.

Free use of water by municipality.

24. It shall not be lawful for the Water Board to charge the Mayor and City Council for the use of water in any of the departments of the city government, embracing the City Hall, City Jail, Bayview Asylum, market houses, market halls, public schools, engine houses, public parks or squares, court houses, and Harbor Board department; provided, that this section shall not be construed so as to require the Water Board to lay down free of charge pipes for conducting water to or distributing water in any of the public squares or parks, or any of the public buildings of the city of Baltimore, or to erect any fountain or other water fixture or ornament therein or thereat; it being the true intent and meaning of this section that it shall apply only to the use of Water.

Proviso.

To what not applicable.

WORKS.

LAYING PIPES IN STREETS.

No. 43, s. 1, R. O.

Permission to lay pipes.

25. The Water Board of the City of Baltimore shall have full power and authority to convey water under and along any of the streets, lanes and alleys of the city of Baltimore, and to lay a pipe or pipes in any of the said streets, lanes and alleys, for the purpose of conveying and distributing the said water; and the said pipes from time to time to renew and repair, and for that purpose to dig, break up and open all or any part of such street, lane or alley, and of the pavement or footways thereof, leaving at all times a sufficient passage-way for carriages, horses and foot passengers, if the same will admit

thereof, and restoring forthwith to their former condition all such streets, lanes and alleys, pavements and footways, as shall from time to time and at any time be so dug, opened and taken up, and mending and repairing all injuries to said streets, lanes and alleys, pavements and footways, arising from their so digging, opening and taking up the same as aforesaid. Streets to be restored to their former condition.

26. Whenever the Water Board, or any of their agents or workmen, shall take up any part of the pavement or dig up any part of the streets, lanes or alleys of the city of Baltimore, for the purpose of laying or repairing the pipes for conducting the water through the city, or into the houses or lots of the citizens, they shall proceed without delay to putting down or repairing the pipes, as the case may be, and immediately thereafter fill in the earth or otherwise secure the place so dug up from becoming a nuisance or endangering the persons riding or driving through the same, and shall also when the same is repaved, as hereinafter provided, remove without delay the stone, earth, sand or rubbish remaining from the laying or repairing such pipes. Ibid, s. 2. Streets when dug up, how to be repaired. Rubbish, &c., when to be removed.

27. As often as any of the said pipes shall prove defective, so as to cause the water to flow on the surface of the ground or pavement, it shall be the duty of the said Board to have the same immediately repaired. Ibid, s. 3. Defective pipes to be repaired.

28. The pipes mentioned and referred to in the preceding section are hereby declared to mean and be any pipes laid by the said Board or in connection with the works under their care, under or along any street, lane or alley of the city, whether the same be under or along the space covered or designed to be covered with the foot pavement or not, and a notice of the fact, by any person whatsoever, left at the office of said Board, shall be a sufficient notification. And it shall be the duty of the said Water Board, whenever they shall be notified that any pipe or pipes laid by them or in connection Ibid, s. 4. What pipes. Notice. Duty of Water Board relative to defective pipes.

with the works under their charge, within the limits of any private property in the said city, are defective, so as to prevent or cause the water to flow upon the surface of the ground or pavement, to make immediate application to the owners or occupants of said property, should the occupant not be the owner thereof, for permission to send their workmen upon the premises to repair the same, and if any owner or occupant of any property, or agent of such owner, shall, upon such application, refuse permission to said Board thus to repair defective pipes as aforesaid, or refusing the said permission, shall not immediately repair the same themselves, they shall be subject to a penalty of ten dollars for every day after such application until such repair is made and such pipes secured.

Penalty for refusing to allow board to repair defective pipes.

PAVEMENTS.

Ibid, s. 5.

Pavements taken up—when to be repaved. City Commissioner.

29. In all cases where the said Board or any of their agents or workmen shall take up the pavement for the purpose aforesaid, and shall not repave the same in a reasonable time, at the discretion of the City Commissioner, the said commissioner shall give notice to the said Board to have the same immediately repaired; and if the Board refuse or neglect to have it done the City Commissioner shall proceed to have it repaired at the expense of said Water Board.

Ibid, s. 6.

Pavements not to be broken up without permission.

30. It shall not be lawful for any person or persons, company or corporation, to remove any of the stone or brick pavements of the city for the introduction of water-pipes without permission from the Water Board, and the replacing of said pavement to be under the superintendence of the City Commissioner, at the expense of the party removing the same; and any person or persons, company or corporation, who shall violate this section, shall forfeit and pay a fine of twenty dollars, to be applied as provided in section 44 hereof.

Penalty.

Ibid, s. 7.

Repaving regulated.

31. In all instances where the pavement of any street, lane or alley which may have been heretofore or may hereafter be opened or dug up by said Water Board, has not, in the judg-

ment of the City Commissioner, been well and effectually repaved, the said Water Board, being informed thereof in writing by the said Commissioner, shall forthwith proceed well and effectually to repave the same, and the expenses thereof shall be chargeable to and paid by the said Board.

No. 3, Feb. 5, '64. Paving, &c., streets. Bricks to mark water stops. Penalty.

32. Whenever it becomes necessary to pave, repave or repair any street, lane or alley in the city of Baltimore, it shall be the duty of the paver or contractors to distinctly mark by three bricks on edge, or iron box, all water-stops of private water-pipes leading from the city's main pipes to the property opposite to which the stop may be found. He or they so offending shall forfeit and pay for each and every neglect the sum of ten dollars, to be paid to the Register for the use of the Water Department.

Ibid, s. 2. Water stops. Penalty.

33. It shall be the duty of the owners of property, plumbers, bricklayers or other person or persons, in paving or repaving the side-walks, yards or alleys, to distinctly mark by three bricks on edge, or iron box, the water-stops that may be covered by said paving or repaving, under a penalty of ten dollars for each and every neglect of the same, to be paid to the Register for the use of the Water Department.

HYDRANTS AND FIRE PLUGS.*

No. 50, April 5, '59. Unlawful to erect hydrants which waste in the earth.

34. It shall not be lawful for any person or persons to erect any hydrant which wastes in the earth, or from which the water in the pipe, between the valve and the nozzle, runs back into the ground when the lever is let down, nor any fixture of any kind by which the waste-water from the pipes is discharged below the surface of the pavement; any person or persons who shall violate this section, upon conviction thereof before any justice of the peace of the city, shall forfeit and

* See p. 291, *ante*.

Penalty. pay the sum of twenty dollars, to be paid as provided in the preceding section.

No. 43, s. 8, R. O. Hydrants regulated. 35. All persons who may use the water from the hydrants under the charge of the Water Board, or any water company within this city, shall convey or cause to be conveyed all the surplus water from their respective hydrants by means of gutters, trunks or pipes, into the public streets or otherwise, in such manner as not to injure the public footways or the property of their neighbors, under the penalty of five dollars for each and every offence.

Ibid, s. 9. Penalty for allowing water to flow from hydrants. 36. If any owner or owners, occupier or occupiers of any house or tenement, shall let, permit or suffer any hydrant or hydrants attached to such house or tenement, to discharge more water than may be necessary for the use of such owner or occupiers; if such discharge shall, by the freezing of the water in any street, lane, alley or yard in this city, or from any other cause, occasion any injury or inconvenience to the public or to individuals, such owner or occupier shall forfeit and pay a sum not exceeding ten dollars.

Ibid, s. 10. Penalty for injuring fire plugs or opening the same. 37. If any person shall break, injure, carry away or destroy any of the fire plugs or instruments belonging thereto; or if any person or persons not authorized by ordinance, or otherwise, shall open and suffer any fire plug to discharge water therefrom, such person shall, for every such offence, forfeit and pay the sum of twenty dollars; provided that this section shall not extend in any case to any person performing the necessary cleaning of apparatus of the Fire Department, or attending to any duties required by the corporation.

Proviso.

INJURING WATER WORKS.

Ibid, s. 11. Penalty for injuring water works. 38. If any person or persons shall do or cause to be done any act whatsoever whereby the water-works belonging to the city of Baltimore, or any pipe, plug, cock or any engine or

machine appertaining to the same shall be stopped, obstructed, impaired or injured, the person or persons so offending shall forfeit and pay a sum not exceeding twenty dollars.

NEW HYDRANTS.

39. No new hydrant shall be used unless the principle of said hydrant be first approved by the Water Board; and any person violating this section shall forfeit and pay a fine of ten dollars, to be paid to the Register for the use of the Water Department. Ibid, s. 13. New hydrants, principle to be approved by board.

NEW FIRE PLUGS.

40. The Water Board is hereby directed to have at least thirty fire plugs erected annually hereafter, and placed at such points or places as in their judgment will best serve for the extinguishment of fires; provided the Water Board shall place at least one fire plug to the front or face of each square of ground or buildings where water-pipes may be laid down. Ibid, s. 14; No. 56, Oct. 1, '53. Board to erect fire plugs. Proviso.

41. The sum of five thousand dollars is hereby appropriated annually, to pay the expenses of erecting fire plugs; and the Register is hereby directed, with the approbation of the Mayor, to pay such sum or sums to the order of the Water Board, not exceeding the annual appropriation for that purpose. Ibid, s. 15. Annual appropriation for fire plugs.

CONTROL OF WATER REGISTRAR.

42. Should any person or persons, occupant or occupants, make the connection or turn or let on the water, without the written consent of the Registrar, to his, her or their premises, he, she or they shall forfeit and pay a sum of not less than one dollar nor more than ten dollars. Ibid, s. 17. Connection not to be made or water turned on without consent of Registrar. Penalty.

43. Should any person or persons, occupant or occupants, refuse to permit the Registrar or his agent to visit his, her or their premises, when in the official discharge of his duty, he, she or they shall forfeit and pay a sum of not less than one dollar nor more than ten dollars. Ibid, s. 18. Penalty for refusing to allow Registrar to visit premises.

FINES AND PENALTIES AND POLICE.

Ibid. s. 19; No. 36, Mar. 24, '71. Fines and penalties—how recovered.

44. All fines and penalties imposed by this ordinance shall be recovered as other fines and penalties are, and shall be paid to the Register for the use of the Water Department.

Ibid, s. 20. Police to report violations of ordinance, &c.

45. It shall be the duty of the police to report all violations of water ordinances, all new buildings using the water from hydrants or fire plugs for building purposes, wasting of water from hydrants, fire plugs out of order, bursted pipes, and person or persons who are using the water from the fire plugs, or causing the water to flow from them contrary to the provisions of any city ordinance.

FOUNTAINS.

No. 107, June 8, '75. Public fountains for human beings and dumb animals.

46. The Water Board of the City of Baltimore is hereby authorized and empowered, wherever in their judgment it shall be necessary, to erect or cause to be erected, under the supervision of the Water Engineer, public fountains for the use of human beings and dumb animals, in such localities throughout the corporate limits of the city of Baltimore as will best subserve the public interests; the expense of the same to be taken out of the annual appropriation for plugs, pumps and fountains.

PRIVATE PUMPS.

No. 108, June 5, '76. Private wells.

47. Whenever permission shall be granted to any person or persons to sink a well and erect a pump therein on the highways of the city of Baltimore, the person or persons to whom such permission shall be granted shall comply in full with the instructions given by the Water Engineer, under whose supervision all private wells shall be sunk and private pumps erected. No permission shall be granted to any per-

son or persons to sink a well and erect a pump therein on any of the highways of the city of Baltimore, unless the water thereof shall be subject to the free use of the public. Use of water.

48. All pumps known as private pumps, erected by permission of the Mayor and City Council of Baltimore, shall be taken care of by the owner of the property in whose interest the permission to erect the same may be granted, and any change in the ownership of said property shall transfer the obligation to take care of such pumps, unless the same shall have been ceded to the corporation, as provided in section 58 of this article. Ibid, s. 3. Care of private pumps. Ceded to city.

49. Any person or persons violating any of the provisions of the preceding two sections shall be liable to a penalty of five dollars, and a further penalty of one dollar for every day the violation shall be permitted to exist, to be recovered as other fines for violating city ordinances are recoverable. Ibid, s. 4. Penalty.

PUMPS.

50. Whenever the owners of property in any locality which may be so situate that it cannot be supplied with hydrant water, desire a well to be sunk or pump to be erected, within the limits of direct taxation, sixteen or more of them, and if outside the limits of direct taxation, and within the limits of the city, eight or more of them shall make application to the Water Board in writing, describing the place where the new well or pump is required, the Water Engineer shall examine the location and report to the Water Board the situation of the property surrounding, together with the distance the water-pipes are from the said location; if, in the judgment of the Water Board, the well and pump are requisite to the public good, the Water Engineer shall forthwith cause the work to be done by contract to be given to the lowest responsible bidder, after due notice for proposals shall have No. 80, s. 1, May 12, '59. Application for erection of pumps. Duty of Water Engineer.

been published in two of the daily papers of the city, and
Apportionment. when completed he shall apportion the expense on all the assessable property which, in his judgment, will be benefited by the erection of said pump or sinking said well. The Water Engineer shall make or cause to be made a correct list of the persons who are liable to pay said apportionment,
Proviso. and the amount to be paid by each person; provided that all property which may be supplied with hydrant water shall be exempt from any such assessment; and the said Water Engineer shall not assess any person having a private pump in good order more than one-half the cost for which said person would otherwise have been liable; he is also hereby directed to deliver to the Water Registrar a duplicate of such list under his hand and seal, with directions for collecting the same, neverthless correcting any mistakes;
Duty of Water Registrar. the Registrar shall collect the same, through the agency of the collectors of water-rents for the use of the city, under the direction of the Water Board, adding ten per cent. as
Distress. commission for said collection, by distress or otherwise, and pay the amount to the City Register.

Ibid, s. 2. 51. It shall be the duty of the Water Registrar, immediately upon receiving from the Water Engineer any assessment made for sinking wells or erecting pumps, to furnish each of the persons assessed with a bill of his, her or their proportion of the expense assessed as aforesaid; and if the person or persons so charged shall not pay the same within sixty days after the bills have been delivered, it shall be the duty of the Water Registrar forthwith to proceed to enforce payment according to law.

Water Registrar to furnish each person assessed for pumps, bill of same.

Enforcing payment.

Ibid, s. 3. 52. Whenever any public pump or well without the limits of direct taxation, and within the limits of the city, shall require to be repaired or deepened, it shall be the duty of the Water Engineer, upon the application in writing of

Pumps out of limits of direct taxation.

any seven proprietors of houses or lots, who may be liable to be assessed for such repairs or deepening of such wells, to cause the same to be done, and to assess the expenses thereof on the property benefited thereby, and the Water Engineer shall also issue his warrant to the Water Registrar, who shall collect the same, in the manner provided for collecting the expense of new pumps and wells.

Ibid, s. 4.

53. If any person shall think himself or herself aggrieved by the pump-tax herein directed to be levied, he or she may, within ten days after being furnished with his or her account, appeal in writing to the Water Board, which is hereby authorized and directed to nominate and appoint three persons of integrity and ability, not interested or related to the parties, to examine the assessment or tax, and either alter or confirm the same, as they, or any two of them, may determine, and shall return the same to the Water Board, with their decision in writing, which shall be final and conclusive, and each of the persons so appointed shall be entitled to one dollar for his service as aforesaid, to be paid by the person or persons appealing, in case the first assessment should be confirmed, otherwise it shall be charged in the expenses of erecting the pump, and levied and collected in the same manner as other charges thereof.

Appeal to water board.

Tax.

Referees.

ARTESIAN WELLS.

Ibid, s. 5.

54. The provisions of the preceding sections, 50 to 53, are hereby made applicable to the construction of artesian wells as fully as to the ordinary wells and pumps; provided that the petitioners shall be responsible for all expenses that may accrue from sinking such artesian well, if a failure should take place in the attempt to procure water.*

Artesian wells.

Proviso.

*In case of a failure to procure water, the petitioners who have applied for the sinking of the artesian well, are to be responsible for the expenses

CARE OF PUMPS AND FIRE PLUGS.

Ibid, s. 6.

Repairing wells and pumps.

Proviso.

Report to Water Board.

55. The Water Registrar is hereby authorized to draw on the Register of the City for such sums as may be necessary to keep such wells and pumps in repair as may subserve the public good; provided that no greater sum shall be expended in any one year than that which shall be appropriated for repairs; the expense whereof shall be borne by the corporation; and the Water Registrar shall, once in every three months, render to the Water Board a just and true account of all money by him expended in repairing or deepening pumps and wells, with vouchers for the same.

Ibid. s. 7.

Water Engineer to examine pumps.

Dimensions of wells.

Nozzles.

56. It shall be the duty of the Water Engineer to examine every pump before it is put into the well, and ascertain whether the work and material be of good quality, and also see that all wells, when completed, are of at least five feet in diameter, clear of the walls; in all public pumps hereafter repaired or constructed, the platforms shall be of stone, and all new pumps shall have metal nozzles with screws corresponding with those on the hose used by the Fire Department.

Ibid s. 8.

Persons breaking, defacing, &c., pumps, fire plugs, &c.

Penalty.

57. If any person or persons shall wilfully break, defile, remove, deface, or carry away the handle, or ladle, or cover, or obstruct any pump standing in the streets, lanes or alleys of the city, or otherwise damage or injure the same, or injure or deface any fire plugs, every person so offending, or aiding, or assisting in such offence, shall forfeit and pay a sum not exceeding twenty dollars.

Ibid, s. 9.

Water Board to receive pumps erected by individuals.

Proviso.

58. The Water Board is hereby authorized and empowered to receive all such wells and pumps within the limits of direct taxation, as have been erected by individuals who are willing to cede the same to the corporation; provided, such wells and

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which may be incurred in the attempt to sink the said well, and not the Mayor and City Council. *Ruppert* vs. *Mayor*, &c., 23 Md. 184.

pumps be so situate that at the time of receiving them they are of public utility, and in good order.

ASSESSMENT FOR SINKING WELL OR ERECTING PUMP.

59. Whenever a new well shall be sunk, or pump erected, which may require an assessment on property, to defray the expense thereof, and the Water Engineer shall have made the assessment, and returned the same to the Water Registrar, and a copy thereof to the Water Board, said Registrar is hereby authorized to pay to the person or persons employed to do the work, or furnish materials for new wells or pumps sunk or erected, the amount of his or their respective bills, in ninety days after he shall have received the certificate of the Water Engineer that the work has been performed in accordance with the contract made, and that the materials furnished were duly delivered and approved; provided, that nothing herein contained shall be so constructed as to allow any expense for repairs of wells and pumps to be incurred, which shall cause an excess of expenditure beyond the amount of the annual appropriation for the repairs of wells and pumps. Ibid, s. 10. Water Engineer to make assessment and return same to Registrar, &c. Proviso. Appropriation.

REMOVAL OF PUMPS.

60. The Water Engineer is authorized to remove all pumps which upon examination may be found to be of no practical use within the limits of the city; provided, two-thirds of the owners of property and residents within the distance of one square of the pump proposed to be removed, shall first give their written consent to said removal. Res. No. 261, July 13, '60. Removal of pumps.

61. When the Water Engineer shall remove any pumps, he shall have the wells securely covered with stone platforms, not less than two feet below the kerb, filled with dirt and repaved; the expense thereof to be taken from the appropriation for the repairs of pumps. No. 11, Mar. 27, '62. Wells to be covered.

No. 63, s. 1, May 6, '66.
Places to be marked.

62. The Water Engineer is authorized and directed to have a piece of granite or marble, not less than twelve inches square, placed in the pavement near or about the centre of the wells where pumps have been, or may hereafter be removed from the public streets, lanes or alleys in the city.

Ibid, s. 2.
Penalty for removing marks.

63. If any person or persons shall remove said stone or mark for the purpose of repairing the pavement, or for any other purpose, and refuse or neglect to replace it, said person or persons shall be subject to a fine of five dollars for each and every offence.

PIPES OR SEWERS NOT TO BE INTRODUCED INTO WELLS.

Ibid, s. 3.
Pipes, &c., not to be introduced into wells.
Penalty.

64. If any person or persons shall introduce a pipe or sewer into any of the wells belonging to the city, for the purpose of draining water closets, or for any other purpose whatever, each and every person for each and every such offence shall forfeit and pay a sum not exceeding twenty dollars, to be paid to the Register for the use of the Water Department.

OBSTRUCTION OF PUMPS, HYDRANTS OR FOUNTAINS.

No. 33, s. 13, R. O.
Pumps and hydrants not to be obstructed.
Penalty.

65. It shall not be lawful for any person or persons to place any hogshead, barrel or cask, for the purpose of filling the same, so near any public pump or hydrant as to be an obstruction to citizens going to and from the same, or by any other method obstruct the free use of the water in any pump or hydrant; but all hogshead, barrels and casks shall be placed at a distance of at least ten feet from any pump or hydrant, under a penalty of not more than five dollars or less than one dollar.

Ibid, s. 14.
Pumps, fountains, &c., protected from nuisance.

66. If any person shall clean, scale or wash any fish, meat, clothes, or any other thing which may be liable to create a nuisance, or render the street, lane or alley foul or unclean, near any of the public pumps, springs or foumtains in the city, every

person so offending shall forfeit and pay a sum not exceeding five dollars. Penalty.

LAKES AND RESERVOIRS IN DRUID HILL PARK.

67. With a view of increasing the storage of water for the supply of the city by the construction of lakes and reservoirs in Druid Hill Park and the land adjoining thereto, the Park Commission, under the direction of the Water Board, is authorized to lay a pipe from Hampden Reservoir or from the conduit to a reservoir or reservoirs within the park, (to be constructed by the Park Commission,) and to keep the latter supplied with water from the former, under the control of the Water Board, having regard to the exigencies of the city, it being understood that the Park Commission will appropriate to the use of said Board for a still further storage of water, any land under the control of the Park Commission outside of the limits of the park, not affected by any existing agreements, and the Park Commission is hereby authorized to make such appropriation. No. 37, s. 5, May 2, '63. Lakes, &c., in Druid Hill Park. Storage of water.

68. For the purpose of supplying such portions of the city as cannot be supplied from the present reservoirs, the Water Board shall have power, at their discretion, to use any of the reservoirs or lakes in Druid Hill Park, and to open the ground and lay down pipes in the said park, as they are now authorized to do within the limits of the city; provided, that the Park Commission shall be consulted in the location of said pipes, and that the same shall be agreed upon by the two commissions.* Ibid, s. 6. Power of Water Board. Proviso.

* The large lake, covering 50 acres, constructed in Druid Hill Park, was called Lake Chapman by Res. No. 87, May 19, '65; but the name was changed to Druid Lake by Res. No. 111, Mar. 30. '68. See p. 683, *ante*.

GUNPOWDER RIVER.

No. 115, Oct. 25, '72.
Water Board authorized to introduce water of Gunpowder river.

69. The Water Board of the City of Baltimore is hereby authorized and directed, for and in behalf of the Mayor and City Council of Baltimore, to commence and prosecute to completion the work of introducing the water of the Gunpowder river into the city, upon such plan as may be determined upon by the said Water Board as best and most effectual, and to exercise, in the name of the said Mayor and City Council, all the powers granted by the Legislature for the purpose herein named.

No. 3, Dec. 23, '72.
Contract for construction of works.

70. The Water Board of the City of Baltimore is hereby authorized and directed to proceed without delay to enter into contract with some one or more of the persons who have heretofore submitted proposals to the City Council or to the Water Board, for the construction of works capable of and properly incident to furnishing a supply of water of not less than ten millions of gallons from the Gunpowder river into the city reservoir, known as Lake Roland.*

Ibid, s. 2.
Basis and substance of contract.

71. The basis and substance of the said contract so to be entered into shall be, that the city of Baltimore shall secure and furnish at its own cost all the water-rights, rights-of-way and the right to use and occupy ground necessary for the purpose; and the other contracting party or parties

* By No. 1, Feb. 1, 1866, and No. 28, April 5, 1866, the Water Board was authorized to purchase water rights, lands and other property in the Great Falls of the Gunpowder river from the Pattersons, Georges and from the Gunpowder Copper Works, and by Ordinance No. 5, February 23, 1867, the Water Board was authorized to purchase lands, water rights and parts of the property known as Glen Ellen, Summerfield and Rockwood.

By Ordinance No. 40, July 17, 1856; No. 3, Jan. 30, 1857; No. 53, July 11, 1857; No. 42, May 7, 1861; No. 59, August 27, 1863, and No. 7, Feb. 12, 1864, the Water Board was authorized to carry into effect the plan of introducing the water from Jones' Falls, &c., into the city and for constructing necessary works, making contracts and selling property, &c.

shall, on his or their part, agree and bind and oblige himself or themselves to supply the city of Baltimore, within seven months from the date of the execution of said contract, with at least ten millions of gallons of water in each twenty-four hours in addition to its present supply, in the following manner, viz: by the erection of a dam and steam pumping machinery at or near Meredith's Ford, on the Gunpowder river, and laying thence a line of cast iron pipe of thirty-six inch diameter, connecting with the pumping machinery crossing the ridge at the point of greatest depression, near Lutherville, and extending to the north branch of Roland's run, at a point on said run at or near the Northern Central Railway crossing, which said pipe-line between the points indicated shall be definitely determined and laid down by the said Water Board, under the advice of their engineer; and by doing all other matters and things necessary to accomplish the purpose aforesaid, of pumping not less than ten millions of gallons of water in each twenty-four hours from the Gunpowder river into the north branch of Roland's run, near Lutherville. The pumping engine shall be of the character known as Duplex, and of the best quality, and so arranged that either pump can be worked independently of the other, and to be operated by condensing steam, machinery supplied with ample steam generating capacity to permit the cleaning or repairing of a portion of the boilers without stopping the engine. A stipulation shall be made that all cast iron pipes are to be inspected and laid under the direction of the engineer appointed by the Water Board, and each section of the pipe shall be tested with three times the pressure due to the elevation or head of water which it is required to sustain. Suitable and appropriate buildings shall be erected to enclose the boilers and pumping machinery. All the pipes are to be laid in an excavated trench and covered with not less than eighteen inches of earth, except where

10,000,000 gallons per diem.

Basis and substance of contract.

Pumping engine.

Pipes.

rock is encountered, when they shall be laid upon the surface and covered with not less than three feet of earth. An approximate estimate by the engineer appointed by the Water Board of the value of the work done and materials furnished upon the line of its construction shall be made monthly, and payments of ninety per cent. thereon shall be made by the city of Baltimore to the contractor or contractors, upon proper certificate of the Water Board; ten per cent., however, of the entire sum named in the contract shall be retained by the city until the completion and acceptance of the work by the Water Board and their certificate of the facts, which they shall immediately file with the Register of the City, when the money shall be paid to the contractor or contractors.

Estimate of work.

Certificates.

Ten per cent. retained by city.

Ibid, s. 8.

72. The sum agreed upon in the aforesaid contract to be paid for the work done and materials furnished in and about the premises shall not exceed seven hundred thousand dollars, and the said contracting party or parties shall give a good and sufficient bond to the city of Baltimore, to be accepted and approved by the Water Board before the execution of said contract, in the penalty of one-half of the contract price of said entire work and materials to be done and furnished and contracted for, with at least two sureties, residents of the city of Baltimore, conditioned for the faithful performance of the said contract in the manner and within the time therein set forth and specified.

What amount to be paid.

Bond from contracting party.

Ibid, s. 6.

73. The Water Board of the City of Baltimore is hereby invested with all the authority of law, for and in the name of the Mayor and City Council of Baltimore, to secure all rights of way and to do all other matters and things necessary to the carrying out of the provisions of this ordinance as fully as the said authority is given to the said Mayor and City Council in

Rights of way, &c.

the Code of Public Local Laws of the State relating to the subject matter.*

WATER STOCK OF 1916.

74. By Ordinance No. 65, June 30, 1877, the Department of Finance was directed to advertise for the period of thirty days in four of the daily newspapers of the city of Baltimore, (one of them in the German language,) asking proposals to be made for the purchase of the whole or any part of the stock or bonds by this ordinance authorized to be issued; the proceeds of all sales of said stock or bonds to be applied to the payment or redemption of the various loans of the city, known as the Baltimore Water Stock, redeemable at the pleasure of the city after May, 1875.† No. 65, June 30, '77. Authority to issue.

75. The said ordinance authorized an issue of stock to an amount not exceeding $5,000,000, redeemable at the pleasure of the Mayor and City Council of Baltimore, on and after July 1, 1916, bearing interest at the rate of five per centum per annum, payable semi-annually, on the first day of May and the first day of November; and it is made a condition that the city shall pay all taxes which may be imposed upon said stock or bonds by the State of Maryland. By the $5,000,000.

* NOTE.—As to Ordinance No. 44, April 24, 1873, and Ordinance No. 6, February 12, 1874, [p. 912, &c. *ante*,] see in Appendix, p. 1171, *post*, Ordinance No. 91, October 4, 1878.

† This ordinance is entitled an ordinance authorizing the issue of Stocks or Bonds of the city of Baltimore, to the amount of five million dollars, for the purpose of redeeming the various loans, known as the Water Stock of 1875; and also providing for the issue of Stocks or Bonds for the redemption or negotiation of other loans already created or authorized. The other ordinances on this subject are No. 89, May 23, 1876, repealed by No. 125, June 19, 1876. Ordinance No. 126, June 19, 1876, was submitted to the voters and duly approved, in October, 1876. It is, however, superseded by this Ordinance, No. 65, June 20, 1877, which is a re-enactment of Ordinance No. 126, June 19, 1876, omitting (and substituting other provisions for) provisions relating to taxes and other matters.

fourth section of this ordinance it is provided that whenever and as often as any of the existing loans of the city of Baltimore shall mature and become payable, or whenever any loan or loans heretofore authorized by law are to be negotiated, the Department of Finance is empowered in its discretion, to issue for such loan or loans, certificates of stock or bonds of the city, bearing the same rate of interest, subject to the same conditions and restrictions, and with the same privileges to the holders and purchasers thereof as are prescribed and granted in the preceding section; provided, that the sum thus applied shall not exceed the sum of $5,000,000, as aforesaid.*

*By the Act of 1876, c. 237, the Mayor and City Council of Baltimore were authorized to issue stock or bonds of said city to an amount not exceeding five millons of dollars, and to make provision for the redemption of the said stock, and for the payment of the interest thereon, at such time and in such manner as to it shall seem best; provided, however, that the rate of interest to be paid on the same shall not exceed five *per centum per annum;* and it further provided, that the proceeds of the sale of said stock or bonds shall be applied to the payment and satisfaction of that portion of the indebtedness of the city of Baltimore, commonly known as the water stock of 1875, which said loan was made payable at the pleasure of the said city, on and after May, 1875, and in consideration of the reduced rate of interest which the said stock is to bear, the said Mayor and City Council were authorized to provide for the payment of all taxes, State, Federal or otherwise, which may be imposed upon the said stock, or to which it may be liable at the time of its issue, or upon the interest or income to be derived from the same; further, that no stock shall be issued under the provision of this Act, until the ordinance of the said Mayor and City Council, authorizing the same, shall have been submitted to and approved by the legal voters of the City of Baltimore, in accordance with the provisions of the seventh section of Article eleven of the Constitution, and that whenever, and as often as it may be necessary hereafter to issue certificates of indebtedness of the said city, either for loans of the city already created and authorized by law, or for the purpose of redeeming loans of the city which shall have matured, provision may be made in the discretion of the said Mayor and City Council for the payment of all taxes, to which the holders of the said certificates shall or may be legally liable, provided, however, that the rate of interest payable on said loans shall not exceed the rate of five *per centum per annum.*

NOTE.—BALTIMORE WATER STOCK OF '75.—The Acts of Assembly,

GUNPOWDER RIVER STOCK OF 1894.

76. By Ordinance No. 5, Feb. 12, '74, an issue of stock to an amount not exceeding $4,000,000 was authorized, the proceeds to be applied to the prosecution of the work of introducing the waters of the Gunpowder river into the city of Baltimore, as provided for by an ordinance approved Oct. 25, '72, No. 115, and any supplement or amendment made thereto.* Said stock, redeemable at the pleasure of the Mayor and City Council, after July 1, 1894, interest at the rate of six *per centum per annum*, payable semi-annually, on the first day of May and the first day of November, and on condition that the city of Baltimore shall pay all State tax for which the holders of said bonds may thereon be legally liable.† No. 5, Feb. 12, '74, s. 1. Authority to issue.

authorizing the issue of what was known as Baltimore Water Stock of 1875, paying six per cent. interest, are as follows:

The Act of 1853, c. 376, s. 3, authorized the issue of $2,000,000; Act of 1858, c. 38, authorized the issue of $1,000,000; the Act of 1861, c. 20, authorized the issue of $500,000; the Act of 1866, c. 38, increased the amount of the issue to $4,500,000, and by the Act of 1870, c. 24, the amount of issue was limited to $5,000,000. There were also several issues (before the Constitution of 1867,) by virtue of sec. 866, of Art. 4, P. L. L., being sec. 1, p. 903, *ante*.

The ordinances under which this stock was issued, (redeemed in 1877 by virtue of the Act of 1876, c. 237, and Ordinance No. 65, June 30, 1877,) are as follows:

No. 80, July 29, 1854; No. 68, Oct. 19, 1855; No. 20, May 13, 1856; No. 32, June 25, 1856; No. 40, July 17, 1856; No. 33, April 27, 1857; No. 52, July 7, 1857; No. 53, July 17, 1857; No. 65, Oct. 21, 1857; No. 20, April 25, 1860; No. 63, July 23, 1860; No. 42, May 7, 1861; No. 63, August 1, 1861; No. 59, August 27, 1863; No. 7, Feb. 12, 1864; No. 51, June 28, 1865; No. 1, Feb. 1, 1866; No. 33, April 19, 1866; No. 83, Oct. 3, 1866; No. 5, Feb. 23, 1867; No. 31, May 4, 1867; No. 37, May 15, 1867, and No. 32, April 15, 1870.

* See p. 1152, *ante*.

†This ordinance contains the usual clauses for its submission to the approval of the voters and its authorization by Act of Assembly. It was duly submitted and approved November 3, 1874. By the Act of 1874, c. 209, the Mayor and City Council were authorized to issue bonds, in addition to any water stock heretofore authorized, to an amount not exceeding the sum of four millions of dollars, as provided in this ordinance.

DECISIONS.—*How far city liable in case of inquisition and judgment of condemnation of Land when no payment or tender of the Valuation.*—The Act of 1853, chapter 376, (see p. 1122, &c. *ante*,) for supplying the city with pure water, authorized, in order to the condemnation of land for that purpose, a jury to be summoned and sworn "to inquire into, assess and ascertain the sum or sums of money to be paid by" the city authorities, for the property, "which they may *deem necessary* to purchase and hold or use for the purpose," whose inquisition shall be returned to the clerk of the Circuit Court of the county where the property is situate, and "*shall be confirmed* by said court at its next session, if no sufficient cause to the contrary be shown, and such inquisition shall describe the property *taken*, or the bounds of the land condemned, and the quantity or duration of the interest in the same valued to the city"—"*and such valuation when paid or tendered to the owner or owners* of" the property "*shall entitle*" the city "to the *use*, *estate* and *interest* in the same thus valued as fully as if it had been conveyed by the owner or owners."

Under this act an inquisition was taken and duly *confirmed* by the proper court, valuing the damages to George U. Graff, for the taking and use of his property at $30,000, but the city before *payment* or *tender* of this sum, *abandoned* the design to use the property, and *refused to pay* the amount so awarded, and upon appeal to the Court of Appeals from an order refusing a *mandamus* to compel such payment, it was held by the Court of Appeals, that:

1st. The judgment of condemnation *decides* the *value* of the land, *from which there is no appeal* directly to the Court of Appeals; and consequently its propriety cannot be inquired into in this collateral way.

2d. The city *is not bound* by the mere inquisition and judgment of condemnation thereon, and could rightfully *abandon* the location in question: *payment* or *tender* of the *valuation* is necessary to give the city *title* to the property.

3d. The city may be made liable, in another form of proceeding, to George U. Graff, for any loss or damage he may have sustained by reason of the conduct of the city authorities in the premises. *Graff* v. *Mayor, &c., Balto.*, 10 Md. 544.

Condemnation of Water-Course and Use of Water.—The Act of 1853, c. 376, (p. 1122, &c. *ante*,) authorized the city of Baltimore to purchase or acquire title to property by condemnation, not for *all* purposes, but "for the purpose of conveying water into said city for the use of said city, and for the health and convenience of the inhabitants thereof."

Under this law the city may acquire, by condemnation of the bed of a stream or water-course, *a right to the use of the water in perpetuity, but the use must be the one specified in the act.*

Such a condemnation confers on the city the use and occupation of the stream *for the purposes mentioned in the act*, but leaves in the owner all such use of it as does not injuriously interfere therewith.

The owner has the right to use the water in the manner it has been customary to use it at his mill, built on the stream so condemned, *so far as that use may not interfere with the use of the same by the city authorities for supplying the city with pure water.* *Kane* v. *Mayor, &c., Balto.*, 15 Md. 240.

Condemnation of Lands and Assessment of Damages in case of Tunnel: and Use of Surface of the Land.—In pursuance of the power conferred upon the Corporation by the statutes, the Mayor and City Council of Baltimore in the course of the work for introducing into the city a supply of water from the Gunpowder river, undertook to lay a tunnel through land belonging to Elijah G. Taylor, in Baltimore county, 79 to 120 feet below the surface.

Upon the return of the inquisition by the jury, Taylor objected to its confirmation and asked the Circuit Court for Baltimore County to determine, as a matter of law, that the measure of damages could not be less than the market value of the land, *estimated according to the value at the surface.*

On appeal to the Court of Appeals it was held by that Court: that power is conferred by the law, to subject such land as it may be necessary to take to precisely the use and occupation that may be necessary *to accomplish the purpose and end designed; that is, to introduce water into the city limits.*

The construction of the tunnel at the depth of seventy feet does not prevent the occupants of the land on the surface from using and cultivating the land, *and as the city does not need and cannot use the surface, it should not be required to pay for it.*

The Act of 1876, chapter 19, (see p. 1124, *ante*,) gives the right of appeal in these cases, but it limits it expressly *to "matters of law."* *Taylor et. al.* v. *Mayor, &c., Balto.*, 45 Md. 576.

Rights of Riparian Proprietors — Case of the Introduction of Water from Gunpowder River into Roland's Run.—The city had nearly completed the works necessary for the introduction of an additional supply of water into its corporate limits to be used as the exigencies of the season might require, when an injunction was granted against the city, prohibiting it from bringing the water from the Gunpowder River through the pipes laid by it, into the stream called Roland's Run, which flowed through the land of the applicant for the injunction.

The plan of the city was to bring the water from the Gunpowder River through pipes to a point on Roland's Run above the land of the complainant, at which point it was to empty into the stream, and thence flow with the stream to Lake Roland, the main water reservoir of the city.

The water was to be forced into the pipes by engines capable of furnishing a supply of ten millions of gallons in every twenty-four hours. (See Ordinance No. 3, Dec. 3, 1872, p. 1153, *ante.*)

The Mayor and City Council of Baltimore appealed from the order of the Circuit Court for Baltimore County granting the injunction, and the Court of Appeals, in affirming the order of the court below, held that:

Article LIII.—Ordinances.

The right of every riparian owner to the enjoyment of a stream of running water in its natural state, in flow, quantity and quality, is incident and appurtenant to the ownership of the land itself, and being a *common right*, it follows that every proprietor is bound so to use the common right as not to interfere with an equally beneficial enjoyment of it by others.

As such owner, he has a right to insist that the stream shall continue to run as it was accustomed to run; that it shall continue to flow through his land in its usual quantity, at its natural place, and at its usual height.

But there must be allowed to all a reasonable use of that which is common; and such a use, although it may to some extent diminish the quantity, or effect in a measure the flow of the stream, is consistent with the common right.

It is impossible to lay down a precise rule, defining the limits which separate the lawful from the unlawful use of a stream, to cover all cases; and the question must be determined in each case by taking into consideration the size of the stream, the velocity of the current, the nature of the banks, the character of the soil, and a variety of other facts: the true test being whether the use is of such a character as to effect materially the equally beneficial use of the stream by others.

An attempt to carry into a stream an artificial supply of water to the extent of ten millions of gallons in every twenty-four hours, is a user inconsistent with the common enjoyment of the stream by all other riparian owners.

And being an unreasonable and unauthorized use of the stream, an action will lie by the party whose rights are so invaded, even though he may not have suffered any actual damage.

The jurisdiction of courts of equity, in cases affecting the rights of riparian proprietors, is well established, and rests on the necessity of granting relief to prevent permanent and lasting injury; or where full and adequate relief cannot be had at law; or where it is necessary to prevent a multiplicity of suits and vexatious litigation.

Appold's bill for an injunction to prevent the introduction of an artificial supply of water into Roland's Run, flowing through his land, as before stated, alleged that he was credibly informed and verily believed, that the introduction of the proposed additional quantity of water would cause the stream to overflow its banks, render valueless his land, and cause great, continual and irreparable damages, &c. Held by the Court of Appeals, that:

1st. The averment that he was "credibly informed and verily believed," together with the statement of facts on which his belief was founded, was sufficient.

2d. He was not obliged to wait till actual damage was sustained, nor was he bound to obtain the opinion of scientific persons as to the probable consequence resulting from this artificial addition of water.

3d. It would not be enough that the injunction should merely enjoin the introduction of the proposed additional supply in such a way, or to such an extent, as would cause the stream to overflow its banks, or would interfere with the ordinary use of the stream by Appold. *Mayor, &c., Balto.* v. *Appold*, 42 Md. 442.

Negligence in Laying Mains and thereby Obstructing the Street.—In July, 1872, the city of Baltimore, through its Water Department, was engaged in laying water mains along a portion of the west side of Charles street, the whole work, including excavating and re-paving, being done in five days.

The plaintiff (Holmes) was employed to haul material from a house on the west side of Charles street, above Saratoga street, and coming to the house on July 4th, for a load, found a ridge of stones, occasioned by the work referred to, along the west side of the street in front of and beyond the house. At this time he made no attempt to cross over the stones, but stopping his horse on the east side of the street, carried the materials with the assistance of persons working in the house to the cart.

On 8th July, the street being obstructed as before, he made his first load in the same manner, but on his return for a second load, not finding any one to help him and the materials being heavy, he attempted to lead his horse over the stones: while so doing the horse stumbled and in falling struck the plaintiff (Holmes) on the leg and broke it. The horse was sound and steady, and Holmes was leading him carefully.

The plaintiff having brought suit against the city for damages, the defendant offered evidence that Holmes had been cautioned by the owner of the materials to be careful in crossing the ridge, because he thought it was dangerous; and that the work which caused the obstruction had been carefully and promptly done by experienced and competent workmen.

At the trial, the court submitted the question of negligence, both on the part of the plaintiff, (Holmes,) and of the defendant, (the Mayor and City Council of Baltimore,) to the jury.

Verdict and judgment being for Holmes, on appeal by the city to the Court of Appeals, it was held by that court: *That this instruction of the court below was proper; the act of Holmes not being contributory negligence in law.*

Negligence is the want of such care as men of ordinary prudence would use under similar circumstances; and the question as to whether the act of a party amounts in law to negligence, depends upon the danger which might reasonably be expected to result therefrom. *Mayor, &c., Balto.* v. *Holmes*, 39 Md. 243.

As to obligation on city to keep the streets free from obstructions, see notes of cases on pp. 711, 1037, *ante*.

APPENDIX

OF ORDINANCES OF THE SESSION 1877-78,

APPROVED SINCE THE ARTICLES OF THIS CODE TO WHICH THEY RELATE WERE PRINTED.

ARTICLE I.

MAYOR AND CITY COUNCIL.

MAYOR'S DETECTIVE.

No. 85, Oct. 1, '78.

Appointment.

The Mayor of the City is hereby authorized and empowered to appoint annually, as other city officers are appointed, one efficient and discreet person, to be known as and called the Mayor's Detective, who shall have all the power and authority exercised by the detective police force in relation to the observance of the city ordinances, and for that purpose to arrest offenders, and whose duty it shall be to lodge information from time to time as to the observance of the city ordinances.

Powers.

Bond.

Before entering upon the discharge of his duties the aforesaid detective shall give good and satisfactory security to the Mayor in the sum of twenty-five hundred dollars, and he shall be paid a salary of one thousand dollars per annum, payable monthly.

Salary.

ARTICLE VIII.

CARRIAGES.

No. 94, Oct. 8, '78.
Unauthorized persons not to ride on vehicles

It shall not be lawful for any unauthorized person or persons to ride on street cars, stages, omnibuses, hacks, or any licensed conveyance for passengers or merchandise, on any street, lane or alley opened for public use within the limits of the city of Baltimore, under a penalty of one dollar for each offence, to be enforced under the ordinances and regulations of the Mayor and City Council of Baltimore, and to be recovered as other fines and penalties are recoverable; provided, however, that the provisons of this section shall not apply to newsboys pursuing their avocation.

Penalty.

Newsboys excepted.

ARTICLE XXVIII.

INSPECTIONS.

GAS METERS.

See p. 517, *ante*.

No. 100, Oct. 23, '78.
General Superintendent of Lamps and Inspector and Sealer of Gas Meters.

The title of the Inspector and Sealer of Gas Meters is hereby changed, and the official title of the person who performs the duties of Inspector and Sealer of Gas Meters, with the additional duties herein prescribed, shall be General Superintendent of Lamps and Inspector and Sealer of Gas Meters.

Ibid, s. 2.
Appointment.

There shall be appointed in the month of February, and annually thereafter, as other city officers are appointed, a General Superintendent of Lamps and Inspector and Sealer of

Gas Meters; he shall execute a bond to the Mayor and City Council of Baltimore in the penal sum of five thousand dollars for the faithful discharge of the duties of his office; he shall perform all such duties as are defined by Article XXVIII, of the Baltimore City Code, sub-title Ordinances, sections 2 to 11 inclusive, and in addition thereto, shall also discharge such duties as are devolved upon him by this ordinance. Bond. Duties.

The said General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall, with the approbation of the Mayor of the City, make all contracts for furnishing lamps and lamp pillars, and for erecting and repairing the same; he shall regulate the lighting and cleaning of the city lamps, and see that they are kept in proper repair; he shall have supervision of the Superintendents of Lamps, and shall require them to report to him at such times as he may designate, the condition of the lamps and the transactions of the lamplighters; he shall erect new lamp pillars and lamps for lighting the streets, lanes and alleys of the city, and remove any lamp pillar and lamp as may from time to time be ordered by the Mayor and City Council of Baltimore. Ibid, s. 3. Powers and duties.

The said General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall order the gaslight company or companies to lay mains as directed by the Mayor and City Council of Baltimore, and keep a correct account of the length and size of the same; he shall require, and it shall be the duty of the said gaslight company or companies, to furnish him monthly a correct account of the number of feet of gas mains laid by order of the Mayor and City Council, with the cost price of the same; and said General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall report annually to the City Council the number of feet of gas mains laid by said company or companies, by order of the Mayor and City Council; or if said company or companies shall have neglected or refused to lay the gas mains ordered by Ibid, s. 4. Additional powers and duties.

the Mayor and City Council, the said General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall report such neglect or omission to the City Council; he shall take monthly statements of the meters in all public buildings occupied by the city, and of the market-house meters, and shall also take monthly statements of the street lamps, and ascertain the correct average, and no bill for gas furnished to the city shall be paid by any department of the city unless the same shall have been certified to as correct by said General Superintendent of Lamps and Inspector and Sealer of Gas Meters; and he shall have general supervision of the meters and gas apparatus in the different departments of the city.

Ibid, s. 5. Gasoline lamps.

The said General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall have power to change gasoline lamps to gas lamps when in his judgment the same may be deemed necessary.

Ibid, s. 6. Salary. Fees.

The General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall receive an annual salary of two thousand dollars, which shall be in full of all compensation paid him for services rendered the Mayor and City Council of Baltimore, and all fees collected by the General Superintendent of Lamps and Inspector and Sealer of Gas Meters shall be paid into the city treasury.

ARTICLE XX.

FIRE.

FIRE DEPARTMENT.

See p. 285, *ante*.

No. 87, Oct. 4, '78. Additional member, term.

There shall be appointed by the Mayor, subject to the approval of the City Council, in convention assembled, in the month of October, 1878, one discreet person, who shall be a

citizen of Baltimore, to serve as an additional member of the Board of Fire Commissioners of Baltimore until the month of March, 1880, and in the month of February, 1880, and every second year thereafter in the month of February, there shall be appointed in the same manner three persons, who shall serve for the term of four years. Three members, term.

ARTICLE XXIII.

HEALTH.

MARINE HOSPITAL.

This ordinance repeals and re-enacts sec. 113, p. 435, *ante*, as follows:

113. Said Marine Hospital Physician, through the Board of Health, and with the approbation of the Mayor, may obtain the necessary supplies for the support of the Hospital, and for carrying out the provisions of this ordinance, and all bills for these purposes must be contracted by the Board of Health, and said physician may, with the approbation of the Mayor, draw on the Comptroller for such sums as may be required for the purposes aforesaid; provided the same shall not exceed the sum appropriated for the current year by the Mayor and City Council for the support of the Marine Hospital Department. No. 101, Oct. 23, '78. Supplies for support of Hospital, how furnished. Appropriation.

ARTICLE XXX.

JONES' FALLS.

IMPROVEMENT.

Ordinance No. 86, October 4, 1878, repeals sec. 8, of ordinance No. 131, November 9, 1874, being sec. 8 on page 552, *ante*.

Article XL.

Ordinance No. 99, October 11, 1878, repeals sec. 2, of ordinance No. 131, November 9, 1874, and also ordinance No. 4, November 21, 1874, being sec. 2, on page 549, *ante*, and all ordinances inconsistent herewith, and re-enacts the same as follows:

No. 99, Oct. 11, '78. Excavation, &c., of Jones' Falls.

2. The Mayor and City Commissioner are authorized to take charge of the improvement of Jones' Falls, and to have the same excavated to its normal depth or original bed; to divest the stream of its abrupt curvatures near Centre street bridge, and between Hillen street and Low street, and near and above the outlet of the Falls into the basin, at their discretion; to raise the walls of the stream to such a height as they in their judgment may deem essential, to construct the bridges that span the stream from Charles street to the basin, all in such a manner as to offer no impediment to the passage of the entire body of water that may be contained within the walls of the stream; the said improvement to be commenced prior to the re-grading and re-paving of the streets, &c.; and the Mayor and City Commissioner are authorized and directed to employ a sufficient force by the day to complete the work, and no work shall be given out by contract except the construction of the bridges, which shall be done in such a manner as the Mayor and City Commissioner shall deem best for the interest of the city.

Authority of Mayor and City Commissioner.

ARTICLE XL.

RAILROADS.

CITIZENS' RAILWAY.

See p. 143, *ante*.

No. 88, Oct. 4, '78. Tracks.

The Citizens' Railway Company, in order to enable it to run a line of cars giving a direct communication between the northwest and eastern sections of the city, is hereby authorized and empowered to construct a double or single track of their rail-

way, commencing at and connecting with their track at Gilmor street with the corner of Mosher street, and to run along Gilmor street to Fayette street, thence along Fayette street, connecting with their track at that point with Carrollton avenue, connecting again with their track at the corner of Franklin and Carey streets, and thence along Franklin street to Calhoun street, thence along Calhoun street to Harlem avenue, and thence along Harlem avenue to Stricker street, thence along Stricker street, and connecting again with their track at the corner of Stricker and Townsend streets.

The said company shall have the right to run over their line cars carrying either sixteen or twenty-two passengers, as the exigencies of their business may require; provided, however, that if said company shall elect to run their smaller class of cars, they shall be run subject to the same restrictions, exemptions, privileges and liabilities as the cars of the Baltimore, Peabody Heights and Waverly cars are now run. Ibid, s. 2. Cars.

The tracks authorized to be laid by this ordinance shall be commenced within thirty days from the date of its passage, and shall be finished and completed within four months from the commencement thereof, otherwise the privileges hereby granted shall be revoked and cease. Ibid, s. 3. Time limited.

PEOPLE'S PASSENGER RAILWAY.

This ordinance repeals and re-enacts sec. 108, p. 765, *ante*, as follows:

108. Wm. Frederick, Jacob Tome, Michael P. O Hern and George W. P. Coates, of the city of Baltimore, in the state of Maryland, or a majority of them, and those who now or may hereafter become associated with them, and their successors and assigns, are hereby authorized and empowered to lay down and construct iron railway tracks, as hereinafter specified, and of the gauge of other passenger railways now in use in the city of Baltimore, and to run thereon passenger cars, to be drawn No. 105, Oct. 23, '78. Tracks.

by horses, through, along, and on the following named avenues and streets, that is to say: commencing on Druid Hill avenue at the southeasternmost line of North avenue, and with a double track on Druid Hill avenue to Paca street; thence by a double track on Paca street to a point sixty feet south of the south side of Saratoga street; thence by a single track to a point sixty feet south of the south side of Fayette street; thence with a double track on Paca street to south Paca street, on south Paca street to Warner street, on Warner street to Henrietta street, on Henrietta street to Charles street, on Charles street to Randall street, on Randall street to Johnson street, on Johnson street to Fort street, on Fort street to Fort avenue, on Fort avenue across Webster street, connecting with the tracks on Fort avenue; thence on Fort avenue to Benjamin street; also on Hull street to Nicholson street; thence to the southwest branch of the Patapsco river, with a lateral branch beginning at the intersection of Randall and Charles streets, on Charles street to the water's edge.

Not to release from contract.

Provided that this ordinance shall not operate to release said People's Passenger Railway Company from any of the obligations or requirements of ordinance No. 74, approved June 28th, 1878, entitled An ordinance to authorize the construction of city passenger railway tracks on Druid Hill avenue, Paca, South Paca, Warner, Henrietta, Charles, and other streets in the city of Baltimore, known as the People's Passenger Railway Company, [see p. 765, &c., *ante*,] to which this ordinance is a suppplement, from any contract heretofore entered into with the Mayor and City Council of Baltimore by said People's Passenger Railway Company, further than is herein provided; and provided further, that before availing themselves of any of the privileges given by this ordinance, or commencing any of the work by this ordinance authorized to be done, said People's Passenger Railway Company shall either execute a new bond to the Mayor and City Council of

Baltimore, for the like sum and similar conditions, as required by said original ordinance, and with sureties, to be approved by the Mayor, or shall furnish to the Mayor the written evidence of assent of the sureties in their former bond to the change of route authorized by this ordinance. Bond.

ARTICLE XLVI.

STOCKS.

PATTERSON PARK EXTENSION STOCK.

The following ordinance cancels the stock authorized by ordinance on p. 684, &c., *ante*, and also the stock authorized by ordinance on p. 912, &c., *ante*:

No. 91, Oct. 4, '78. What bonds, &c., to be cancelled.

The Commissioners of Finance are hereby authorized and directed, in the presence of the Mayor and of the Joint Standing Committee on Ways and Means of the City Council, to cancel and destroy all the bonds or certificates of the loan of the city of Baltimore, known as the Patterson Park extension loan, issued under and by virtue of the ordinance No. 116, of 1871, approved June 23d, 1871, entitled An ordinance for the extension of Patterson Park, and which said bonds or certificates are held by said Commissioners of Finance as part of the general sinking fund in their hands, said Patterson Park extension loan being part of the public debt of said city, for the redemption and extinction of which said general sinking fund is provided; and also in like manner to cancel and destroy all bonds or certificates of the loan of the city of Baltimore, known as the Funding Loan, 1894, and which said bonds or certificates were issued under and by virtue of the ordinance of the Mayor and City Council of Baltimore, No. 6, of 1874, approved February 12, 1874, entitled "An ordinance to provide for funding the floating debt of the city, as authorized or existing on the 31st day of October, 1873," and

which bonds or certificates may be held by said Commissioners of Finance, as part of any sinking fund held by them for the redemption of the public debt of the city; and said Commissioners of Finance are hereby further authorized and directed, in case any of said bonds or certificates of said Funding Loan, 1894, are held by them as part of any sinking fund other than the general sinking fund, to exchange and substitute for said bonds or certificates so held by them as part of any sinking fund other than the general sinking fund aforesaid, any other of the securities of the city of Baltimore, now held by them as part of the general sinking fund, so that no sinking fund other than the general sinking fund or funds specially provided for the redemption of said Patterson Park extension loan, and said funding loan, redeemable after 1894, shall be diminished by the operation of this ordinance, and by the cancellation of said certificates and the extinguishment of said loans as are herein directed.

Ibid, s. 2.
Report.

The Commissioners of Finance shall, as soon as convenient after complying with the requirements of this ordinance, make a written report of their proceedings thereunder to the Mayor and City Council.

FUNDING FLOATING DEBT.

This ordinance is authorized by the Act of 1878, c. 328 on p. 914, *ante*:

No. 93, Oct. 8, '78.
Issue of $1,000,000.

The Commissioners of Finance are authorized and directed, from time to time, to issue the bonds of the city to an amount not exceeding one million of dollars, and the said bonds shall be sold or disposed of by the Commissioners of Finance, with the approbation of the Mayor, provided that said bonds shall not be sold or disposed of at less than par,

Proceeds of sale.

and the proceeds therefrom applied to the payment of the floating debt of the city, as authorized or existing on the 31st day of December, 1877, and remaining unpaid.

The said bonds shall be issued in sums of not less than one hundred dollars each, redeemable at the pleasure of the Mayor and City Council of Baltimore, after the 1st day of July, A. D. 1916, bearing interest at the rate of five per centum per annum, payable semi-annually on the first day of May and the first day of November in each and every year, and on condition that the city of Baltimore shall pay all taxes imposed by the State of Maryland for which the holders of said bonds may thereon be legally liable.

Ibid, s. 2.
How issued.
When redeemable.
Interest.
Taxes.

ARTICLE XLVII.

STREETS.

REGULATIONS.

The several gas companies, railroad companies, as well as other corporations and individuals, (including all officers and employees of the city,) who may now have, or who may hereafter receive permission to dig up or disturb any of the streets, lanes or alleys of the city, for the purpose of laying or re-laying railroad tracks, or repairing the same, or constructing wells, ditches, drains, sewers, tunnels, laying pipes of any kind, or repairing the same, shall be, and they are hereby, required to take the proper measures to insure the safety of passing vehicles and pedestrians from loss of life or injury to person or property, by the erection of a fence or barrier by day, and in addition thereto, by displaying one or more lanterns at night, at the portion or portions left open, and also at every street crossing on the line of the work where the same may be left open, and upon a failure so to do, such corporations, companies or individuals, (including all officers and employees of the city,) shall suffer a fine or penalty of not less than twenty

No. 106, Nov. 18, '78.
Digging up, &c., streets, &c.
How safety of passing vehicles and pedestrians insured.

Penalty. dollars, nor more than fifty dollars for each and every offence, to be collected as other fines and penalties are now collected in the city of Baltimore.

Ibid, s. 2. Whenever any piles of bricks, stones, lumber or other building material shall be left in any of the streets, lanes or alleys of the city, they shall during the night be designated by displaying a lighted lamp or lantern at such part of the same as to be easily observed by persons passing along the street; and any person or persons, or body corporate, who may violate the provisions of this section, shall forfeit and pay a fine of not less than five nor more than ten dollars for each and every offence, to be recovered as other fines and penalties are recoverable.

Lamps to be placed on piles of bricks, lumber, &c.

Penalty.

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