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## PREFACE.

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By Ordinance No. 109, approved November 1st, 1873, the undersigned was appointed to codify the Ordinances and Resolutions passed by the Mayor and City Council since the adoption of the City Code. He was further directed to include in the work the Acts and Resolutions of each session of the General Assembly of Maryland affecting the City of Baltimore, enacted since the adoption of the City Code, and to append an Index to the whole work; the arrangement of the work to conform to that of the City Code, and to be a Supplement to it.

This compilation is made under the authority, but extends beyond the scope of the above Ordinance, which was intended to include the Acts of Assembly of 1870 and 1872, and the Ordinances to the end of the session of 1873 only. This Supplement, however, will be found to contain the Acts of 1870, 1872 and 1874 relating to the City of Baltimore, and the Ordinances and Resolutions of a public general nature, and proper to be embraced in a compilation of this sort, passed by the Mayor and City Council at the sessions from June 7th, 1869, to June 5th, 1874. The Ordinances approved before June 7th, 1869, and in force at that time, are contained in the City Code adopted in September of that year.

The Ordinances approved since June, 1874, to the final adjournment of the Council — October 27th — are given in an Appendix, which precedes the Index to the whole work.

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The undersigned has, moreover, added to the work, in the hope of increasing its usefulness, Notes and References to the Decisions of the Court of Appeals of this State, of the Baltimore City Court, and of other Courts which construe the Acts of Assembly and Ordinances, or aid in the apprehension of their meaning.

This volume, together with the City Code, embraces a complete compilation of the Acts of Assembly and Ordinances relating to the City of Baltimore to the end of the sessions of the Legislature and Council of 1874, thus constituting the whole City Law of a public general nature now in force.

LEWIS MAYER.



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# SUPPLEMENT

TO THE

## BALTIMORE CITY CODE.

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### ARTICLE I.

### CITY CHARTER.

#### CONSTITUTION, ART. XI.

1. Term of Mayor changed: election, when to be held: term of office, two years.

#### ORDINANCES.

##### THE MAYOR.

1. Compensation of Mayor.

##### SECRETARY TO MAYOR.

4. Salary.

##### CLERK TO MAYOR.

Clerk to be appointed: duties: salary: to give bond.

##### MESSANGER AND JANITOR.

6. Additional duties of Janitor.
7. Salaries of Messenger and Janitor.

##### WATCHMAN.

8. Salaries of day and night Watchmen.

##### MAYOR'S DETECTIVE.

9. Salary.

##### CITY COUNCIL.

14. Compensation.

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

Payments by Register.

Duty of Joint Standing Committee on Claims.

Limitations on Claims.

Fiscal year: when officers to make reports and returns to Mayor and City Council.

##### CITY OFFICERS.

59. Register to notify city officers as to expenditures: when Comptroller to withhold his warrant. City advertisements in German paper: proviso.

## CITY CONTRACTS

69. Proposals to be laid before the Mayor : Mayor, Comptroller and Register to award contracts : proviso.

## WARDS.

Re-division.

## CONGRESSIONAL DISTRICTS.

Third, fourth and fifth.

## CONSTITUTION.

The Act of 1870, chapter 116, enacts the following, which amends section 1 of Article XI of the Constitution, (p. 3, City Code) and also section 4, p. 8, City Code :

1870, c. 116, s. 1.  
Term of Mayor  
changed.

SECTION 1. In pursuance of the power contained in section nine of article eleven of the Constitution, section one of said article is changed and altered so far as it provides that the term of office of the Mayor of Baltimore city shall continue for four years, and that he shall be ineligible for the term next succeeding that for which he was elected.

Ibid, sec. 2.  
Election, when  
to be held.

Hereafter an election for Mayor of the city of Baltimore shall be held on the fourth Wednesday of October in every second year after the next election for mayor, to be held in said city in the year eighteen hundred and seventy-one, and the term of office of the Mayor of said city shall continue for two years, and until his successor shall have qualified.

Term of office,  
two years.

NOTE.—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*, 30 Md. 218.

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

## ORDINANCES.

## THE MAYOR.

Ordinance No. 60, April 12, 1871, substitutes the following for section 1, p. 14, City Code.

1. The compensation of the mayor of the city of Baltimore is hereby fixed at five thousand dollars per annum. No. 60, Ap. 12, '71  
Compensation.

## SECRETARY TO THE MAYOR.

Ordinance No. 16, February 24, 1869, amends section 4, p. 14, City Code, as follows:

4. The annual salary of the secretary of the mayor shall be sixteen hundred dollars. No. 16, s. 1, Feb.  
24, '69.  
Salary.

## CLERK TO THE MAYOR.

Ordinance No. 13, February 27, 1871, enacts and ordains the following:

There shall be annually 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 business hours, and to perform such duties as the mayor may prescribe; and the said clerk shall have charge of the city library, under the direction of the register and comptroller, and shall attend to the receiving and delivering of all books intended for or contained therein; and shall classify, mark, or number the same when necessary. No. 13, s. 1, Feb.  
27, '71.  
Clerk to be ap-  
pointed.  
Duties.

Ordinance approved February 27, 1874, amends section 3 of above ordinance as follows:

The compensation of the clerk to the mayor shall be twelve hundred dollars per annum, and he shall give a good and sufficient bond in the sum of two thousand dollars for the faithful performance of his duties. Ibid, s. 3. Ord.  
Feb. 27, '74.  
Salary. To give  
bond.

## MESSENGER AND JANITOR.

Ordinance No. 13, February 27, 1871, adds the following to section 6, p. 15, City Code :

No. 13, s. 2, Feb.  
27, '71.  
Additional du-  
ties of janitor,

6. The janitor of the city hall shall, in addition to the duties heretofore devolved upon him by law, perform such other duties as may be prescribed by the mayor, register and comptroller.

Ordinance No. 16, February 24, 1869, and ordinance No. 24, March 24, 1871, amend section 7, p. 15, City Code, as follows :

No. 16, s. 2, Feb.  
24, '71; No. 24,  
Mar. 24, '71.  
Salaries.

7. The annual salary of the messenger of the mayor shall be nine hundred dollars, and the janitor to the city hall shall receive as salary seventy-five dollars per month.

## WATCHMAN.

Ordinance approved February 27, 1874, amends section 8, p. 15, City Code, as follows :

Ord. Feb. 27, '74.  
Salaries.

8. The day and night watchmen of the city hall shall each receive as salary one thousand dollars per annum, payable monthly.

## MAYOR'S DETECTIVE.

Ordinance approved February 27, 1874, amends section 9, p. 16, City Code, as follows :

Ord. Feb. 27, '74.  
Salary.

9. The mayor's detective shall receive as salary twelve hundred dollars per annum, payable monthly.

## CITY COUNCIL.

Ordinance No. 59, April 12, 1871, substitutes the following for section 14, p. 17, City Code :

No. 59, s. 1, Ap.  
12, '71.  
Compensation.

14. The members of the city council shall each receive one thousand dollars per annum as a compensation for their services.

Ordinance No. 34, April 3, 1872, adds the following to section 24, page 19, City Code :

24. The comptroller shall, annually, send to the Peabody Institute of the city of Baltimore a copy of each volume of the ordinances, journals, reports and other publications of the city.

No. 34, April 3, 1872.  
Ordinances, &c.  
to be sent to the  
Peabody Institute.

Ordinance No. 59, April 12, 1871, adds the following :

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, 1871.  
Payments by  
Register.

Ordinance No. 23, March 16, 1871, adds the following :

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, 1871.  
Payments by  
Register.

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 Com-  
mittee on  
Claims.  
A statement of  
charges.

Ordinance No. 88, June 9, 1871, adds the following :

No. 88, June, '71  
Limitations on  
claims.

No claim shall hereafter 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.

Ordinance No. 56, April 7, 1871, adds the following to conform to the sessions of the Council as prescribed by Act of 1868, c. 451, sec. 21, p. 11, City Code :

No. 56, s. 1, Ap.  
7, '71.  
Fiscal year.

The fiscal year of the corporation shall begin on the first day of November, and end on the thirty-first day of October in every year.

Ibid, s. 2.

When officers to  
make reports  
and returns.

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 October as practicable.

#### CITY OFFICERS.

Resolution No. 250, October 5, 1869, adds the following to sec. 59, p. 41, City Code :

Resol'n No. 250,  
Oct. 5, '69.  
Register to no-  
tify city officers  
as to expendi-  
tures.

59. It shall be the duty of the register to notify all officers of the corporation that under and by virtue of sec. 59, article 1, of City Code, 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.

When Comptroller to withhold his warrant.

Resolution No. 450, November 6, 1873, adds the following :

Res. No. 450,  
Nov. 6, '73.  
City advertise-  
ments in Ger-  
man paper.

Hereafter all advertisements emanating from the different departments 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 the largest circulation, provided the prices be the same as those charged by the other papers. Proviso.

## CITY CONTRACTS.

Ordinance No. 64, May 28, 1873, amends and re-enacts section 69, page 43, City Code, as follows :

Whenever the city officers, or any of them, shall advertise for sealed proposals for any public work or contract, of any kind whatsoever, pursuant to existing ordinances or resolutions, or to such as may hereafter be passed, it shall be the duty 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.

No. 64, May 28,  
73.  
Proposals to be  
laid before the  
Mayor.  
Mayor, Comptroller and Register to award contracts.  
Proviso.

## WARDS.

Ordinance No. 102, approved November 1, 1873, entitled an Ordinance to appoint a Commission for a re-division of the Wards of Baltimore city, does not differ in its provisions from the similar ordinance, No. 40, June 12, 1860, in note on p. 37, City Code, and as the report of the commissioners thereunder has not been accepted by the council, it is not necessary to insert it here.

## CONGRESSIONAL DISTRICTS.

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.

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## ARTICLE —.

### ARBITRATION COMMITTEE OF BALTIMORE CORN AND FLOUR EXCHANGE.

#### STATUTE.

- |  |   |
|--|---|
| 1. Arbitration Committee: duties.<br>2. Mode of proceeding: powers:<br>process: award: copies. | 3. Judgment or decree in court on<br>award: execution: title to real<br>estate: costs and expenses: stay:<br>no appeal. |
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#### STATUTE.

The act of 1870, ch. 136, entitled an act to repeal and re-enact with amendments, an act entitled "an act to incorporate the Corn and Flour Exchange of the City of Baltimore," passed March 23, 1865, ch. 83, enacts *inter alia* :

- 1870, c. 136, s. 8. 1. 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.

2. 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 irregularity. The said committee shall have power to apply to any justice of the peace for the city of Baltimore, to issue *subpoenas* 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 costs 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 com-

Ibid. sec. 9.

Mode of proceeding.

Powers.

Process.

Award.

mittee 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.

Copies.

Ibid, sec. 10.

Judgment or decree in court on award.

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 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

Execution.  
Title to Real  
Estate.

Cost and Expenses.

Stay.

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.

## ARTICLE VI.

### A U C T I O N S .

#### STATUTES.

- |  |   |
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| <p>2. Rates of tax on sales by auction : special license not to pay duties.</p> <p>3. Rates of duties : exceptions.</p> <p>11. When general auctioneer may sell : returns to City Comptroller : auctioneer under special license : penalty.</p> <p>19. Unauthorized persons not to sell by auction : penalty.</p> <p>20. Selling without bond or license : penalty.</p> <p>21. Selling goods other than authorized : penalty.</p> <p>33. Not to permit others to sell under license except employee : places at which sales may be made.</p> <p>34. Penalty for violating provisions of preceding section.</p> <p>35. Auctioneers to render account to City Comptroller : each day</p> | <p>sales : payments to City Comptroller.</p> <p>36. Auctioneers oath to account : certificate to be attached.</p> <p>37. Penalty for failing to make returns : proviso : evidence : proviso : action against auctioneer or on bond.</p> <p>40. Fraud or deceit : penalty : dividing fee or commission with trustee, attorney, &amp;c. : liability of trustee or attorney.</p> <p>43. Disposition of proceeds of auction duties : improving channel and harbor.</p> <p>44. Mayor and City Council to account to State Comptroller : Comptroller to report to General Assembly.</p> <p>45. Excess over \$20,000 to be paid to State Treasurer : City Comptroller to account to State Comptroller : when balance to be paid.</p> |
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## STATUTES.

The Act of 1872, ch. 249, repeals the Act of 1870, ch. 133, and sections eighty-six, eighty-seven, ninety-five, one hundred and three, one hundred and four, one hundred and five, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, one hundred and twenty-four, one hundred and twenty-seven, one hundred and twenty-eight, and one hundred and twenty-nine, of article four of the Code of Public Local Laws, title "Baltimore City," sub-title "Auctions," (being sections 2, 3, 11, 19, 20, 21, 33, 34, 35, 36, 37, 40, 43, 44 and 45 of Article VI, Auctions, City Code,) and amends and re-enacts the same, so as to read as follows :

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

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 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

NOTE.—The act of 1872, ch. 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.

Ibid., sec. 87.  
Rates of duties.

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

Exception.

carpets, boots and shoes, which shall only be subject to a duty of ten cents on every hundred dollars.

11. Any auctioneer paying the license fee, and executing Ibid, sec. 95. the bond prescribed in the last foregoing section, may make sales of every description of goods, wares and merchandise of every kind, and real estate, and may exercise all When general auctioneers may sell. the rights and privileges of a general auctioneer to the extent and amount of the sum prescribed in said sections; and he shall make under oath quarterly returns to the comptroller of Return to city Comptroller. 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 a special Auctioneers under special license. 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 return of sales of 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 Penalty. to all the penalties hereinafter imposed upon auctioneers who shall sell without license.

19. If any person or persons, not appointed and authorized Ibid, sec. 103. Unauthorized persons not to sell by auction. 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 city, and shall on conviction be fined Penalty. 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.

20. If any auctioneer shall sell any goods, wares, merchandise or effects, or vessels, by way of public auction, without Ibid, sec. 104. Selling without bond or license. having entered into the recognizance and paid the license

Penalty.

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.

Ibid, sec. 105.  
Selling goods  
other than au-  
thorized.

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.

Penalty.

Ibid, sec. 117.  
Not to permit  
others to sell un-  
der license ex-  
cept 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.

Ibid, sec. 118.  
Penalty for vio-  
lating provi-  
sions of preced-  
ing 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.



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.

*Ibid, sec. 119.*  
Auctioneers to  
render account  
to City Com-  
ptroller.

*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-

*Ibid, sec. 120.*  
Auctioneer's  
oath to account.

partners, (if any there be) or by 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 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." 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.

Certificate to be attached.

Ibid, sec. 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; 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 misperformance of any duty imposed upon him by this law, and for which a civil action would lie against him or on his bonds.

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

Penalty.

Proviso.

Evidence.

Proviso.

Action against  
auctioneer or  
on bond.Ibid, sec. 124.  
Fraud or deceit.

Penalty.

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

Liability of trustee or attorney.

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 enterested in the estate which he represents.

Ibid, sec. 127.  
Disposition of proceeds of auction duties.

Improving channel and Harbor.

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.

Ibid, sec. 128.  
Mayor and City Council to account to State Comptroller; Comptroller to report to Gen. Assembly.

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 sections, 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.

Ibid, sec. 129.  
Excess over \$20,000 to be paid to the State Treasurer.

City Comptroller to account to the State Comptroller.

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 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 and twenty-seven of this law, (sec. 43 *ante*), 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.

NOTE.—Decision by Brown, C. J., in City Court, March, 1874 :

In the case of *Henry Linker vs. Woodville & Norman*, auctioneers, 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. Judgment affirmed.

## ARTICLE VII.

### BUILDINGS.

#### ORDINANCES.

##### INSPECTOR OF BUILDINGS.

Appointment of inspector of public buildings : salary : clerk to inspector : duties : salary of clerk.	struction and repairs of city buildings : exception.
Dangerous wall or building to be taken down : inspector to give notice in writing : expenses : report to mayor : payment by register.	When Register to pay : advertising for proposals to construct or repair : record of proposals to be kept : access to record.
Numbering of houses : proviso : expense of number plate to be paid by owner or occupant of premises : privilege.	When inspector to grant permits for steam boilers, steam engines, to erect frame sheds, bay windows, signs, &c. proviso : permit from mayor : penalties.
When inspector to contract for con-	Written application to be made : notice of application : to consider applica-

tion: when to be granted: cost of permit.	city commissioner and inspector of buildings to have lighting rods placed on public buildings.
Bay windows: how to be constructed.	
Cost of permits to erect bay windows.	
Permits may be revoked: removal on notice from mayor: fine.	
Penalty for erecting frame shed larger than permitted.	
Spouting and gutters: notice: penalty: gutter and down spouts to awnings.	
Notice: penalty.	
Lettered flaps on awnings: lettering posts or tree boxes.	
	PARTY WALLS.
	inspector of buildings to regulate party or partition walls or fences: return to register: notice: evidence: to be certified to register: fees.
	Thickness of party or partition walls: proviso.
	duty of inspector of buildings: penalty.

## ORDINANCES.

## INSPECTOR OF BUILDINGS.

Ordinance No. 87, June 10, 1871, entitled an ordinance to provide for the appointment of an inspector of buildings, and to prescribe his duties, enacts and ordains the following:

No. 87, June 10, 1871.	There shall be annually appointed, as other city officers
Appointment of Inspector of Public Buildings.	are appointed, an inspector of public buildings, who shall be
Salary of Inspector.	an experienced builder or mechanic, who shall receive a salary
Clerk to Inspector.	of two thousand dollars per annum; and the said inspector of
Duties.	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
Salary of Clerk.	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.	If any wall or building shall, from any cause whatever
Dangerous Walls or Buildings.	be in a situation to be dangerous to persons or property, the
Inspector to give notice in writing.	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

The 2nd and 3d sections of this ordinance repeal sections 88 and 89, pp. 858, 859. City Code, and re-enact the same as above.

down in twelve hours after such notice given, the inspector of buildings shall, with the approbation of the mayor, cause the same to be promptly 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.

When taken down at the owner's expense. Inspector to report to Mayor: expense to be paid by Register

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. 3.

Numbering of houses.

Proviso.

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

Privilege.

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 port warden), 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.<sup>1</sup>

Ibid, s. 4.

When Inspector to make contracts for construction and repairs of City Buildings.

Exception.

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.

When the inspector of buildings shall advertise for pro-

Ibid, s. 6.

<sup>1</sup> The 4th, 5th and 6th sections of this ordinance, repeal sections 91, 92 and 93, pp. 859, 860, City Code, and Ordinance No. 37, March 21, 1871, which had amended section 91, and re-enact the same as above.

Advertising 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.

Access to record

Ibid, s. 7.

When Inspector to grant permits for steam boilers or steam engines.  
To erect frame sheds, bay windows, signs, &c.

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, sign, 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 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.<sup>1</sup>

Proviso.

Permit from Mayor.

Penalties.

Ibid s. 8.

Before any such permit shall be granted, a written application shall be made to the inspector of buildings by the person

<sup>1</sup> The 7th, 8th, 9th, 10th, 11th and 12th sections of this ordinance, repeal sections 117, 118, 119, 120, 121 and 122, pp. 870—872, City Code, and Ordinance No. 87, July 8, 1870, which had amended section 117, Ordinance No. 60, May 14, 1870, which had amended section 118 and Ordinance No. 20, March 5, 1870, which had amended sections 119 and 120, and re-enact the same as above.

See acts of 1872, ch. 153 and 1874, ch. 96, inspection of steam boilers, under inspections *post*.



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 have 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 a 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 seventh section of this ordinance, excepting bay-windows, the sum of two dollars each.

Written application to be made.

Notice of application.

To consider application.

When to be granted.

Cost of permits.

No permit shall be granted to construct a bay-window, except upon 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

Ibid, s. 9.  
Bay Windows.

How to be constructed.

ten feet from the building line of the street on which the house shall front.

*Ibid*, s. 10.

Cost of permit  
to erect bay win-  
dows.

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. 11.

Permits may be  
revoked.

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

Removal on no-  
tice from Mayor.

after six months notice by the mayor; and any person or persons receiving such notice, who shall refuse or neglect to conform to the requirements 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.

Fine.

*Ibid*, s. 12.

Penalty for erect-  
ing shed larger  
than permitted.

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.

Ordinance approved April 25, 1874, repeals and re-enacts sections 94 and 95, p. 860, City Code, so as to read as follows: and the same are transferred to this article:

Ord., April 25,  
74.  
Spouting and  
gutters.

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 for any violation of the provisions of this section, after ten days notice <sup>Notice.</sup> from the inspector of buildings, the person or persons so offending shall forfeit and pay a penalty of ten dollars ; said fine to <sup>Penalty.</sup> be collected as other fines are recoverable, and the owners of all permanent and stationary awnings over sidewalks, not extending over the curb-stone, are hereby required to have gutter <sup>Gutters and down spouting to awnings.</sup> and down spouts placed to them to carry the water to the gutter of the streets.

If any person or persons having such awnings (as described <sup>Ord., April 25, '74.</sup> in the preceeding 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 <sup>Notice.</sup> 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 <sup>Penalty.</sup> 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.

Resolution No. 311, June 11, 1873, is as follows :

Permission is granted to any proprietor or proprietors of <sup>Res. No. 311, June 11, '73.</sup> 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 <sup>Lettered flaps on awnings.</sup> premises, with the condition that the awning-flaps shall be at <sup>Lettering posts or tree boxes.</sup> least eight feet from the pavement, and shall be removed at thirty days' notice from the mayor.

Ordinance No. 70, June 12, 1873, enacts and ordains the following :

The city commissioner and the inspector of buildings are au- <sup>No. 70, June 12, '73.</sup> thorized and directed to have placed lightning rods of the <sup>City Commissioner and Inspector of Buildings to have lightning rods placed on public buildings.</sup> 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.

## PARTY WALLS.

Ordinance approved April 25, 1874, repeals and re-enacts section 17, p. 81, City Code, so as to read as follows :

Ord., April 25,  
'74.  
Inspector of  
Buildings to reg-  
ulate party walls  
&c.

Return to Reg-  
ister.

Notice.

Evidence.

To be certified  
to Register.

Fees.

17. 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 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.

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.

Ordinance No. 100, November 1, 1873, adds the following :

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

Thickness of  
party or parti-  
tion walls.

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 Proviso. the law, if the said wall be of the *minimum* thickness.

If any person or persons shall, after the first day of January, Ibid, s. 2. 1874, erect any party or partition wall of a less thickness than nine inches between houses of more than thirteen feet front, Duty of Inspector of public buildings. 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 dollars for each and every month such violation shall Penalty. be continued, said fine to be collected as other fines are collectable.

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## ARTICLE VIII.

### CARRIAGES AND HORSES.

#### ORDINANCE.

Ordinance No. 122, June 27, 1871, repeals sections 31 and 32 of this article, p. 95 City Code, which had required drivers of hackney coaches to wear a metallic badge.

## ARTICLE IX.

## CHIMNEYS.

## ORDINANCES.

8. Width of funnels regulated : notice. When fire inspector to have chimneys,	smoke-stacks, flues, &c., altered or improved : penalty.
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## ORDINANCES.

Ordinance No. 38, June 7, 1869, amends section 8, p. 102, City Code, so as to read as follows :

No. 38, June 7, '69.	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 mayor, 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..
Width of funnels regulated.	
Notice.	

Ordinance No. 91, June 12, 1871, adds the following :

No. 91, June 12, '71. When Fire Inspector to have chimneys, smoke stacks, flues &c. altered or improved.	The fire inspector is authorized, whenever in his judgment, or upon the complaint of a majority of the property holders living near any smoke-stack, chimney, flue, or stove-pipe, which endangers the surrounding property by fire, or annoys the residents in the neighborhood with smoke or cinders, to have the same altered or improved as he may think most suitable for the protection of the surrounding property.
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Ibid, s. 2.

Penalty.

Any one refusing to comply with the notice of the fire inspector within ten days, shall be subject to a fine of twenty dollars, and ten dollars per day for every day thereafter until said order is complied with; the said fines to be collected as other fines are collectable.

ARTICLE X.  
COMPTROLLER.

ORDINANCES.

- |                        |                                       |
|------------------------|---------------------------------------|
| 1. Salary :            | Insurance of city property : proviso. |
| 14. Duties of clerks : |                                       |

ORDINANCES.

Ordinance No. 21, February 28, 1871, amends section 1, p. 105, City Code, as follows :

1. The salary of the comptroller is fixed and established at <sup>No. 21, Feb, 28, '71.</sup> the sum of two thousand five hundred dollars per annum; the salary of the chief clerk of the comptroller's department at the sum of fourteen hundred dollars; and the salary of the assistant clerk of the comptroller's department at the sum of eleven hundred dollars per annum, payable monthly.

Ordinance No. 28, March 30, 1870, amends section 14, p. 110, City Code, as follows :

14. The comptroller is authorized to employ in his office <sup>No. 28, Mar. 30, '70.</sup> a chief clerk, and an assistant clerk, who shall perform such duties as may be required of them by the comptroller.

Resolution No. 197, June 7, 1872, is as follows, see section 6, p. 108, City Code :

Hereafter the comptroller is authorized and directed to cease <sup>Res. No. 197, June 7, '72.</sup> insuring the property owned by the city and lying within the corporation limits from loss or damage by fire; provided, how- <sup>Insurance of City property.</sup> ever, 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. <sup>Proviso.</sup>

## ARTICLE XI.

## CORONER.

## S T A T U T E .

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Four coroners: term of office: salary: proviso: oath and bond.</li> <li>2. Coroners to be assigned to districts: deputies.</li> <li>3. Duties of coroners: juries not to be paid: when expenses of inter-</li> </ol> | <ol style="list-style-type: none"> <li>ment to be paid by register: proviso.</li> <li>4. Monthly report to police commissioners: money, &amp;c., to be deposited in bank to order of judges of orphans' court.</li> </ol> |
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## O R D I N A N C E .

## MORGUE.

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Dead house: what bodies to be placed therein.</li> <li>2. How long bodies to remain.</li> <li>3. Preservation of clothing, &amp;c.:</li> </ol> | <ol style="list-style-type: none"> <li>when coroner to dispose of same.</li> <li>4. Vault in Eastern Potter's Field: how long bodies to remain.</li> <li>5. Appropriation.</li> </ol> |
|--|---|

## S T A T U T E .

The act of 1872, ch. 45, repeals sections 151, 152, 153 and 154 of P. L. L., article 4, as amended and re-enacted by 1868, ch. 457, article 11, City Code, p. 111 and 112, and enacts the following in lieu thereof:

1872, c. 45.

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 four 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, shall give bond to the State of Maryland, with security, to be approved by the judge of the superior court for 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.



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 depute some competent person to attend to the duties of his office during his absence or illness. 1872, c. 45. Coroners to be assigned to districts. Deputies.

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. 1872, c. 45. Duties of Coroners. Juries not to be paid. When expenses of interment to be paid by Register. Proviso.

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 in 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. 1872, c. 45. Monthly report to Police Commissioners. Money &c., to be deposited in bank to order Judges Orphans' Court.

#### ORDINANCE.

##### MORGUE.

Ordinance No. 55, July 24, 1869, enacts and ordains the following:

(See sec. 81, p. 304, City Code.)

1. The city commissioner is hereby authorized and directed

No. 55, s. 1.  
July 24, '69.  
Morgue or Dead  
House.

to erect, in connection with the central police station house about to be erected, 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 bo-  
dies 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 sec. 154 of article 4 of the Code of Public Local Laws (sec. 4, p. 39, of this article.)

When coroner to  
dispose of same.

Ibid, s. 4.  
Vault in East-  
ern 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 re-

main at least ten days before final interment, except such bodies as are excepted in section first of this ordinance.\*

5. The sum of five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated for carrying out the provisions of this ordinance, to be taken out of any money in the treasury not otherwise appropriated.

\*By resolution No. 350, Oct. 21, 1872, the sum of nine thousand dollars, or so much thereof as may be necessary, was appropriated to purchase, with the approval of the mayor, a suitable place for a morgue, for the unknown dead under the temporary charge of the police department, the said sum to be provided for in the levy of 1873.

And by resolution No. 384, October 30, 1872, the board of health, with the concurrence of the mayor, were authorized and directed to purchase two tracts of ground outside of the city limits, suitable for burial purposes, of not less than ten nor more than thirty acres each in extent, to be known as the Eastern and Western Potter's Fields, the cost of the same to be provided for in the next tax levy. As soon as one of the places could be purchased and used, the burial of the dead was to cease in what was known as the Eastern Potter's Field.

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## ARTICLE XII.

### COUNSELLOR AND SOLICITOR.

#### ORDINANCE.

Expenses of examination of title to property taken for use of city : assessment : proviso.	City solicitor to supervise examinations of title : to certify as to correctness of charges.
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#### ORDINANCE.

Ordinance No. 53, May 17, 1870, enacts and ordains the following :

Whenever private property shall hereafter be taken for the use of the city, it shall be the duty of the commissioners, or other persons under whose supervision or authority such

No. 53, May 17, '70.  
Expenses of examination of title.

**Assessment.** property shall be taken, to include in their assessment of damages and expenses, upon each piece of property so taken, one per centum of the amount of damages so awarded, to defray the expenses of the examination of title to the same;

**Proviso.** provided, that in no case shall the assessment for such purpose be less than twenty-five dollars, nor more than one hundred dollars.

**Ibid, s. 2.**  
City Solicitor to  
supervise exam-  
inations of title.

To certify as to  
correctness of  
charges.

All such examinations of title shall be made under the supervision and direction of the city solicitor, and the sums assessed for the expenses thereof shall be paid to the parties employed by the city solicitor to make the same, upon his certificate as to the correctness of the bills.

**NOTE.**—This ordinance recites, that many and just complaints are made by citizens whose property is condemned and taken for public purposes, because they cannot obtain from the corporation the sums assessed them as damages for the said condemnation and taking, without first having the title to their property examined at their own expense; and that it is but just that said sums should be paid to the parties entitled thereto without deduction; and that, in order to prevent such sums from being paid by the corporation to persons other than the true owners, an examination of title is necessary.

## ARTICLE XIII.

### COURTS.

#### S T A T U T E S .

**SUPERIOR COURT, COURT OF COMMON PLEAS,  
CITY COURT AND CRIMINAL COURT.**

**Terms of courts and return days.**

**Jurisdiction:** motions for new trials,  
and in arrest of judgment, &c.

**No paper book or brief required.**  
**CIRCUIT COURT.**

**13. Terms.**

**COURT OFFICERS.**

**Salary of bailiff:** night watchman of  
office of clerk of circuit court: duties:  
removal.

**City register to pay salary.**

**JUSTICES OF THE PEACE AND CONSTABLES.**

**71. How appointed:** term of office.

**If justice in Baltimore dies,** papers to  
be delivered to clerk of city court.

**Fees of justices:** fees of constables.

**COSTS.**

**In actions for wrongs independent of  
contracts:** in appeals from justices  
of the peace,

ORDINANCES.

JUDGES OF SUPREME BENCH.	JANITOR AND WATCHMEN.
Register to pay judges \$500 additional.	Salaries.

STATUTES.

SUPERIOR COURT, COURT OF COMMON PLEAS, CITY COURT AND CRIMINAL COURT.

The act of 1874, ch. repeals and re-enacts the law, (see secs. 1 and 2, p. 129, City Code, and sec. 15, p. 132, City Code,) relating to the terms and return days of the courts in Baltimore city, as follows :

1. The stated terms of the superior court of Baltimore <sup>1874, c. Terms.</sup> city, of the court of common pleas, in the city of Baltimore, Baltimore city court, and the criminal court of Baltimore, shall commence on the second Monday in January, the second Monday in May, and the second Monday in October in each year.

2. In addition to the first day of each term of the superior <sup>1874, c. Return days.</sup> court of Baltimore city, the court of common pleas, and Baltimore city court, the second Monday in February, March, April, June, July, November and December, in each year, shall be return days.

The act of 1870, ch. 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. 124, City Code,) enacts the following sections :

The judge, before whom any case may hereafter be tried, in <sup>1870, c. 177.</sup> 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 <sup>Jurisdiction.</sup> shall hear and determine all motions for a new trial where <sup>Motions.</sup> 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.\*

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\*The court of common pleas has no jurisdiction in cases of mechanics' liens. *Gelston et al v. Thompson*, 29 Md., 595.

For the jurisdiction of the supreme bench, before the act of 1870, ch. 177 above, see 35 Md. 249; 33 Md. 481; 33 Md. 288; 30 Md. 558; 31 Md. 329.

As to jurisdiction of courts before Const. 1867, see 28 Md. 157, 245, 356, 362 and 365.

Under act of 1867, ch. 373, section 3, (section 63, p. 143, City Code,) the 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.

A judgment having been confessed on January 7, 1869, in the superior court of Baltimore city, on 15 January, certain persons appeared before the clerk of the court at his office in the court house, and as sureties confessed judgment in the usual way, to be levied of their goods, chattels, lands or tenements, in case the defendant did not pay the said original judgment on June 7th next; the blank form of *supersedeas* was signed by the sureties and attested by the clerk — The clerk, in filling up the blank which was thus signed by the sureties, inadvertently wrote "June" instead of "July," subsequently, on discovering his mistake, he changed the last two letters "ne" to "ly," so as to make it read "July." On motion by one of the sureties to strike out the *supersedeas* judgment, it was held: That the correction made by the clerk was not warranted by law, and the judgment should be stricken out. A motion by a superseder to strike out the judgment of *supersedeas* having been overruled, an appeal was taken by him from the order of the court refusing to strike out. Subsequently the appellant filed a petition asking the judge to certify to the court of appeals, as part of the record in the appeal he had taken, an affidavit of his counsel, made some time after the motion to strike out had been decided and also one of its rules: the court refused the petition; from this action of the court no appeal lies. *Bowes v. Isaac et al*, 33 Md. 535.

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, p. 132, City Code,) 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 58 section of above Article, is included, as a means necessary

In no case hereafter 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. <sup>1870, c. 177. No paper book or brief required.</sup>

## CIRCUIT COURT.

The act of 1870, ch. 32, repeals and re-enacts section 174 of P. L. L., article 4, being section 13, p. 132, City Code, to read as follows:

13. 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 of July in each year shall be a return day. <sup>1870, c. 32. Terms.</sup>

## COURT OFFICERS.

The act of 1870, ch. 94, enacts the following:

The register of the city of Baltimore shall pay to the bailiff respectively of the superior court of Baltimore city, of the <sup>1870, c. 94. Salaries of bailiffs.</sup>

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 sec. 58, 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 sec. 58, 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 sec. 58, 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.

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 now by law provided 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.

The act of 1872, ch. 87, enacts the following :

1872, c. 87.  
Night watch-  
man of office of  
Clerk of Circuit  
Court.  
Duties.

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.

Removal of  
watchman.

Ibid s. 2.  
City Register to  
pay salary.

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 now by law provided for the payment of the salaries of the bailiffs of the courts.

#### JUSTICES OF THE PEACE AND CONSTABLES.\*

The act of 1870, ch. 45 repeals and re-enacts section 619 of P. L. L. art. 4, being section 71, p. 146, City Code, so as to read as follows :

1870. c. 45.  
How appointed.

The governor of the state, by and with the advice and consent of the senate, shall at the time designated by law, appoint

\* Opinions by Brown, C. J., in city court :

Wangeman vs. 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



two justices of the peace for each of the several wards of Baltimore city, and in addition thereto, four justices of the peace for the city of Baltimore at large, and the mayor and city council of Baltimore are authorized and empowered to appoint two constables for each of the several wards of Baltimore city, and in addition thereto four constables at large for the said city, who shall hold their offices for two years from the date of Term of office.

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. 75, p. 148, City Code.) 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 vs. H. W. Snowden, April, '74. This is a petition by William 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 defendant 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 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 defendant 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 75, p. 148, City Code,) he has the right to elect that said proceedings shall be tried before a justice 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

their appointment and until their successors in office are duly appointed and qualified, and the said mayor and city council of Baltimore are authorized to make the appointment directed by this act on the fourth Monday in March, eighteen hundred and seventy, and on the said fourth Monday in March of every second year thereafter.

The act of 1870, ch. 39, enacts the following:

1870, c. 39.  
If a justice in  
Baltimore dies,  
papers to be de-  
livered to clerk  
of city court.

If a justice in Baltimore city dies, resigns or is removed, the delivery of the docket and papers shall be made to the clerk of the city court within the time mentioned in the preceding section; and the clerk of the court of common pleas is hereby required to transfer the dockets of justices now in his custody to the clerk of the said city court.

NOTE.—That is, thirty days, by section 9, of P. G. L., Art. 51, as re-enacted by act of 1864, c. 179.

*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, of the same article, (sec. 9, p. 936, City Code,) 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 1st volume of the Code, 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. 75, p. 148, City Code,) 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. vs. Smith, Dixon & Co.*, Mar. '74, the action before the magistrate 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. 75, p. 148, City Code.) The magistrate 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.

FEES OF JUSTICES OF THE PEACE.

The act of 1870, ch. 164, enacts the following; this repeals act of 1867, c. 407, p. 149, *note*, City Code: 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	1870, c. 164.
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 acknowledgement 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

#### FEEES OF CONSTABLES.

1865, c. 67 (City Code, p. 150, *note*) regulating and making uniform the fees of constables, was continued in force until April 1, 1872, by act of 1870, c. 196; and until the general assembly shall repeal or modify the same, by act of 1872, c. 424.

#### COSTS.

The act of 1874, ch. 167, enacts the following:

1874, c. 167.  
Costs in actions  
for wrongs independent of contracts

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 appeals 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.

## ORDINANCES.

### JUDGES OF SUPREME BENCH.

Ordinance No. 5, December 22, '69, enacts and ordains the following :

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 hundred dollars, as an addition to the salaries paid to the said judges by the State of Maryland, the said sum of five hundred dollars to be paid in equal quarterly installments on the first days of January, April, July and October of each year, beginning on the first day of January, eighteen hundred and seventy.\*

No. 5, Dec. 2, '69.  
Register to pay judges.

\$500 additional.

### JANITOR AND WATCHMEN.

Ordinances No. 8, January 20, 1871, and February 27, 1874, amend secs. 8 and 9, pp. 152, 153, City Code, as follows :

The salaries of the janitor of the Old Masonic Building, and of the night watchman at the Court House, are fixed and established at the sum of one thousand dollars per annum, payable monthly, to take effect from and after the first

No. 8, Jan. 20, '71  
Salaries.

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\* 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.

day of March, 1874; and of the watchman of the Old Masonic Building at the rate of two dollars and fifty cents per diem.

*Decisions under the Act of 1864, ch. 6, pp. 129—132, City Code:*

A writ of *scire facias* is not an original writ within the meaning of the act of 1864, ch. 6, sec. 2, (sec. 3, p. 130, City Code) and can, therefore, be made returnable only on the return day of the regular term. *Bridges & Woods v. Adams*, 32 Md. 577.

In an action under the act of 1864, ch. 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 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, ch. 6. 4th. That the defendant having appeared, has the right to plead in the usual form without affidavit. *King v. Ilicks*, 32 Md. 460.

An action was instituted, on June 23d, 1870, under act of 1864, ch. 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, ch. 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, ch. 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. Wrenschall*, 34 Md. 492.

In an action on a single bill, under the act of 1864, ch. 6, it is not necessary for the plaintiff filing his cause of action to state in the affidavit required by the 8th sec. (sec. 9, p. 131, City Code,) 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, ch. 6, sec. 8, files with his declaration as the cause of action an account verified by affidavit showing the true amount that the defendant 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, ch. 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, ch. 6.

Under the act of 1864, ch. 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, ch. 6, sec. 7, (sec. 8, p. 131, City Code,) 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, ch. 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, ch. 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 accordance with the eighth section of the act of 1864, ch. 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, ch. 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 a sufficient affidavit to its pleas. The plaintiff then moved the court to assess the damages and extend the judgment, whereupon the defendant moved for a trial by jury of the question of the amount of damages to be assessed. The defendant's movement 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 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, ch. 6, its pleas must be verified by the oath of some natural person, capable of making an affidavit.—*Knickerbocker Life Ins. Co. v. Hoessie*, 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, ch. 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 com-



pliance with the provisions of the 8th sec. of that act. *McAllister v. Eichen-green*, 34 Md. 55.

An action was brought under the act of 1864, ch. 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, ch. 6, sec. 6, (sec. 7, p. 131, City Code.) 2d. That the plaintiff having complied with the provisions of the act of 1864, ch. 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 despatch ordering a sale of gold, is a claim for unliquidated damages, and not embraced within the meaning of Art. 4, secs. 166, 167, 168 and 169 of Code, P. L. L., (1864, ch. 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.

## ARTICLE XV.

## DEAF, DUMB AND BLIND.

## STATUTE.

2. Deaf Mutes to be removed to Frederick Institute.

## ORDINANCES.

- |   |   |
|---|---|
| <p>1. Deaf Mutes: proviso: certificate of physician: when mayor to authorize admission into Frederick Institution: appropriation.</p> <p>2. Annual appropriation.</p> | <p>3. Agent of the city Baltimore: duties.</p> <p>4. Annual appropriation for transportation: Comptroller to issue his warrant for expenses &amp;c.</p> |
|---|---|

The act of 1870, ch. 478, repeals, amends and re-enacts section 2, (being sec. 2, p. 156, City Code,) as follows:

1870, c. 478, s. 1.  
Deaf mutes to  
be removed to  
Frederick insti-  
tution.

All deaf mutes of this State now educated at the expense of this State, at any institution without the limits of this State, shall be, at the close of the present session of the institution, where such deaf mutes are now being educated, removed to the Maryland Institute for the Education of the Deaf and Dumb, located at Frederick.

The act of 1870, ch. 478, sec. 2, repealed sections 2 and 3 of the act of 1865, ch. 68, so far as said sections of said act are not amendatory of section 2, Article XXXIII, of the Code of Public General Laws, (Article XV, of City Code.)

The act of 1870, ch. 422, for the purpose of meeting the expense of erecting and furnishing suitable buildings for the Asylum for the Deaf and Dumb, created a fund called the "Deaf and Dumb Asylum Loan," and directed the treasurer to issue bonds to an amount not exceeding one hundred thousand dollars, exempt from State, county and municipal taxation, redeemable in not less than ten nor more than fifteen years; and provided for the levying of a special tax to meet the interest on and create a sinking fund for the redemption of said bonds.

The act of 1874, c. 42 amends the acts of 1867, c. 247, 1868, c. 409, and 1870, c. 422 relating to "Deaf and Dumb Asylum Loan."

## O R D I N A N C E .

Ordinance No. 43, June 21, 1869, entitled An ordinance to provide for the education of deaf mutes belonging to the city of Baltimore, enacts and ordains the following, and repeals by implication sections 1, 2 and 3, pp. 157 and 158, City Code:

1. On the application of any parent, guardian, or next friend No. 43, June 21 '69. of any deaf mute of teachable age, and good mental capacity, Deaf Mute. (provided such parent, guardian, or next friend has been a *bona fide* resident of the city of Baltimore for at least three Proviso. years continuously previous to such application,) accompanied by the certificate of a practising physician, certifying to the Certificate of physician. 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 When Mayor to authorize admission into Frederick Institution. 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 Appropriation. annum.
2. The sum of eight thousand dollars is hereby appropriated Ibid, s. 2: Annual appropriation. annually for the purpose of carrying out the provisions of this ordinance.
3. The mayor shall annually appoint, as other city officers Ibid, s. 3. are now appointed, a person who shall be styled the agent of Agent of the city of Baltimore. the city of Baltimore for the deaf and dumb institution at Frederick, who shall see that all applicants are examined, and Duties. 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 matters connected with the

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The Act of 1870, ch. 280, appropriated the sum of ten thousand dollars to enable the directors of the Maryland institution for the instruction of the blind, to pay off an indebtedness against that institution; and the Act of 1874, ch. 301, appropriates twenty-five thousand dollars for the benefit of that institution; 1874, ch. 236, amends its act of incorporation.

interest of the city in connection with said institution, who shall receive no salary.

Ibid, s. 4.  
Annual appropriation for transportation.

Comptroller to issue his warrant for expenses, &c.

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.

## ARTICLE XVI.

### ELECTIONS.

#### S T A T U T E .

14. Judges and clerks of election : compensation, expenses, &c. :	to be	paid by city.
	17. Hours of voting.	

#### S T A T U T E .

The act of 1872, ch. 141, repeals and re-enacts sec. 212 of the P. L. L.; Art. 4, being sec. 14, p. 164, City Code, as follows :

1872, c. 141.  
Judges and clerk of elections.

Compensation, expenses, &c., to be paid by city.

14. The said board of police shall appoint for every election two clerks 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 three dollars and fifty cents per diem each for their services as such; the said judges of election shall receive three dollars and fifty cents 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 said board of police, in the division of the wards into precincts as aforesaid, and in recording and publishing the same, or otherwise under this article or in the execution thereof, to be paid by and recoverable from the mayor and city councilmen of Baltimore, and to be provided for by said mayor and city councilmen by taxation or otherwise.

The act of 1872, ch. 23, repeals and re-enacts sec. 215 of the P. L. L., art. 4, being sec. 17, p. 165, City Code, as follows:

17. 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.

1872, c. 23.  
Hours of voting

## ARTICLE XVII.

### FERRIES.

#### STATUTE.

Exclusive right to use wharf in B. & L. P. S. F. Co.	Privileges: conditions on which granted.
All other ferry boats excluded: penalty.	Owner of ferry boat "Portsmouth" to sell to Co: arbitrators: when privileges assured to Co.
Ferry boats: hours of running.	
Gates and ticket houses.	

#### STATUTE.

The act of 1870, ch. 436, entitled a supplement to an act entitled An act to incorporate the Broadway and Locust Point Steam Ferry Company of Maryland, and to grant on certain conditions the right to use the wharf known as the county wharf, approved March 23, 1868, enacts the following:

The Broadway and Locust Point Steam Ferry Company of

1870, c. 436.  
Exclusive right  
to use wharf in  
B. & L. P. S. F.  
Co.

Maryland, incorporated under the act to which this is a supplement\* 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.

Ibid sec. 2.  
All other ferry  
boats excluded.

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 the wharf at the foot of Broadway mentioned in the act to which this is a supplement; 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 in this section 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.†

Penalty.

\*Act of 1868, ch. 187, see p. 174, City Code.

The act of Assembly of 1868, ch. 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.

† In note on p. 177 City Code.

Said company shall run two ferry boats, as required by the third section of the act to which this is a supplement, [sec. 2, p. 175 City Code] and 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.

Ibid, sec. 3.  
Ferry boats.

Hours of running.

The said company is hereby authorised to erect gates and ticket houses on the wharves at the foot of Broadway and Haubert street in said city of Baltimore.

Ibid, sec. 4.  
Gates and ticket houses.

The amendments hereby made to the Act to which this is a supplement, and the privileges hereby granted to the said Broadway and Locust Point Steam Ferry Company of Maryland, are made and granted upon the following conditions; that is to say: that if Mr. Joseph Hankey, the reputed owner of the ferry boat called Portsmouth, shall, within ten days after the approval of this act, enter into and deliver to the said company a written stipulation to sell to said company and convey to it free of all liens, the said ferry boat, for such a sum as shall be ascertained to be its fair value by a commission of three arbitrators, to be selected in manner following, that is to say: one by said Hankey, one by said company, and the other by these two: and shall name in said written stipulation his arbitrator, then the said company shall, within five days thereafter, name an arbitrator to act for it in said matter; and if the arbitrators selected by said Hankey and said company do not, within twenty days after the approval of this act, select a third arbitrator who will serve, then such third arbitrator shall be chosen by the president of the board of pilots; and if, upon the award in writing by the arbitrators thus elected, or a majority of them, of the sum which, in their judgment is the fair value of said ferry boat, the said company shall pay, or tender in payment to the said Hankey, the sum so ascertained and awarded; then immediately upon such payment or tender, the said company shall have all the privileges

Ibid, sec. 5.  
Privileges.  
Conditions on which granted.

Owner of ferry boat Portsmouth to sell to Co.

Arbitrators.

When privileges assured to Co.

by this act granted to it; and in case the said Joseph Hankey shall not, within ten days after the approval of this act deliver to said company the aforesaid written stipulation, then the said company shall have the privileges hereby granted immediately upon the expiration of said ten days; and in case said Hankey shall not, upon the tender of the sum so as aforesaid ascertained to be the value of the said ferry boat, deliver to said company a valid conveyance of the same free and discharged of all liens, and deliver said boat to said company, then the said company shall have the privileges granted to it by this act, immediately upon such tender of said sum by said company.\*

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\*By resolution No. 85, March 13, '72, the General Assembly was requested to pass no law prohibiting the use of the wharf at the foot of Broadway, known as the "County wharf," for the landing of the steam ferry boats of the Broadway and Locust Point Steam Ferry Company; and the resolution recites, that the maintenance of the said steam ferry is absolutely vital to all the large commercial, manufacturing and shipping interests now carried on at Locust Point; and besides being a great and necessary convenience to the large number of working people who are employed at Locust Point, and live in the city of Baltimore, is also of inestimable service in connection with the transportation of the fire department of the city in case of fire at Locust Point; and that said wharf, as it stood prior to its extension and improvement by the Broadway and Locust Point Ferry Company, under its charter granted by the legislature in 1868, was built, and has been from time to time improved, extended and repaired by the said mayor and city council of Baltimore, out of the treasury of the city, the ordinances and resolutions of the city showing appropriations for the construction and repair of said wharf as follows: Resolution No. 46 of April 2d, 1835, appropriating three thousand dollars; resolution No. 29, March 8th, 1836, appropriating two thousand four hundred dollars; resolution No. 14, February 15, 1837, appropriating thirty-four hundred and fifty-two dollars; resolution No. 62, March 13, 1846, appropriating one hundred dollars; and resolution No. 66, April 3d, 1849, appropriating one thousand dollars; making a total appropriation of \$9,952 for said wharf; so that said wharf, though called the "County wharf," is in fact the property of said mayor and city council of Baltimore; and it would, therefore, be manifestly unjust for the legislature of the State to make such use of said wharf as should be ruinously prejudicial to the interests of said city.



## ARTICLE XVIII.

## FINES AND FORFEITURES.

## O R D I N A N C E .

Informer not entitled to any part of fine or penalty.

## O R D I N A N C E .

Ordinance No. 36, March 24, 1871, enacts and ordains the following :

Hereafter 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.

No. 36, Mar. 24  
'71.  
Informer not  
entitled to any  
part of fine or  
penalty.

NOTE.—The act of 1874, ch. 59, adds the following section to article 40, P. G. L. in *note*, p. 177, City Code :

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.

## ARTICLE XIX.

## FIRE.

## STATUTES.

## FIRE INSPECTOR.

Duties of fire inspector : persons hindering inspector : penalty.  
 Investigations into causes of fires : attendance of witnesses : proviso : report to State's attorney.  
 Enforcement of fire ordinances : powers of inspector.  
 Neglect to give notice of possession of property saved from fire : larceny : perjury.  
 Proof of ownership of property : expenses : justice of the peace to determine.

Deputies of fire inspector : powers of deputies.  
 Construction of this act.

## ILLUMINATING OILS.

Fire test.  
 Barrels to bear name, &c., of manufacturer : warrant : penalty.  
 When purchaser may recover.  
 Accident from explosion : prosecution of seller.  
 When inspector to decide as to quality of oil, &c.  
 False report by inspector : penalty.  
 To what not applicable.

## ORDINANCES.

## FIRE DEPARTMENT.

Salaries of chief engineer, assistant engineers, foremen, enginemen, assistant enginemen, tillermen, hostlers and extramen increased.  
 Increase of fire department.  
 Property of engine companies.  
 Additional engine houses, &c.: proviso.  
 Houses to be built.  
 Appropriations.  
 Engine house, &c., in south Baltimore. At Canton.  
 In northwestern section of city.  
 How long members of fire department injured or disabled in discharge of duty, to receive usual salary.  
 What sum commissioners of fire department, in case of loss of life, to pay to widow, &c.: funeral expenses.  
 Obstructing fire plugs : penalty.

## POLICE AND FIRE ALARM TELEGRAPH.

Person in charge of batteries of police and fire alarm telegraph : salary.  
 Salaries of superintendent, operators and linemen.

## TELEGRAPHS.

Authority to National Telegraph Co., American Telegraph Construction Co., Gold and Stock Printing Telegraph Co., and Pacific and Atlantic Telegraph Co., to erect telegraph poles in streets : telegraphs to be used by Police and Fire Alarm Telegraph : messages of city officers, &c., free of charge : to be removed on notice.

## PREVENTION OF FIRES.

38. In what buildings hay and cut straw shall be kept : penalty.

## S T A T U T E S .

## FIRE INSPECTOR.

The act of 1872, ch. 250, enacts the following :

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.

1872, c. 250, s. 1.  
Duties of Fire  
Inspector.

Persons hinder-  
ing Inspector.

Penalty.

It shall be the duty of said fire inspector to institute investigations into the causes of said 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 prosecutions in all cases where there appears to him to be reasonable and probable causes for believing that a fire has been caused by design.

Ibid, sec. 2.  
Investigations  
into causes of  
fire.

Attendance of  
witnesses.

Proviso.

Report to  
State's Attorney

Ibid, sec. 3.  
Enforcement of  
Fire Ordinances

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.

Powers of In-  
spector.

Ibid, sec. 4.  
Neglect to give  
notice of posses-  
sion of property  
saved from fire.

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.

Larceny.

Perjury.

Ibid, sec. 5.  
Proof of owner-  
ship of property  
Expenses.

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.

Justice of the  
Peace to deter-  
mine.

Ibid, sec. 6.  
Deputies of Fire  
Inspector.

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 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.

Powers of  
Deputies.

Ibid, sec. 7.  
Construction of  
this act.

This act shall not be so construed or understood as to authorize the fire inspector to interfere with or disregard the au-

thority now vested in the board of fire commissioners of the city of Baltimore during the time of fire by the ordinances of the city.

#### ILLUMINATING OILS.

The act of 1874, ch. 504, repeals the acts of 1870, ch. 266, and 1872, ch. 135, enacted to regulate the manufacture and sale of oils for illuminating purposes, and substitutes the following in lieu thereof:

All oils or fluids manufactured from petroleum or its products, used for illuminating purposes in this State, which shall <sup>1874, c. s. 2.</sup> 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 <sup>Fire test.</sup> tester, or some other instrument constructed upon the same principle.

Every person manufacturing or selling illuminating oils or <sup>Ibid, sec. 3.</sup> fluids, manufactured from petroleum or its products, by the barrel, shall be required to have stamped upon the head of the <sup>Barrels to bear name, &c., of manufacturer.</sup> barrel the name of the manufacturer thereof and his place of <sup>Warrant.</sup> business, together with the words "warranted to stand a fire-test of one hundred and ten degrees fahrenheit before it shall burn."

Whoever manufactures for illuminating purposes, or sells <sup>Ibid, sec. 4.</sup> 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 two of this act, shall be deemed guilty of misdemeanor; and on conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the <sup>Penalty.</sup> 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 two of this act, shall forfeit said oil, and be fined not less than five nor more than twenty dollars; said fine to 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.

Any purchaser of oils or fluids made of petroleum or its <sup>Ibid, sec. 5.</sup> products for illuminating purposes, bearing the stamp required in section three of this act, and which does not stand the fire-

When purchaser may recover.

test required in section two of this act, may recover from the seller in an action for debt an amount equal to double the purchase money of said oil.

Ibid, sec. 6.  
Accident from explosion.

Prosecution of seller.

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, sec. 7.

In case of seizure or confiscation of oils or fluids manufactured from petroleum or its products, as provided in section two of this act, 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.

When Inspector to decide as to quality of oil, &c.

Ibid, sec. 8.

False report by Inspector.

Penalty.

If any inspector of oils shall be convicted in a court of competent jurisdiction of furnishing a false report of the fire-test or 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, sec. 9.  
To what not applicable.

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.

Ordinances No. 50, April 25, 1870, Nos. 65 and 66, May 23, 1870, and No. 35, April 8, 1872, amend section 6, p. 186, City Code, as follows:

No. 35, April 8, '72.  
Salary of Chief Engineer.  
Of Assistant Engineer.

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 eleven hundred dollars each 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, and the salaries of extramen shall be four hundred dollars, payable monthly.

No. 66, May 23, '70.  
Of Foremen.  
Enginemen.  
No. 65, May 28, '70.  
No. 50, Apl. 25, '70.  
Assistant en-  
ginemen.  
Tillermen.  
Hostlers.  
Extramen.

Ordinance No. 50, July 9, 1869, enacts and ordains the following :

The fire department of the city of Baltimore shall be increased by the addition of one company, to consist of one foreman, one engineman, one assistant engineman, one hostler and eight firemen, who shall be appointed in like manner and receive the same salaries as is provided in the ordinance to which this is a supplement, [No. 7, Feb. 21, 1868, p. 185, &c., City Code] for the officers and men of the same grade.

No. 50, s. 1, July 9, '69.  
Increase of Fire  
Department.

The property of said company shall consist of not less than one steam fire engine, one hose carriage, one thousand feet of hose and four horses, which shall be purchased by the fire commissioners.

Ibid, s. 2.  
Property of en-  
gine companies.

The joint standing committee on the fire department, together with the fire commissioners, are hereby authorized and directed to buy or lease a suitable lot for the erection of the additional engine house, rendered necessary by the provisions of this ordinance, or to purchase or lease any improved lot or lots suitable for this purpose; provided, that the said lot or lots shall be located west of Paca street and north of Baltimore street.

Ibid, s. 3.  
Additional en-  
gine house, &c.

The city commissioner is hereby authorized and directed to have such house built upon the lot so bought or leased, as may be necessary, in his judgment, for the purpose of carrying into effect the provisions of this ordinance.

Proviso.

Ibid, s. 4.  
Houses to be  
built.

The sum of twenty-one thousand dollars, or so much thereof

Ibid, s. 5.  
Appropriation.

as may be necessary, is hereby appropriated for the purchase or leasing of said lot and the building of said house, and the purchasing of the fire apparatus and horses, to be taken out of any money in the treasury not otherwise appropriated.

Ordinance No. 103, November 7, 1870, enacts and ordains the following :

No. 103, s. 1,  
Nov. 7, 70.  
Increase of Fire  
Department.

The fire department of the city of Baltimore shall be increased by the addition of two engine companies, and one hook and ladder company; each of the engine companies to consist of one foreman, 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, all of whom shall be appointed in like manner, and receive the same salaries as is provided in the ordinance to which this is a supplement, (No. 7, Feb. 21, 1868, p. 185, &c., City Code,) or the supplements thereto, for the officers and men of the same grade.

Ibid, s. 2.  
Property of en-  
gine companies.

The property of each of said engine companies shall consist of not less than one steam fire engine, one hose carriage, one thousand feet of hose, and four horses; and the property of the said hook and ladder company shall consist of not less than one ladder truck, with all necessary ladders and implements, and three horses, all of which properties shall be purchased by the fire commissioners.

Ibid, s. 3.  
Fire Commis-  
sioners to buy  
or lease lots.

The fire commissioners are hereby authorized and directed to buy or lease suitable lots for the erection of the additional engine houses rendered necessary by the provisions of this ordinance, or to purchase or lease any improved lots suitable for this purpose; provided one of the said engine houses be located in the northeastern section, and the other in the southwestern section of the city.

Proviso.

Ibid, s. 4.  
Houses to be  
built.

The city commissioner is hereby authorized and directed to have such houses built upon the lots so bought or leased, as may be necessary, in his judgment, for the purpose of carrying into effect the provisions of this ordinance.



The sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purchase or leasing of said lots and the building of said houses, and the purchasing of the fire apparatus and horses, to be taken out of the levy of 1871.

Ibid, s. 5.  
Appropriation.

Resolution No. 388, July 8, 1873, is as follows :

The board of fire commissioners, in conjunction with the mayor and inspector of public buildings, are directed and authorized to secure a suitable lot of ground and erect an engine house thereon, and equip a full company with engine, hose carriage, hose, horses, &c., in south Baltimore, somewhere about West and Light streets, as they may determine best.

Res. No. 388,  
July 8, '73.  
Engine house in  
South Balti-  
more.

That they also be directed and authorized to secure a suitable lot at Canton, and erect thereon an engine house, and equip a full company with engine, hose carriage, hose, horses, &c.

At Canton.

That they be authorized and directed to secure a suitable lot in the north-western section of the city, near the junction of Fremont and Chatsworth streets, and erect thereon an engine house, and equip a full company with engine, hose carriage, hose, horses, &c.; and that the sum of sixty thousand dollars, or so much thereof as may be necessary, is appropriated to carry out the above resolutions, to be provided for in the levy of 1874; and that the work be given out to the most responsible bidders, in such manner as the proper authorities of the city may adjudge.

In north-west-  
ern section.

Appropriation.

Ordinance No. 35, March 24, 1871, entitled An ordinance for the relief of the members of the fire department of the city of Baltimore who may be disabled while in the discharge of their duties, and to provide for their families in case of death occurring in the service, enacts and ordains the following :

Any member of the fire department of the city of Baltimore, receiving injury or becoming disabled, while in the dis-

No. 35, Mar. 24,  
'71.

How long mem-  
ber of Fire De-  
partment in-  
jured or dis-  
abled in dis-  
charge of duty  
to receive usual  
salary.

charge 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.

Ibid, s. 2.  
What sum  
Commissioners  
of Fire Depart-  
ment in case of  
loss of life to  
pay to widow,  
&c.

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 should leave neither wife or children, father or mother, surviving him, then said commissioners 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 ex-  
penses.

Ordinance No. 67, October 12 1869, enacts and ordains the following :

No. 67, Oct. 12,  
'69.  
Obstructing  
Fire Plugs.

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.

Penalty.

#### POLICE AND FIRE ALARM TELEGRAPH.

Ordinance No. 29, April 3, 1872, enacts and ordains the following: (See sections 24, &c., p. 190, &c., City Code.)

No. 29, Apl. 3,  
'72.  
Persons in  
charge of bat-  
teries of Police  
and Fire Alarm  
Telegraph.

There shall be appointed annually, as other city officers are appointed, one competent person to take charge of the batteries connected with the police and fire alarm telegraph of the city, and also act as an assistant lineman under the direction of the superintendent of the fire alarm telegraph, and

who shall receive for his services the sum of nine hundred dollars per annum.

Ordinance No. 104, June 19, 1871, amends section 28, p. 192, City Code, as follows:

28. The salary of the superintendent of the police and fire alarm telegraph shall be fifteen hundred dollars per annum; the salary of each of the operators and linemen twelve hundred dollars per annum, payable monthly.

No. 104, June 19, '71.  
Salaries of superintendent, operators and linemen.

#### TELEGRAPHS.

Ordinance No. 35, April 14th, 1870, enacts and ordains the following in lieu of Ordinance No. 9, s. 1, January 24, 1870:

The National Telegraph Company is hereby authorized and empowered to erect and maintain the necessary telegraph poles and wires for the use of its line, through the following streets in the city of Baltimore, that is to say: Along Saratoga street to Charles street; along Charles street to Barnet street; along Barnet and Clay streets to Eutaw street, thence to Lexington street; along Lexington street to Pine street; along Pine street to Vine street; along Vine street to Poppleton street, and thence along Poppleton street to the Mount Clare Depot of the Baltimore and Ohio Railroad Company; also from the corner of Saratoga and Gay streets to Front street; along Front street to French street; along French street to Britton street; along Britton street to the Harford road; provided, however, that said poles be erected under the supervision of the city commissioner; that said poles be straight, dressed, and painted, and erected in a substantial manner; that the pavements shall, in all cases be put in as good a condition by said company as before the erection of said poles; provided further, that said poles may be used by the mayor and city council of Baltimore for the police and fire alarm telegraph free of expense, and that said telegraph company shall send

No. 35, Apl. 14, '70.  
Authority to the National Telegraph Company to erect telegraph poles in streets.

Proviso.  
Poles.

To be used by police and fire alarm.

and receive all messages for the mayor and city council of Baltimore, and its servants and agents in its behalf, free of charge.

Ordinance No. 9, sec. 2, Jan. 24th, 1870, enacts and ordains the following :

No. 9, Jan. 24, 1870.      The said company shall, within one week after a written  
 Notice.      notice to that effect from the city commissioner, change the  
                  position of any pole or poles deemed by him to be improperly  
                  located; and all poles erected by authority of this ordinance  
 Removal.      shall be taken down and removed upon three months' notice  
                  to that effect by the mayor.

Ordinance No. 86, July 8, 1870, enacts and ordains the following :

No. 86, s. 1, July 8, 1870.      The American Construction Telegraph Company is hereby  
 American tele-      authorized and empowered to construct and maintain and oper-  
 graph construc-      ate a local telegraph in the city of Baltimore, for the transmission  
 tion co.      of messages from one part of the city to the other, and for this  
 Powers.      purpose to place telegraph wires and apparatus on the poles of  
                  the police fire and alarm telegraph in said city, and also  
 As to police and      to erect and maintain telegraph poles in the following streets  
 fire alarm tele-      in said city, that is to say: From the office of said company,  
 graph.      at 48 north Charles street; along Charles street to Fayette  
 Telegraph poles      street; along Frederick street, from Fayette street to Second  
 in streets.      street; along Second street, from Frederick street to South  
                  street; along Light street, from Pratt to Camden street; along  
 Conditions.      Camden street, from Light to Charles street; provided, the  
 Proviso.      said company shall not place poles in front of any private resi-  
                  dence without first obtaining the consent of the owners and  
                  occupants of said residence.

Ibid, s. 2.      The telegraph poles authorized to be erected under the pre-  
 Telegraph poles      ceding section, shall be straight and dressed and painted, and  
                  shall be erected in a substantial manner under the supervision  
                  of the city commissioner, and the pavements of the city on  
                  which said poles shall be erected, shall, in all cases, be put by  
                  said company, in as good condition as they were in before the  
                  erection of the said poles.

The wires and apparatus of said company shall be attached to the poles of the police and fire alarm telegraph, in such manner as not to interfere in any respect with the wires or apparatus of the said police and fire alarm telegraph, and shall be so attached to said poles under the supervision of the superintendent of said police and fire alarm telegraph, and said company shall keep all poles to which its wires may be attached in good repair, and the wires so permitted to be attached to the poles of the fire alarm and police telegraph shall be removed after sixty days' notice from the mayor.

*Ibid, s. 3.*  
Wires and apparatus.

Notice.

The privileges by this ordinance granted to the said American Telegraph Construction Company, are granted on condition that the mayor and city council of Baltimore may, at any time, free of charge, attach the wires and apparatus of the police and fire alarm telegraph to the poles which may be erected by said company, and that said company shall, at all times, send and receive free of charge all messages which any of the agents or servants of said mayor and city council of Baltimore may desire to send over the telegraph operated by said company in said city.

*Ibid, s. 4.*  
Privilege and conditions.

Messages from city officers free of charge.

Ordinance No. 61, April 25th, 1871, enacts and ordains the following:

The Gold and Stock Printing Telegraph Company is hereby authorized and empowered to construct, maintain, and operate a local telegraph in the city of Baltimore, for the transmission of messages from one part of the city to the other, and for this purpose to place telegraph wires and apparatus on the poles of the police and fire alarm telegraph in said city, and also to erect and maintain poles in the following streets in said city, viz: Charles, Fayette, Frederick, Second, South, Light, Lombard, Pratt, Camden, Eutaw, Paca, Aliceanna, Thames, Cambridge, Queen, Essex, Lancaster, Hudson, Binney, Chesapeake, Harris, Ellicott and Toone streets; and also in Fort avenue, Canton avenue, Eastern avenue, Pennsylvania avenue, Belair avenue, Harford avenue, Wilkens avenue and

No. 61, Apl. 25, 1871.  
Gold and stock printing telegraph company.  
Power.

As to police and fire alarm. Telegraph. Telegraph poles in streets.

Proviso.

Frederick avenue and in Broadway, provided said company shall not place poles in front of, or on the pavement of any private residence, without first obtaining the consent of the owners and occupants of said residences.\* The telegraph poles authorized to be erected under the preceding section shall be straight and dressed, and shall be erected in a substantial manner under the supervision of the city commissioner, and the pavements of the city on which said poles shall be erected, shall in all cases be put by said company in as good condition as they were before the erection of said poles.

Ibid, s. 2.  
Telegraph poles

Ibid, sec. 3.

The wires and apparatus of said company shall be attached to the poles of the police and fire alarm telegraph, in such manner as not to interfere in any respect with the wires or apparatus of the said police and fire alarm telegraph, and shall be attached to said poles under the supervision of the superintendent of the police and fire alarm telegraph; but said company shall keep all poles to which its wires may be attached in good repair, and the wires so permitted to be attached to the poles of the police and fire alarm telegraph, shall be removed within sixty days, after notice shall have been given by the mayor of said city of Baltimore to said company to remove the wires so attached.

Wire and apparatus.

Notice.

Ibid, sec. 4.  
Privileges and conditions.

The privileges by this ordinance granted to said Gold and Stock Printing Telegraph Company are so granted, on condition, that the mayor and city council of Baltimore, may at

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\* This ordinance recites that by ordinance passed at session, 1870, the American Telegraph Construction Company was authorized and empowered to construct, maintain and operate a local telegraphic line, for the purpose of establishing telegraphic communication between various points in the city of Baltimore, and for this purpose to place telegraph wires and apparatus on the poles of the police and fire alarm telegraph, and to erect and maintain telegraph poles in various streets in said city of Baltimore, and the Gold and Stock Printing Telegraph Company has purchased the wires, poles, apparatus and effects of said American Telegraph Construction Company, and is desirous of carrying out the purposes and objects proposed by the latter company, and in order thereto asks the same privileges and authority as given to the said American Telegraph Company.

any time, free of charge, attach the wires and apparatus of the police and fire alarm telegraph to the poles which may be erected by said company, and that said company shall, at all times, send and receive, free of charge, all messages which any of the agents or servants of the said mayor and city council of Baltimore may desire to send over the telegraph operated by said company in said city.

By resolution No. 16, January 2, 1872 :

Permission is granted to the Pacific and Atlantic Telegraph Company to attach wires to the fire alarm telegraph poles from the corner of Fayette and Calvert streets, along Fayette to Charles, along Charles to Baltimore, and along Baltimore to Green streets.

Res. No. 16, Jan. 2, '72.

Pacific and Atlantic telegraph company.

#### PREVENTION OF FIRES.

Ordinance approved April 25, 1874, amends and re-enacts sec. 38, p. 195, City Code, to read as follows :

38. 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.

Ord., April 25, '74.

Hay. In what buildings hay and straw shall be kept.

Penalty.

## ARTICLE XXII.

## HARBOR, DOCKS AND WHARVES.

## S T A T U T E S .

## DOCKS.

17. Obstructing passage in Smith's dock or a private wharf: penalty.

19. Vacant place: penalty.

20. When vessels obstructing passage to make room: penalty.

## O R D I N A N C E S .

## WHARVES.

Piling of fire or cord wood on Light street, between Pratt and Lee: penalty.

## PORT WARDEN.

Anchorage buoy: where vessels to anchor: penalty.

## THE PATAPSCO RIVER IMPROVEMENT BOARD.

Commissioners of the Board.

Powers of Board: ship channel.

Engineer, &c.

Payment for work and services.

Appropriations: authority to borrow temporarily.

## PORT WARDEN'S LINE.

Regulations for extending wharves and piers into harbor, or change of Port Warden's lines: a definite statement of proposed change to be filed.

Port warden's line on north side of

Beason street, extended: Proviso three docks to be made.

Line extended in the cove at Canton: proviso: Abbott Iron Co. and others.

Line extended at Locust Point: boundaries.

Line extended at Spring Gardens: boundaries: proviso.

Dock extended along Webster street.

Extension of piers at Chase's wharf: proviso: removal: notice.

Piers at Abraham's dock: proviso: plat: removal.

Pier of Ramsey's wharf: proviso: plat: removal.

Pier at Gibson's wharf: proviso: plat: removal.

Piers at property of Baker Bros. & Co.: proviso: removal.

Calvert Sugar Refinery's property: boundaries: how improvement to be built: removal: proviso.



## STATUTES.

## DOCKS.

The act of 1872, ch. 408, repeals the act of 1870, ch. 332, which had repealed and re-enacted the act of 1866, ch. 35, being secs. 17, 19 and 20, pp. 213, 214 City Code, and substitutes the following therefor :

17. If any vessel shall be lying in Smith's dock, or in any <sup>1872, c. 408.</sup> other private dock in said city, or the entrance thereof, so as <sup>Obstructing pas- sage in Smith's dock or a private dock.</sup> 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, unless when loading or unloading, shall forfeit at the rate of <sup>Penalty.</sup> five dollars an hour during the continuance of such obstruction, to be recovered by the master or owner of the passing vessel aforesaid.

19. No vessel shall enter Smith's dock, or any other private <sup>1872, c. 408.</sup> dock in said city, without first ascertaining whether there is a vacant place at a wharf therein where she can lie, under a <sup>Vacant place.</sup> penalty of five dollars, to be paid to the mayor and city council of Baltimore. <sup>Penalty.</sup>

20. All vessels which shall be found obstructing the passage <sup>1872, c. 408.</sup> of said docks shall, unless *bona fide* loading or unloading, <sup>When vessels obstructing pas- sage to make room.</sup> re-move 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 <sup>Penalty.</sup>

- 1872, c. 408. 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.

## ORDINANCES.

## WHARVES.

Ordinance No. 7, Feb. 20, 1869, enacts and ordains the following:

- No. 7, Feb. 20, 69. From and after the time when Light street shall have been widened as provided in Ordinance No. 7, February 20, 1869, no fire or cord wood shall be piled or corded on said street between Pratt and Lee streets, under a penalty of twenty dollars for each and every day, or part of a day, during which said wood shall be piled or corded on said street, to be recovered as other fines and penalties are recovered.\*
- Piling of fire or cord wood on Light street between Pratt and Lee streets.  
Penalty.

## PORT WARDEN.

Resolution No. 96, April 25, 1871, is as follows:

Res., No. 96,  
April 25, '71.

Anchorage  
buoy.

Where vessels  
to anchor.

Penalty.

The port warden is hereby authorized and directed to place an anchorage buoy in the northeast part of the harbor of Baltimore, on a line from the foot of Fell street to the Lazaretto light-house, and all vessels are compelled to anchor to the northeast of said buoy, 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 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.†

\* See this Ordinance, No. 7, Feb. 20, 1869, and the decisions in 34 Md. R. 568 and 37 Md. R. 199 in *note*, under *Streets post*.

† By Ordinance No. 39, April 16, 1870, the port warden was directed to cause to be deepened a channel of two hundred feet in width, as laid out on the

## THE PATAPSCO RIVER IMPROVEMENT BOARD.

Ordinance No. 66, May 30th, 1872, enacts and ordains the following :

Joshua Vansant, John W. Garrett and J. Hall Pleasants, No. 66, s. 1,  
May 30, '72. are hereby appointed commissioners to serve without pay, who shall constitute a board to be styled "the Patapsco river improvement board," with power and authority to contract on behalf of the mayor and city council of Baltimore, for the work of widening and deepening the ship channel leading into the Patapsco river, and from its mouth to Fort McHenry.

The said board shall have and exercise the power hereby Ibid, sec. 2. conferred upon them, independently of, and separately from, "the board of commissioners for deepening and improving the Powers of  
Board.  
Ship channel. channel of the Chesapeake bay and the Patapsco river below Fort McHenry," created by ordinance No. 53, August 9th, 1862, (sections 80-83, pp. 245-247, City Code,) it being the object and intent of this ordinance to provide new and additional means for the speedier and more effectual prosecution of the work of widening and deepening the ship channel, without interference with or interruption of the existing board in the discharge of its regular and appropriate duties.

The said board shall have power to employ an engineer, and Ibid, sec. 3. any other officers and assistants whose services may, in its Engineers, &c. judgment, be necessary for the proper prosecution of the work.

The said board is hereby authorized to issue its orders upon Ibid, s. 5.

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hydrography of Spring Gardens, drawn under the direction of Captain G. W. Russell, port warden, &c., by Thomas L. Rosser, civil engineer, &c., approved June 23, 1868, by Geo. W. Russell, port warden, so as to admit a draught of at least ten feet water at common tides; and to keep employed in the work of deepening the channel aforesaid, two of the steam dredges belonging to the city.

Resolutions No. 97, March 30, 1870, and No. 130, April 22, 1870, provided for the construction of a crib at the marine hospital.

By Resolution No. 129, May 19, 1871, the port warden was authorized and directed to have fenders or guards placed on the margin or edges of all city wharves, so as to protect drays, carts and wagons from going into the docks.

Payments for  
work and ser-  
vices.

the city comptroller from time to time, for such sums as may become due for work done or services rendered, and the comptroller shall, upon presentation of said orders, issue his warrant upon the register of the city for the amount thereof.

Ibid, sec. 4.

Appropriation.

Authority to  
borrow tempor-  
arily.

For the purposes of this ordinance the sum of two hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, to be taken out of the next annual levy, and in order to meet any deficiency meantime in the city treasury, the mayor and register of the city are hereby authorized to borrow temporarily upon the credit of the city by promissory notes, payable in twelve months, such sums, not exceeding in the aggregate two hundred thousand dollars, as may, from time to time, be required for the payment of liabilities contracted under authority of this ordinance.\*

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\*This ordinance, entitled An ordinance to provide for the speedy improvement of the ship channel leading into the Patapsco river, and from its mouth to Fort McHenry, recites that the improvement of the navigation of the Patapsco river, and the entrance thereto from the Chesapeake bay, so as to admit of the passage of ships of the largest class to and from Baltimore, is a work of urgent and indispensable necessity admitting of no delay without serious loss to the commerce of the city; and that the performance of this work by the Federal Government has heretofore been slow, and the appropriations by Congress, though useful, utterly inadequate to its effective prosecution on a scale commensurate with the commercial needs of our port.

By the act of 1872, ch. 246, entitled An act to authorize the mayor and city council of Baltimore to widen and deepen the ship channel leading into the Patapsco river, and between the mouth of said river and said city, and to appropriate a sum of money therefor, the mayor and city council of Baltimore were granted full power and authority to widen and deepen the ship channel leading into the Patapsco river, and between the mouth of said river and the said city of Baltimore, and to any point within the limits thereof, and to keep the said channel in proper condition in respect to width and depth, and to pass any ordinance and ordinances providing therefor.

That for the purpose aforesaid, the mayor and city council were authorized to appropriate a sum of money not exceeding in the aggregate five hundred thousand dollars, to be taken out of the annual levies upon the taxable property of the city at such times and in such sums as the mayor and city council of Baltimore might deem necessary and expedient; *provided*, that said mayor and city council shall not, for the said purpose in any one year, appropriate or levy for a sum greater than two hundred thousand dollars.

Ordinance No. 13, March 25th, 1873, entitled An ordinance making a further appropriation for the ship channel leading into the Patapsco river, and from its mouth to Fort McHenry, enacts and ordains the following :

For the purpose of the further prosecution of the work upon the ship channel, under the "Patapsco river improvement board," created by ordinance No. 66, approved May 30th, 1872, the sum of two hundred thousand dollars, or so much thereof as may be necessary, to be taken out of the annual levy for 1874, or to be otherwise provided for, is hereby appropriated, subject to the orders of the said board upon the city comptroller, and to his warrants upon the register of the city, as heretofore provided in said ordinance; and in order to meet any deficiency meantime in the city treasury, the mayor and register of the city are hereby authorized to borrow temporarily, upon the credit of the city, by promissary notes, payable in twelve months, such sums not exceeding in the aggregate two hundred thousand dollars, as may, from time to time, be required for the payment of liabilities contracted by or under authority of the Patapsco river improvement board.

No. 13, March 25, '73.

Further appropriation.

Authority to borrow temporarily.

#### PORT WARDEN'S LINES.

Ordinance No. 77, May 16, 1871, entitled An ordinance to provide for proper notice of changes of the Port Warden's line and applications for the extension of piers, &c, enacts and ordains the following :

No ordinance or resolution granting the privilege of the extension of wharves and piers into the harbor, or the changing of the port warden's line as now established, shall be considered or passed at the instance of petitioners to the mayor

No. 77, May 16, '71.

Regulations for wharves, extension and piers, &c.

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By the act of 1870, ch. 405, it is made unlawful for any one to rake, drag or dredge, for oysters within five hundred yards of either edge of the new channel, at the mouth of Patapsco river, known as the "Craighill Channel," extending from the Seven Foot Knoll to the mouth of Magothy river; the penalty being forfeiture of boat or vessel, and fine of five to twenty-five dollars.

Notice to be given.

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 change which is proposed to be given or made in the premises.

A definite statement of proposed change to be made.

*NOTE.—Pier at No. 3 Tobacco Warehouse wharf:*

The act of 1870, ch. 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 country 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 lay 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 boats 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.

Ordinance No. 72, October 21, 1869, amends section 117, p. 259, City Code, as follows :

The port warden's line on the north side of Beason street <sup>No. 72, Oct. 21, '69.</sup> is extended in a straight and parallel line until it intersect a Port Warden's line extended on north side Beason street. line formed by the continuation of the southeasternmost side of Webster street, and thence northwestwardly until it intersect the angle of the said port warden's line as now established, and which angle is at a point about equi-distant between Hughes street and Montgomery street; provided, however, that three docks, each of a width of sixty-six feet, shall be made, one of which shall open from the line of the port warden's line, as formerly established, to a point on Fifth lane, extending outwards to the line as now to be established, one half of the space required for which shall be taken from the land of Henry William Ellicott, known as the Maryland Chemical Works, and the other from the land adjoining, supposed to belong to Mrs. McTavish, and one other of said docks to be in like manner laid out from the old port warden's line, on the northernmost line of the property of the said Henry William Ellicott; one half of the space required for which shall be taken from the land of said Ellicott and the other half from the land of William Key Howard, adjoining said Ellicott's, and the other to be located in like manner between the present and new port warden's line on Webster street; and the city commissioner is hereby directed to note this alteration on the plat of the city. <sup>Proviso. Three docks to be made.</sup>

Ordinance No. 83, May 26, 1871, enacts and ordains the following :

The port warden's line, between the centre of Burke street <sup>No. 83, May 26, '71.</sup> and the centre of Cannon street is hereby extended to conform to the following metes and bounds: beginning for the same at the east end of the port warden's line, at the end of Burke street, as established and approved April 1, 1865, [sec. 140, p. 267, City Code] and running thence southeasterly parallel to Boston street, and distant three hundred feet therefrom <sup>Line extended in the cove at Canton.</sup>

Proviso.

Abbott Iron  
Company and  
others.

measured at right angles thereto, to intersect a line drawn southwesterly at right angles to the line of Boston street, from a point where the centre line of Boston and Cannon streets intersect, thence northeasterly binding on said southwesterly line reversely, and also on the port warden's line as established and approved April 16, 1859, [sec. 136, p. 266, City Code] one hundred feet to the port warden's line as there established; provided, that when the port warden's line is so extended, the Abbott Iron Company's works, and all other owners of property binding on the said port warden's line, shall at their own expense at all times maintain a depth of water within an area of twenty-five feet outside of the said port warden's line, equal to the present depth at the point twenty-five feet beyond the port warden's line as is provided for by virtue of this ordinance.

Ordinance No. 86, July 2, 1872, enacts and ordains the following :

No. 86, July 2,  
'72.

Line extended  
at Locust Point.  
Boundaries.

Boundaries.

The present port warden's line at Locust Point, as described in 142d section of the 22d article of the City Code [p. 268] is hereby altered so that the second line of the description in said section contained shall terminate at a point where the southeasterly side of Way's alley prolonged would intersect the present port warden's line at a distance of about five hundred and fifty feet from the southwesterly side of Marriott avenue, and thence running from said intersection easterly but parallel to Marriott avenue, about nine hundred and fifty feet, to the intersection of this course with the line of the enclosure of Fort McHenry, prolonged, and thence with said line so prolonged southwesterly to the present port warden's line.

Ordinance No. 87, July 5, 1872, enacts and ordains the following :

No. 87, July 5,  
'72.

Authorized to  
be extended at  
Spring Gardens.

Charles Ranstead is hereby authorized and permitted to extend the port warden's line at his property situated and lying



on the Spring Gardens, and to erect a wharf thereon ; the said wharf to be completed within two years from the approval of this ordinance. Ibid, s. 2.  
Boundaries.

The extension, as provided for in the first section of this act, shall commence from a point on the southeast side of Russell street, at the distance of seventeen feet southwesterly from the corner formed by the intersection of the southeast side of Russell street and the southwest side of Bush street, and running thence southeasterly parallel with Bush street, until it intersects a line drawn parallel with the northwest side of Eutaw street and distant one hundred and fifty feet therefrom northwesterly ; thence northeasterly on said line parallel with Eutaw street until it intersects the northeast side of Bayard street, if extended ; provided the mayor and city council shall have the right to extend the streets through the said property as if they were laid down on the city plat, without any expense to the city of Baltimore. Proviso.  
Streets.

In case Charles Ranstead shall fail to comply with the requirements of the first and second sections of this ordinance, then the same shall be void and of no effect. Ibid, s. 3.  
Proviso.

Ordinance No. 56, July 24, 1869, enacts and ordains the following :

The privilege is given to Edward Duffy, when the dock at the foot of Webster street is re-opened, to extend the said dock, at his own expense, along Webster street and through the property there situate, heretofore sold to said Duffy by the mayor and city council of Baltimore, as far as the northernmost line of Clement street. No. 56, July 24,  
Dock extended  
along Webster  
street.

Resolution No. 28, December 24, 1869, is as follows :

Permission is hereby granted to Kirkland, Chase & Co. to extend two piers at Chase's wharf, that is to say, to extend the centre of the pier owned by them twenty-five feet, and the adjoining pier southeast of the centre pier forty feet, said extension. Res., No. 28,  
Dec. 24 '69,  
Extension of  
piers at Chase's  
wharf.

Proviso.

sion to be made under the direction of the port warden, and to be done at the sole expense of said Messrs. Kirkland, Chase & Co.; provided, however, that if at any time hereafter it may be found that the said pier or piers should be so used as that the vessels lying by the sides thereof, so as by their hulls or spars extending beyond the outer line of said piers when completed, or when from any cause hereafter arising it is found that the said so extended pier or piers is disadvantageous to the convenient movement of vessels into and out of the harbor, then the mayor and city council may order the said extensions to be removed at the expense of the owner or owners of said wharf, under a notice of six months given to them to that effect. And in case of refusal or neglect upon their part to remove the same as ordered, then the same may be removed by the said mayor and city council at the expense of said owners.

Removal.

Notice.

Resolution No. 81, March 22, 1870, is as follows:

Res., No. 81,  
Mar. 22, '70.

Extension of  
piers at Abra-  
ham's dock.

Proviso.

Plat.

Removal.

Permission is hereby granted to J. J. Abrahams to extend the piers on each side of his dock thirty-five feet, said extension to be made under the supervision of the port warden, and to be done at the sole expense of said J. J. Abrahams; provided, that before said extension is commenced, a plat of the property shall be made by the said J. J. Abrahams at his own expense as it now is, and as it will be after the extension, and placed in the office of the city comptroller; and provided also, that said extension of piers shall be removed whenever in the judgment of the mayor and city council it is deemed necessary, by giving six months notice.

Resolution No. 82, March 22, 1870, is as follows:

Res., No. 82,  
Mar. 22, '70.

Extension of  
pier at Gibson's  
wharf.

Permission is hereby granted to James G. Ramsey to extend the pier of Ramsey's wharf thirty-five feet, said extension to be made under the supervision of the port warden, and to be done at the sole expense of the said James G. Ramsey; pro-

vided that before said extension is commenced a plat of the property as it now is, and as it will be after the extension, shall be made by the said James G. Ramsey, and placed in the office of the city comptroller; and provided also, that the said extension of pier shall be removed whenever in the judgment of the mayor and city council it is deemed necessary by giving six months notice.

Resolution No. 83, March 23, 1870, is as follows:

Permission is hereby granted to the owners of Gibson wharf, or the agents thereof, to extend the pier of said wharf at or near the foot of Fell street, thirty-five feet; provided that the same shall be removed upon six months' notice from the mayor; and provided further, that the owners of said wharf shall have made a plat of the property as it now is, and as will be when extended, the same to be placed in the office of the city comptroller, before the said extension is commenced.

Res., No. 83,  
Mar. 23, '70.  
Extension of  
pier at Gibson's  
wharf.  
Proviso.  
Removal.

Plat.

Resolution No. 295, Sept. 30, 1871, is as follows:

Permission is hereby granted to Messrs. Baker Bros. and Company to extend two platform piers into the harbor in front of their property, between Henry street and Fardy's railway, the first of said platform piers to commence at the northeast corner of their property, and to extend with a width of thirty feet, not more than seventy-five feet into the harbor: the second of said piers to commence at the northwest corner of their property, and to extend with a width of thirty feet, not more than seventy feet into the harbor: provided said Baker Bros. and Company or the owners thereof shall at all times maintain a depth of twenty-two feet of water within an area of twenty-five feet of said piers, and it is also provided, that said piers shall be removed at the expense of the owners whenever in the judgment of the mayor and city council the same shall be deemed necessary upon giving six months' notice.

Res., No. 295,  
Sept. 30, '71.  
Extension of  
piers by Baker  
Bros. & Co.

Proviso.

Removal.

Ordinance approved April 6, 1874, enacts and ordains the following :

Ord., April 6,  
74.  
Calvert Sugar  
Refinery prop-  
erty.

Boundaries.

The owners of the Calvert sugar refinery are authorized and permitted to fill up a jog or indentation on the east side of their property according to the lines and drawing as made by the city surveyor and port warden, all of which are given in the drawing below: Beginning for the same on the southwest side of Block street, at the distance of thirty-five feet and one inch easterly from the northeast corner of the five-story brick building belonging to the Calvert sugar refinery, being the outside of the wharf-log there situate, and running thence southerly at an angle of ninety-two and a half degrees with Block street ninety-two feet to a point distant thirty-nine feet easterly from the east wall of the five-story brick refinery building, and thence with a deflection of eleven degrees and ten minutes to the right, two hundred and five feet more or less, to a point on the outside of a spring post, distant three feet northeasterly from the southeast corner of the wharf, as at present built and used by the said Calvert sugar refinery, thence southwesterly three feet to the corner of said wharf; the said improvement to be built on piles so as to allow a free circulation of water under the said pier, the digging outside of the said improvement to be done at the owners' expense, and to be removed after sixty days' notice from the mayor; and provided, if the same is ever required for public use it shall be restored to the city without any claim for any damages whatever.

How improve-  
ments to be  
built.

Removal.

Ordinance June 9, 1874, enacts and ordains the following :

Ord. June 9, '74.  
Permanent Port  
Warden's line.

Proviso.

Powers of com-  
mission.  
Surveyor.

A commission to be composed of three competent discreet citizens shall be appointed by the mayor, whose services are to be given without pay, and who shall be authorized to define and establish a permanent Port Warden's line for the harbor of Baltimore; provided, the same be approved by the council and mayor. The said commission shall have authority to employ the services of a surveyor, and at such compensation as shall in their judgment be deemed proper, and the same, with any other necessary expenses that may be incurred in the efficient discharge of the duties of the commission, shall be paid by the city register.

## ARTICLE XXIII.

## HEALTH.

## S T A T U T E S .

## PHARMACISTS.

Meaning of term, pharmacist: Pharmacists to comply with this act: exception: penalty: suit in name of Commissioners of Pharmacy and Practical Chemistry.

Commissioners: duties: certificate.

Title of board: term of office: oath: vacancies.

Pharmacists to be registered.

Who deemed registered pharmacists.

Who deemed competent and entitled to be registered.

Fees for certificate and registration.

Business of pharmacist after death.

## SMALL POX.

9. State Vaccine Agency established.

10. Appointment of Agent: duties: salary: proviso.

13. Penalty for wilful use of defective virus.

14. Duty of parents and guardians: penalty.

17. Vaccine Agent to give bond.

19 True vaccine matter: proviso: report to Governor.

Present State Agent.

## O R D I N A N C E S .

## HEALTH.

4. Additional duties of assistant commissioner as to superintendents of streets: when to act in place of commissioner.

8. Salaries of commissioner and assistant.

## PRIVIES.

33. Removing contents of privy, &c., without license: penalty: licensees subject to orders of board of health: statistics: places: when licenses revoked.

36. When privies to be cleaned: publication by board of health: inspection by police: nuisance: penalty.

87. Commissioner of Health to lease four lots as places of deposit for garbage, manure, &c.: notice from assistant commissioner: how garbage carts to be constructed: payments by register: proviso.

When sinks and privies may be cleaned in day time: proviso: permit from board of health: bond.

## SLAUGHTER AND HIDE HOUSES.

No slaughter house or hide house to be erected within the city limits.

## QUARANTINE AND MARINE HOSPITAL.

Mayor and board of health may exempt steam vessels: exemption to be certified to physician at hospital: proviso.

Further exemptions: Salary of physician.

## STREETS.

133. Compensation of superintendents, their laborers, &c.: substitute: pay of horse and cart and driver: pay of garbage carts.

Unpaved private alleys: when commissioner of health to give notice to grade and pave: when commissioner of health to grade and pave: costs assessed to be a lien.

Digging up paved streets by Gas Companies, Railroad Companies, &c.

Dirt to be removed within two weeks: notice from commissioner of health.

## STATUTES.

## PHARMACISTS.

The act of 1872, ch. 414, entitled an act to prevent incompetent persons from conducting business as pharmacists, or vending at retail drugs, medicines or chemicals for medicinal use in the city of Baltimore, and repealing the act entitled an act to prevent incompetent persons from conducting the business of druggist or apothecary in the city of Baltimore, passed January session, 1870, ch. 104, enacts the following, and repeals the act of 1870, ch. 104:\*

1872, c. 414.  
Meaning of  
term pharma-  
cists.

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.

Ibid, sec. 2.  
Pharmacists to  
comply with  
this act.

Any person who, after the passage of this act, does vend or retail drugs, medicines or chemicals for medicinal use, or compound and dispense physicians' prescriptions in the city of Baltimore, without complying with the requirements of this act, unless he shall be employed under the circumstances contemplated in section nine, 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 drugs, medicines or chemicals for medicinal use, or compound and dispense physicians' prescriptions in the city of Baltimore, without complying with all the requirements 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, in the same manner as small debts now are; one-half of said penalty or fine to go to and be the property of the informer, the balance to be paid to the treasurer of the Maryland college of pharmacy, for the use of said college.

Exception.

Penalty.

Suit in name of  
Commissioners  
of Pharmacy  
and Practical  
Chemistry.

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\* This act recites that: many unskilled and unqualified persons are engaged in vending at retail, mixing and compounding drugs, medicines and chemicals, to the great danger of the health and lives of the people of the city of Baltimore, and that it is expedient that legislation be had to remedy said evil.

The Maryland college of pharmacy shall nominate biennially, 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, medicines 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.

Ibid, sec. 3.

Commissioners.  
Duties.

Certificate.

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 amongst the persons nominated by the Maryland college of pharmacy, under section three of this act.

Ibid, sec. 4.  
Title of board.

Time of office.

Oath.

Vacancies.

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,

Ibid, sec. 5.  
Pharmacists to  
be registered.

as managing owner of a store, or as managing assistant of a store, shall register as a pharmacist, under the provisions of this act.

*Ibid*, sec. 6.  
Who deemed  
registered phar-  
macists.

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*, sec. 7.  
Who deemed  
competent and  
entitled to be  
registered.

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.

Fees for cer-  
tificate and re-  
gistration.

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*, sec. 9.  
Business of  
pharmacist  
after his death.

In the case of the death of a registered pharmacist, doing business as such in the city of Baltimore, the business of said pharmacist may be continued by his heirs, executors or administrators, for the benefit of said heirs, for a period of six months, after which time, if the business is continued by said heirs, executors or administrators, they must employ a registered pharmacist to conduct it.



## SMALL-POX.

The act of 1872, ch. 257, repeals sections 1, 2, 5, 6, 9 and 11 of art. — P. G. L., entitled Small-Pox, being secs. 9, 10, 13, 14, 17 and 19, pp. 278, 279 and 280, City Code, and enacts the following in lieu thereof:\*

9. A State vaccine agency is hereby established; said agency <sup>1872, c. 257, s. 1</sup> to be located in the city of Baltimore, in which place shall be <sup>State vaccine agency established.</sup> 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.

10. The Governor, by and with the advice and consent of the Senate, shall, once in six years, appoint as State vaccine agent, one physician of good character and standing, whose 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 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 quarterly instalments, as other State officers are now paid; provided that it shall be competent for the Governor, at any <sup>Ibid, sec. 2. Appointment of State Vaccine Agent.</sup> <sup>Duties.</sup> <sup>Salary.</sup> <sup>Proviso.</sup>

\* By resolution No. 98, Feb. 12, 1873, the health commissioner is requested not to permit any vehicles used for the conveyance of small-pox patients to be located in the city limits when not in actual use.

By resolution No. 68, Jan. 27, 1873, the board of health was authorized to appoint for six months 70 vaccine physicians: In *Cunningham v. Mayor, &c.*, Feb. '73, Pinkney, A. J. refused to grant an injunction enjoining the physicians from vaccinating the complainant under above resolution.

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.

Ibid, sec. 5.  
Penalty for wilful use of defective virus.

13. 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.

Ibid, sec. 6.  
Dnty of parents and guardians.

14. 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 vaccinated 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.

Vaccine agent to give bond.

17. 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.

True vaccine virus.

19. 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

Proviso.

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. Report to Governor.

The present State agent shall remain in office during the term for which he was appointed, and nothing in this act shall be so construed as to authorize his removal so long as he shall comply with the provisions of this act, and of the sections of the aforesaid article of the Code of public general laws [pp. 278, 280, City Code] not hereby repealed. Ibid, sec. 2. Present State Agent.

A State Board of Health is established by the act of 1874, ch. 200.

#### ORDINANCES.

##### HEALTH.

Ordinance No. 20, February 28th, 1872, amends this article by striking out sec. 4, p. 282, City Code, and inserting in lieu thereof the following:

4. It shall be the duty of the assistant commissioner of health, in addition to such other duties as are embraced in this article of the Code, 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 said 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; make a regular weekly examination of the weekly reports and pay rolls of the superintendents aforesaid, and audit such pay rolls; see that a true record is made of all reports and other matters relating to the health department, and in case of the sickness or absence of the commissioner of health, or when directed by the mayor, perform all the duties assigned by the health ordinance to the commissioner of Health. No. 20, Feb. 28, 1872. Additional duties of assistant commissioner as to superintendents of streets. When to act in place of commissioner.

Ordinance No. 102, November, 7, 1870, repeals and re-enacts sec. 8, p. 283, City Code, to read as follows :

No. 102, Nov. 7, 1870.  
Salaries of commissioner and assistants.

8. 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.

PRIVIES.

Ordinance No. 58, May 7, 1873, substitutes the following for sec. 33. p. 290, City Code :

No. 58, May 7, 1873.  
Removing contents of privy, &c., without license.

33. 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, (except as provided for in section thirty-seven) 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.

Licenseses subject to orders of Board of Health.

Statistics.

Places of deposit.

When licenses revoked.

Section 35, of ordinance No. 112, October 26, 1872, which had been substituted for section 35, of City Code, p. 290, is repealed by ordinance No. 73, June 19, 1873.

No. 112, October 26, 1872, repeals and re-enacts section 36, p. 291, City Code, to read as follows :

No. 112, Oct. 26, 1872.  
When privies to be cleaned.

36. 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 sections thirty-five and thirty-six of this ordinance 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.

Ordinance No. 114, October 25, 1872, repeals section 87, p. 305, City Code, and substitutes the following instead :

87. The commissioner of health, by and with the approval of the mayor, is hereby authorized and directed to lease four lots, one in the east, and one in the west, and one in the north, and one in the south, beyond the city limits ; and to properly fit up and prepare said lots for the use of the city as places for dumping garbage, street manure and night soil, the cost of so preparing and fitting up to be paid for out of the appropriation for cleaning the streets, and the annual rental of said lots shall also be paid out of the same appropriation.

No. 114, Oct. 25,  
1872.  
Commissioner  
of Health to  
lease four lots as  
places of de-  
posit for gar-  
bage, manure,  
&c.

It shall be the duty of all housekeepers and others who may have kitchen offal or coal or other ashes to be removed by the city carts, to preserve the vegetable or kitchen offal in a separate box or boxes, vessel or vessels, from the coal or other ashes, and to deliver or cause them to be delivered to the garbage man so separated ; 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 and every neglect or refusal ; and the assistant

Duty of house-  
keepers and  
others in regard  
to offal, coal or  
other ashes.

Notice from  
Assistant Com-  
missioner.  
Penalty.

How garbage  
carts to be con-  
structed.

Payments by  
Register.

Proviso.

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. And in view of the increased cost of hauling the garbage and street manure to the new dumping grounds in the country, the register is hereby authorized and directed to pay from time to time upon the order of the commissioner of health, from and after the commencement of the fiscal year, November 1st, 1872, such additional sums of money as may be necessary, the same to be charged to the appropriation for cleaning streets and removing garbage, provided that the additional amount be not more than an average of three thousand dollars per month.

NOTE.—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.

Ordinance No. 105, Nov. 1, 1873, enacts and ordains the following:

No. 105, Nov. 1,  
1873.  
When sinks  
& privy vaults  
may be cleaned  
in daytime.

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.

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 first section of this ordinance, 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. Ibid. s. 2. Permit from Board of Health Bond.

By resolution April 14, 1874, the emptying and cleaning of the sinks attached to the public schools, heretofore under the control of the board of commissioners of public schools, is transferred to the health department.

#### SLAUGHTER AND HIDE HOUSES.

Ordinance No. 43, April 7, 1871, amends sec. 70, p. 300, City Code, to read as follows:

70. 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 down, or removed out of the city limits. No. 43, April 7 1871. No slaughter house or hide house to be erected within city limits. Penalty.

#### QUARANTINE AND MARINE HOSPITAL.

Ordinance No. 75, June 3, 1870, enacts the following:

The mayor and board of health 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 physician 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 ordinance shall be so construed as to exempt the captain, pilot, or other persons 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 the one hundred and fifth section of the twenty-third article, City Code. No. 75, June 3, 1870. Mayor and Board of Health may exempt steam vessels. Exemption to be certified to physician at hospital. Proviso.

Ordinance approved, June 20, 1874, amends sec. 103, p. 340, City Code, as follows:

Ord. June 20, '74.  
Further exemp-  
tions.

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 sec. 103, art. 23, (p. 310,) City Code, unless in the judgment of the board of health compliance with said regulations shall be necessary to protect the health of the city.

Ordinance June 4, 1874, amends as to salary, sec. 110, p. 317, City Code, as follows:

Ord. June 4, '74.  
Salary of physi-  
cian.

110. The salary of the Marine Hospital physician shall be three thousand dollars per annum, payable monthly.

NOTE.—Decision by Brown, C. J., in City Court, Dec., 1873.

Frederick Myers vs. 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 importance. 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 commissioner of health and 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 disinfectants, 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 ordinances, 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 is specially provided for by the joint resolutions of the mayor and city council, approved on the 27th of January, 1873, [No. 68,] which require the bed, clothing and furniture of the room of a small-pox patient to be destroyed, and compensation to be made therefor. [See note p. 95, *ante*.]

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 destroy 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 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 vs. 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. 10, *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 health commissioner and the board of health can give no validity to them, because they are equally beyond the scope of the powers conferred on those officers. 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 strongly 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 decided inadequacy of disinfectants has 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 (page 314, City Code), "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 vs. Rockland*, 52 Maine 118.

I reverse the judgment in this case, and shall enter judgment for the mayor and city council of Baltimore, the appellants.

## STREETS.

Ordinance No. 25, March 25, 1872, and Ordinance No. 19, February 28, 1871, amend sec. 138, p. 325, City Code, so as to read as follows :

<p>No. 25, March 25, 1872. No. 19, Feb. 28, 1871. Compensation of Superintendents.  Their labors, &amp;c.  Substitute.  Pay.  Horse, cart and driver.  Pay of garbage carts.</p>	<p>138. 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, payable monthly; and the hands engaged under him shall receive each two dollars per day, payable weekly; and if any superintendent shall from any cause be unable to attend to his duties for a period longer 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 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 compensation for a horse and street cart and driver shall be four dollars per day, which shall be paid weekly to the parties furnishing the same, and the pay of the garbage carts shall be three dollars and fifty cents each per day, or pro rata for a portion of a day.</p>
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Ordinance No. 127, October 7, 1871, adds the following :

<p>No. 127, Oct. 7, 1871. Unpaved private alleys. When Commissioner of Health to give notice to grade and pave.  When Commissioner to grade and pave.  Cost assessed to be a lien.</p>	<p>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 grade and pave the said alley in the usual manner; and the cost of such grading and paving 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.*</p>
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\* See act of 1874, ch. 218, and ordinance of June 4, 1874, under Art. 43, Streets.

Ordinance No. 28, April 2, 1872, adds the following :

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.

No. 28, April 2, 1872.

Digging up streets by gas companies, railroad companies, &c.

To be removed within two weeks notice from Commissioner of Health

## ARTICLE XXIV.

### HOLIDAY AND WAR OF 1812.

#### ORDINANCE.

2. Annual appropriation : how to be expended.

#### ORDINANCE.

Ordinance No. 63, April 24, 1871, amends sec. 2, p. 327, City Code, to read as follows :

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

No. 63, April 24, 1871  
Annual appropriation to Association of the Defenders of Baltimore city.

How to be 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.

The act of 1874, ch. 37, adds the following to the act of 1862, ch. 70, (*note*, p. 327, City Code):

Whenever Christmas day, New Year's day, the fourth day of July, or the twenty-second day of February shall fall on Sunday, bills of exchange, promissory notes, bank checks and all other papers requiring protest, which may become due and payable on the Monday immediately following either of said days, shall be payable on the Saturday next preceding the same, and it shall not be necessary for the holders of such bills of exchange or promissory notes payable as aforesaid, to give notice of the dishonor thereof until the Tuesday next succeeding either of said days.

## ARTICLE XXV.

### HOSPITALS.

#### STATUTES.

Maryland Hospital: Johns Hopkins Hospital.

#### ORDINANCES.

When lawful to establish hospital for sick within limits of direct taxation: proviso: public notice to be given: penalty for violating foregoing section: notice from mayor or board of health.

What indigent sick, &c., to be taken or sent to hospitals of Washington University or University of Maryland: proviso.

Duties of professors of universities: lists of persons sent to hospitals: report to trustees of poor.

Disposition of the dead: when delivered to health commissioner.

Payment by register on warrant of president, board of trustees of poor.

When universities excluded from benefit of this ordinance.

MARYLAND AND BALTIMORE EYE AND EAR INSTITUTES.

What indigent persons suffering under eye and ear diseases to be sent or taken by order from health commissioner to above institutes: free of charge: six beds: proviso.

Duty of surgeons in charge of institutions: lists of persons sent: report to mayor.

Duty of board of health to visit institutions: failure to carry out the provisions of this ordinance: when mayor to suspend payment of money. Compensation to institutions.

## S T A T U T E S .

## MARYLAND HOSPITAL.

The act of 1870, ch. 208, entitled an act providing for the sale of the property of the president and visitors of the Maryland hospital in Baltimore city, and for the removal of said hospital to Spring Grove, in Baltimore county, and for the transfer of said Spring Grove property to the said president and visitors, enacts :

That the commissioners of the Maryland insane asylum at Spring Grove, in Baltimore county, are hereby authorized and directed to transfer by deed all the real estate and other property belonging to said trust, which may be in their possession, to the president and visitors of the Maryland hospital, to be held and used by the said president and visitors of the Maryland hospital for the uses and purposes of said president and visitors, under their present powers, obligations and organization.

That the said president and visitors of the Maryland hospital are hereby authorized to transfer their said hospital to the said Spring Grove property, and to sell all and every part of the property now held by them in Baltimore city, or to lease the same, or any part thereof, on ground rent, or to mortgage the same, or any part thereof, and with the proceeds thereof first to satisfy all debts and obligations which have been incurred for the construction of said asylum at Spring Grove, and with the residue of said proceeds, or so much thereof as may be necessary, to complete the said asylum.

The act of 1872, ch. 236, created a loan called the "The Maryland Hospital State Loan," to provide for the completion and furnishing of the buildings for the Maryland hospital at Spring Grove, in Baltimore county, and for removing thither patients from the buildings in the city of Baltimore.

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.

## JOHNS HOPKINS HOSPITAL.

The act of 1872, ch. 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 an hospital.

The act of 1874, ch. 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.

## O R D I N A N C E S .

Ordinance No. 5, February 21, 1873, enacts and ordains the following :

No. 5, Feb. 21,  
1873.

When lawful to  
establish hos-  
pital for sick  
within limits of  
direct taxation.

Proviso.

Public notice  
to be given.

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. \*

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\*This ordinance recites, that :

The establishing of hospitals for the sick in the densely populated portions of the city of Baltimore is of doubtful utility in the matter of the public health, while the effect thereof is to materially depreciate the value of private property in the vicinity in which they may be located.



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 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.

*Ibid*, s. 2.  
Penalty for violation of foregoing section.

Notice from Mayor or Board of Health.

Ordinance No. 41, March 28, 1871, entitled an ordinance supplementary to an ordinance entitled An ordinance to provide for the medical and surgical treatment of indigent persons by the professors of Washington University and the University of Maryland Medical Department, approved October 22, 1870, enacts and ordains that section one of the ordinance to which this is a supplement be, and the same is hereby, repealed and re-enacted as follows :

The trustees and ward managers of the poor, and magistrates elected by the board of police commissioners for the several station houses, or either of them, are hereby authorized and directed to cause any indigent sick or disabled persons of the city of Baltimore, who may be entitled to relief under the ordinances of the city, to be sent or taken, by order in writing, with their consent, to the hospitals of the Washington University and of the University of Maryland for medical or surgical treatment by the professors of said universities at any time during each year ; provided, that not more than fifty of such persons shall be in either of said hospitals at any one time.

No. 41, March 28, 1871.  
What indigent sick, &c., to be taken to hospitals of Washington University and University of Maryland.

Proviso.

Ordinance No 90, sec. 2, October 22, 1870, enacts and ordains the following :

It shall be the duty of the professors of said universities, respectively, to receive and properly maintain and treat the persons so sent to their hospitals, by order in writing, so long as such persons, in the opinion of the trustees of the poor, may be entitled to relief and require it ; and also to keep separate lists of all persons sent to said hospitals under the provisions of this ordinance, in which shall be stated the names of the diseases treated by them, and shall report in writing to the trustees of the poor, at least twice a year, the number of persons received and treated by them as aforesaid, and for what diseases.

No. 90, Oct. 22, 1870.  
Duty of professors of Universities.

List of persons sent to Hospitals  
Report to Trustees of Poor.

Ibid, s. 3.  
Disposition of  
the dead.

When delivered  
to Health Com-  
missioner.

If any person sent or taken to either of said hospitals named in this ordinance, shall die under the charge of the professors of either of said universities, their bodies shall be delivered to any relative or friend 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 delivered over to the health commissioner, to be interred according to article twenty-three of the Baltimore City Code.\*

Ibid, s. 4.  
Compensation.

Payment by  
Register on war-  
rant of Presi-  
dent Board  
Trustees of Poor

The said professors shall receive as compensation three dollars and twenty-five cents per week for each person so received, maintained and treated by them, which shall be paid by the city register, on warrant signed by the president of the board of trustees of the poor.

Ibid, s. 5.  
When Univer-  
sities excluded  
from benefit of  
this ordinance.

If at any time the professors of either of said universities shall violate the provisions of this ordinance, they shall henceforth be excluded from the benefit of the same.

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\*See secs. 80, 81, pp. 303, 304, City Code, and p 40, *ante*.

NOTE.—The act of 1870, ch. 16, repeals and re-enacts the third section (relating to appropriation) of the act of 1868, ch. 246, entitled an act to aid in the establishment of a hospital in connection with the Washington University of Baltimore; 1870, ch. 126, and 1872, chs. 30 and 99, enlarge the corporate powers of Washington University; and 1874, ch. 266, provides for the free education in said university of one student from each legislative district of the State. The act of 1874, ch. 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 State and 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; this act also appropriates a sum of money for benefit of the Hebrew hospital.

MARYLAND EYE AND EAR INSTITUTE AND BALTIMORE EYE AND  
EAR INSTITUTE.

Ordinance No. 102, October 1, 1872, entitled An Ordinance to provide for the medical and surgical treatment of indigent persons suffering with diseases of the eye and ear, by the Maryland Eye and Ear Institute, and the Baltimore Eye and Ear Institute, in the city of Baltimore, enacts and ordains the following :

The commissioner of health and the assistant commissioner No. 102, Oct. 1, '72. of health of Baltimore city, constituting the board of health, are hereby authorized and directed to cause any indigent person of the city of Baltimore suffering under eye and ear diseases, and needing such peculiar treatment as can only be secured in special hospitals, under the care of those specially skilled in the treatment of such diseases, and who may be entitled to relief under the ordinances of the city, to be sent or taken by order in writing, by the board of health aforesaid, and with the consent of such diseased persons, to the Maryland eye and ear institute, of which Dr. G. Reuling is now the professor or surgeon, or to the Baltimore eye and ear institute, of which Dr. J. J. Chisholm is the professor or surgeon, for surgical treatment free of any charge whatever, except as Free of charge. hereinafter provided; provided, that not less than six beds Six beds. Proviso. shall be kept in each of said institutions at all times, subject to the order of the board of health aforesaid.

It shall be the duty of the surgeons in charge of each of said institutions, to keep in each at all times six beds, subject to the order of the board of health aforesaid, and shall receive, and properly maintain in their infirmaries the persons needing their special services, who may be sent on written order as aforesaid, so long as such persons require hospital treatment, and also to keep special lists of all persons sent to said institutions, under the provisions of this ordinance, in which shall be stated the names of the diseases treated by them, and shall report in writing to the mayor of the city, at least twice a year Ibid, s. 2. Duty of Surgeons in charge of Institutions. Lists of persons sent. Report to Mayor

What indigent persons, suffering under eye and ear diseases, to be sent or taken by order in writing from Health Commissioners to Maryland Eye & Ear Institute or Baltimore Eye & Ear Institute.

the number of persons received and treated by them, as aforesaid, and for what diseases; provided, that not more than six of such diseased persons shall be in either of said institutions at any one time.

*Ibid*, s. 3.  
Duty of Board  
of Health to visit  
Institutions.

It shall be the duty of the board of health aforesaid to visit said institutions from time to time, and as often as they may see fit, and carefully examine into the manner of treatment of such indigent persons by the professors or other person in charge of such institutes, and see that all the conditions and requirements of this ordinance are complied with; and upon any failure upon the part of the professors or other persons in charge of either institute to obey and carry out the conditions of this ordinance, or to permit the said officers of the board of health to visit and examine said institute, such officer shall report the fact to the mayor, who shall, if satisfied as to the correctness of such report, suspend the payment of any money to the institute so offending, as provided by this ordinance.

Failure to carry  
out the provi-  
sions of this or-  
dinance.

When Mayor to  
suspend pay-  
ment of money.

*Ibid*, s. 4.  
Compensation  
to Institutions.

Each of said institutions shall receive, as a compensation for the faithful fulfillment of the requirements of this ordinance, annually the sum of fifteen hundred dollars, and no more, to be paid in equal quarterly payments, and the first quarter year payment to be made on the first day of October succeeding the passage of this ordinance.

NOTE.—By the act of 1874, ch. 467, an annual appropriation of one thousand dollars is made to the Baltimore eye and ear institute of Baltimore, and the same to the Maryland eye and ear institute, on condition that these institutions receive and treat, at all times during the continuance of the appropriation, at least six patients each, at a time from the counties. This act further provides for the mode of receiving patients from the counties into the institutions, and that the surgeons in charge shall report to the General Assembly.

# ARTICLE XXVI.

## HOUSES OF REFUGE AND REFORMATION.

### STATUTES.

#### HOUSE OF REFUGE.

15. White male children.
17. Power to bind them out as apprentices, and how.
18. Manner of receiving inmates : first class : second class : third class : fourth class.
21. White male minors convicted of felony to be committed, and when : proviso : transfers from counties.
22. Female inmates to be transferred to Home of Friendless, Industrial School for Girls, Girls' Home, &c : House of Refuge exclusively for male minors.

#### HOUSE OF REFORMATION AND INSTRUCTION FOR COLORED CHILDREN.

1. Incorporation.
2. Subscriptions : membership.
3. Managers : two to be appointed by mayor and city council.
4. Meetings : election of managers.
5. Vacancies.
6. Continuance in office.
7. Quorum.
8. Officers : duties.
9. By-laws : officers : duties.
10. Report to General Assembly.
11. Treasurer's bond.

12. Building : regulations.
13. Free of tax.
14. Streets, &c., not to be opened through property : exception.
15. What colored children to be inmates.
16. Employment and instruction of children.
17. Power to bind out as apprentices, and how.
18. Manner of receiving inmates : first class : second class : third class : fourth class : appropriation.
19. Payment of appropriation : instalments : proviso : private subscription.
20. Duty of committing justice : of clerk of court.
21. Commitment of colored minors convicted of felony : proviso : transfers from counties.

#### INDUSTRIAL SCHOOL FOR GIRLS.

Thirty directors : five to be appointed by mayor, with consent of council : quorum : powers and duties.

#### INDUSTRIAL SCHOOL FOR BOYS.

Powers : white boys : Baltimore city represented in board of trustees : By-laws, ordinances and regulations.

### STATUTES.

#### HOUSE OF REFUGE.

The act of 1872, ch. 218, repeals sections 15, 17, 18 and 21, of article seventy-eight, of the Code of Public General Laws, pp. 336, 337 and 338, City Code, and amends and re-enacts said sections as amended to read as follows :

15. The board of managers shall have power in their discretion, to take into said house all such white male children as <sup>1872, c. 218.</sup> <sup>White male children.</sup>

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.

1872, c. 218.  
Power to bind  
them out as ap-  
prentices and  
how.

17. 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 out of this State, and to learn such proper trades or employment 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 the Code, 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 re-  
ceiving inmates  
First class.

18. 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, 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,

Second class.

guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious minor. Third, such white male children as their parents, Third class. 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 maintenance; and fourth, white male minors com- Fourth class. mitted by the several courts in this State as provided in this article.

21. Whenever any white male minor, under the age of six- 1872, c. 218. teen years, shall be convicted of felony in any court of this White male minors convicted of felony, to be committed and when. State, the judge of said court in his discretion, and with reference to the character of the house of refuge as a place of re- Proviso. form 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 Transfers from counties. 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.

Said act of 1872, ch. 218, adds the following section :

22. The managers of the house of refuge shall have power 1872, c. 218. to make arrangements with the Home of the Friendless, the Female inmates to be transferred to Home of Friendless, Industrial School for Girls, Girls' Home &c. Maryland Industrial School for Girls, the Girls' Home, the House of the Good Shepherd and other kindred institutions for the reformation and care of female minors; to take under their charge, any or all of the female inmates now committed to the house of refuge, so that hereafter the house of refuge House of Refuge exclusively for male minors shall be exclusively charged with the reformation and care of male minors.

## HOUSE OF REFORMATION AND INSTRUCTION FOR COLORED CHILDREN.

The act of 1870, ch. 392, incorporating the house of reformation and instruction for colored children, enacts as follows :

1870, c. 392, s. 1.  
Incorporation.

1. John R. Cox, John C. Bridges, Edward Stabler, Jr., Henry W. Drakely, William M. Boone, G. S. Griffith, Geo. A. Pope, Benjamin Deford, James Baynes, William E. Hooper, Isaac Cole, Jr., and Cyrus Blackburn, are hereby constituted and declared a body politic and corporate, by the name and style of "The House of Reformation and Instruction for Colored Children," and by that name and style shall have perpetual succession, with the power to have a common seal and to change the same at pleasure, to make contracts relative to said institution, to sue and be sued, and by that name and style shall be capable of purchasing, taking, holding and conveying any estate, real or personal, for the use of said corporation, and to establish by-laws and orders for the regulation of said institution, and the preservation and application of the funds thereof.

Ibid, s. 2.  
Subscriptions.  
Membership.

2. Every person who shall hereafter subscribe the articles of said association, and pay to the funds of said institution the sum of fifty dollars, or ten dollars annually for the term of six years, shall be a member for life, and every person paying the sum of two dollars annually shall be a member while he continues to contribute the said sum, such payment to be made at the time and in the manner prescribed by the by-laws of said association.

Ibid, s. 3.  
Managers.

Two to be appointed by Mayor and City Council.

3. The estate and concerns of said corporation shall be managed and conducted by sixteen managers, of whom twelve shall be elected by members of the association, and two appointed by the mayor and city council of Baltimore, and two shall be appointed by the Governor, in the month of February annually.

Ibid, s. 4.  
Meetings.

4. The members of the association shall assemble on the third Monday of February annually, at such place in the city of Baltimore as the board of managers may from time to time



appoint, and of which the president, or in case of his absence or refusal, the secretary, or any member of the association, shall give notice in at least two of the daily papers in the city of Baltimore, and elect by a plurality of ballots twelve managers. Election of Managers.

5. Whenever any vacancy in said board of managers shall occur by death, resignation, removal or otherwise, the same shall be filled for the remainder of the year by such person as the board of managers for the time being, or a majority of them shall appoint, except the two appointed by the Governor, in which case the Governor shall fill the vacancy. Ibid. s. 5. Vacancies.

6. If the said annual election and appointment shall not take place at the times appointed for that purpose, the said corporation shall not therefore be dissolved, but the members of said board shall continue in office until a new election and appointment shall be had. Ibid. s. 6. Continuance in office.

7. Five of said managers shall constitute a quorum for the transaction of business. Ibid. s. 7. Quorum.

8. The said managers shall appoint from their own body a president, a secretary and treasurer, and prescribe the duties of each. Ibid. s. 8. Officers. Duties.

9. 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. Ibid. s. 9. By Laws. Officers. Duties.

10. 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 Ibid. s. 10. Report to General Assembly.

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. 11.  
Treasurer's  
bond.

11. The treasurer, before he shall enter upon the duties of his office, shall give bond in the penal sum of five thousand dollars for the faithful discharge of the duties of his office.

Ibid, s. 12.  
Building.  
Regulations.

12. That 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. 13.  
Free of Tax.

13. The ground and the buildings which may be erected thereon for said house of reformation and instruction shall be free of tax.

Ibid, s. 14.  
Streets not to be  
opened through  
property.

14. No public streets, lanes, alleys, roads, railroads or canals of any kind shall be opened through the lands, or any part of the lands, of the house of reformation and instruction where the same are exclusively used or appropriated for the purposes of its incorporation, except with the consent of the board of managers.

Exception.

Ibid, s. 15.  
What colored  
children to be  
inmates.

15. 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.

Ibid, s. 16.  
Employment  
and instruction  
of children.

16. 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.

Ibid, s. 17.  
Power to bind  
out as apprentices  
and how.

17. The managers of the house of reformation and instruction shall have power to bind out the children committed to their care, with the consent of such children, as apprentices

during their minority—that is to say, males until the age of twenty-one years, and the 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 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 such children shall be bound shall contain the covenants and shall be recorded as prescribed by article sixth of the Code P. G. L. of the State, and all the provisions of the said article in relation to white apprentices shall apply to apprentices bound under this section.

18. The manner of receiving inmates into the house of reformation and instruction shall be in either of the following modes, namely: First, colored minors may be committed 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 reformation and instruction. Ibid, s. 18.  
Manner of receiving inmates  
First class.

Second, colored 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 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. Second class.

Third, Third class. 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

Fourth class. with the managers for their support and maintenance; and fourth, minors committed by the several courts in this State, as provided in this article; and the annual sum of five thousand dollars shall be appropriated out of any unappropriated moneys in the treasury for the aid and benefit of the house of reformation and instruction for the period of two years.

Appropriations.

Ibid, s. 19. 19. The Treasurer of the State shall, upon the warrant of the Comptroller, pay to the managers of the house of reformation and instruction, or as they shall order and direct, the sum appropriated in the preceding section in equal quarterly instalments of twelve hundred and fifty dollars each. But before the Comptroller shall issue his warrant for the first quarterly payment hereby provided for, he shall require the managers of the house of reformation and instruction to furnish satisfactory proof that the sum of thirty thousand dollars, has been collected by said managers from private subscription.

Pavment of ap- propriation.

Instalments.

Proviso.

Private sub- scription.

Ibid, s. 20. 20. 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 com- mitting justice.

Of clerk of court

Ibid, s. 21. 21. 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 re-

Commitment of colored inmates convicted of felony.

Proviso.

Transfers from counties.

ceived from him, that there is room in the house of reformation and instruction for the reception of such delinquent.

NOTE.—By ordinance No. 60, May 8, 1873, the sum of five hundred dollars, or so much thereof as may be necessary, was appropriated for the transportation to the house of reformation and instruction for colored children, of all such colored children as may be committed to said institution by the criminal court of Baltimore city or by any justice of the peace of said city, in accordance with above act, said ordinance further provides, that such transportation shall be made under the direction of the board of police commissioners of Baltimore city, tickets for which transportation shall be issued by the mayor of the city of Baltimore. The act of 1874, ch. 314, appropriates fifteen thousand dollars for benefit of above-mentioned house of reformation, for erection of an additional family building, and other necessary shops and out-houses.

#### MARYLAND INDUSTRIAL SCHOOL FOR GIRLS.

The act of 1870, ch. 391, enacts the following, amendatory of the act of 1866, ch. 156; see p. 948, *note* City Code.

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 biennially 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.

1870, c. 391.

Thirty directors

Five to be appointed by the Mayor with consent of Council.

Quorum.

Ibid, sec. 10.  
Powers and duties.

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.

The act of 1874, ch. 288, enacts the following, *inter alia* :

1874, c. 288.

Powers

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, or shall be convicted of criminal offences.

White boys.

Ibid, s. 3.

Baltimore city represented in board of trustees.

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.

The board of trustees 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 and the 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.

See Art. 48, Vagrants. The Maryland House of Correction is established by the act of 1874, ch. 233.

## ARTICLE XXVII.

### INSPECTIONS, WEIGHTS AND MEASURES:

#### S T A T U T E S .

##### Inspections.

Sections repealed.

##### GAUGERS OF CASKS AND LIQUORS.

Who entitled to receive a license to act as gauger of casks and liquors: oath.

Who not eligible as gaugers.

Who may sell, export, &c.: when gauger to be called in.

Gaugers to procure and use correct instruments: capacity of casks: marks: merchantable casks: deficient casks: fraudulent casks.

Baltimore standard of wine measure: penalty on gauger.

Altering mark or number: false mark or number: penalty.

Gauger's fees.

Persons not licensed or acting beyond limits of city: penalty: fraud.

##### HAY AND STRAW.

155. Inspector's bond: tax on commission.

##### LIVE STOCK.

204. Clerk or assistant: salary: proviso.

##### OYSTERS.

In the shell: measurement: licensed measurer: penalty:

Measure to be inspected and stamped: penalty: proviso.

##### STEAM BOILERS.

Governor to appoint inspector of steam boilers: duties: oath: bond.

City divided into districts: Governor to assign districts.

Office, &c., of inspectors: notice.

Owner or renter using steam boiler to report to inspector: penalty.

Inspector to give notice of time of inspection: penalty.

Duties of inspector: certificate of inspection: pressure of steam: penalty.

Further duties of inspector: certificate: notice: when boiler to be discontinued: penalty.

Owner or renter aggrieved may demand re-examination: engineer, &c.: oath: final decision: costs.

Using boiler without having it inspected: penalty.

Inspector to examine engineers: when certificate withdrawn.  
 Inspectors' fees.  
 Inspectors' record: report to State Comptroller.  
 Inspectors' salaries: payments into State treasury.  
 This act not to conflict with ordinances: permission for erecting steam boilers.  
 Insurance in Steam Boiler Insurance Company: certificate.

## TOBACCO.

Acts repealed.

## WEIGHERS OF GRAIN.

Weighers of grain appointed by Governor: term of office.  
 Oath.  
 Weigher-general's bond.  
 Assistant weigher's bond.  
 Failure to perform duties.  
 What grain to be reported to grain-weigher's office: weigher-general's duties: proviso: penalty.  
 Office of weigher-general: office hours: duties: assistant.  
 Application to weigh.  
 Weights and scales.  
 Grain sold and delivered: not to be interested: penalty.

Gratuity or reward: penalty.  
 Return to weigher-general: record: fees of weigher-general and measurer.  
 Weigher-general's return to the Comptroller: clerks' salaries: payments to treasurer.  
 Allowance to weigher-general and assistant: proviso: not to exceed what sum.  
 Mode of weighing.  
 Meaning of term, grain: standard weight: contracts.  
 Amount paid not to exceed grain weighing fund: deduction.  
 Failure to report, &c.: penalty.  
 False return: penalty.  
 Comptroller's duty, on failure to return: bond to be put in suit.  
 Treasurer's account with grain weighing fund: grain warehouses in Baltimore.  
 Assistants to weigher-general: compensation: proviso: neglect of duty: oath.  
 No person to weigh grain except those appointed: penalty.  
 To attend to duties in person: penalty.  
 Elevator receipts.

## WEIGHTS AND MEASURES.

Oats, measure of, or weight.

## ORDINANCES.

## GAS METERS.

Used gas meters to be re-inspected and re-stamped: penalty on gas companies: notice from inspector.

## INSPECTOR AND MEASURER OF CARTS.

Duties and powers of measurer or inspector of vehicles hauling cord wood: deputies: fees.

## Oath.

Location of inspectors: mark on carts: standard of measurement.  
 Altering marks.  
 Dispute between purchaser and seller: inspector to arbitrate: fee.  
 Carts, &c., used in hauling fire-wood to be measured and stamped: penalty.



## STATUTES.

## INSPECTIONS.

The act of 1870, ch. 418, enacts as follows :

All those sections of the Code of Public Local Laws of the 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, are repealed; that is to say, sections 1 to 135, inclusive, pp. 346 to 377, and sections 159 to 192, inclusive, pp. 383 to 389, of the City Code, and sections 213 to 224, inclusive, pp. 395 to 397, of the City Code, are repealed. 1870, c. 418.  
Sections repealed.

All acts and parts of acts inconsistent with the provisions of the act of 1870, ch. 418, are 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, construes section 481, art. 4, P. L. L., [sec. 220, p. 396, City Code] repealed by act of 1870, ch. 418. The act of 1870, ch. 426, repeals the act of 1868, ch. 295, pp. 375-377, City Code, (repealed also by act of 1870, ch. 418) and enacts and adds an article to the Public General Laws, entitled Manures and Fertilizers.

## GAUGERS OF CASKS AND LIQUORS.

The act of 1872, ch. 264, entitled an act to provide for the licensing of gaugers of casks and liquids, for the city of Baltimore, and providing for the duties thereof, enacts the following :

1872, c. 264, s. 1.  
Who entitled to  
receive a license  
to act as gauger  
of casks and  
liquors.

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.

Oath.

Ibid, s. 2.  
Who not eligi-  
ble as gaugers.

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. 3.  
Who may sell,  
export, &c.

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.

When gauger to  
be called in.

Ibid, s. 4.  
Gaugers to pro-  
cure and use  
correct instru-  
ments.

Capacity of  
casks.

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 iron, six, and if of wood,

Marks.  
Merchantable  
casks.

not less than twelve, and at least not less than twelve on all double barrels and hogsheds; 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 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.

Deficient casks.

Fraudulent casks.

5. The said gaugers in order to ascertain the capacity of 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 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. 5.  
Baltimore standard of wine measure.

Penalty on gauger.

6. If any person shall alter any mark or number marked, or set down by any gauger, thereby to deceive and defraud the purchaser of distilled spirits, wine, molasses or other liquid 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 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. 6.  
Altering mark or number.

False mark or number.

Penalty.

7. Every gauger so licensed shall be entitled to demand 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. 7.  
Gauger's fees.

8. Any person not being properly licensed who shall act 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 of the city the sum of three hundred dollars; said penalty to be imposed as a fine by the criminal court on presentment and

Ibid, s. 8.  
Person not licensed or acting beyond limits of city.

Penalty.

Fraud.

Penalty.

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.

## HAY AND STRAW.

The act of 1870, ch. 256, repeals section 7 of 1867, c. 241, sec. 155, p. 383, City Code, and amends and re-enacts the same to read as follows, and repeals all acts inconsistent therewith:

1870, c. 256.  
Inspector's  
bond.

155. 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 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 passed at December session, eighteen hundred and sixty-two, chapter two hundred and eighty-two, section one, 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 commis-  
sion.

The act of 1874, ch. 309, authorizes 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.

LIVE STOCK.

The act of 1874, ch. 328, repeals sec. 469 of the act of 1864, ch. 328, (being sec. 204, p. 392, City Code) and re-enacts the same, to read as follows :

204. He may, whenever in his judgment it becomes necessary for the public accommodation, employ any clerk or assistant weigh-master 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.

1874, c. 328.  
Clerk or assistant.

Salary.  
Proviso.

The act of 1870, ch. 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 of Maryland used as a live stock yard, and appropriated two thousand and two hundred dollars for the purpose of carrying into effect the provisions of the act. The act of 1870, ch. 223, provided for improvements in vicinity of State live stock scales.

OYSTERS.

The act of 1874, ch. 221, repeals the act of 1872, ch. 193, and enacts the following in lieu thereof :

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 according 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

1874, c. 221, s. 1.  
In the shell.  
Measurement.

Licensed measurer.

from the clerk of the court of common pleas by 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.

*Ibid*, s. 2.  
Measure to be  
inspected and  
stamped.

Penalty.

The measure provided for in section one of this act shall be inspected and stamped by the proper officer in the city of Baltimore, and it shall be unlawful to use any other measure.

Proviso.

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.

#### STEAM BOILERS.

The act of 1872, ch. 153, enacts the following :

1872, c. 153, s. 1.  
Governor to ap-  
point Inspectors  
of steam boilers.

Duties.

Oath.

The Governor shall, within thirty days from the passage of this act and biennially thereafter, appoint two suitable persons who are well skilled in the construction and use of steam engines and boilers and in the 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 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 con-

sideration from any person or persons, and shall give bond, to Bond.  
be approved by the comptroller of the State, in the sum of  
five thousand dollars each for the faithful discharge of their  
duties.

The city of Baltimore is hereby divided into two districts, Ibid, s. 2.  
City divided  
into districts.  
which shall be known as the first and second steam boiler in-  
spection 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 Governor to as-  
sign district.  
the inspectors shall assign each to his respective district.

The inspectors, before entering on the discharge of their Ibid, s. 3.  
Office &c. of  
inspectors.  
duties, shall provide themselves with an office in a central  
part of said city, also with the necessary apparatus and appli-  
ances for the testing of steam boilers, and they shall give  
notice for three successive days, through the two daily papers Notice.  
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.

Every owner or renter using a steam boiler or boilers in said Ibid, s. 4.  
Owner or renter  
using steam  
boiler to report  
to inspector.  
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 Penalty.  
day a boiler is used and neglected to be reported.

The inspector of each district shall give six days' notice in Ibid, s. 5.  
Inspector to give  
notice of time of  
inspection.  
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  
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 fifty Penalty.  
dollars for such failure or neglect, and a further penalty of fifty  
dollars for each day any such boiler is used without a certifi-  
cate of inspection.

*Ibid*, s. 6.  
Duties of In-  
spector.

It shall be the duty of each inspector, as soon as practicable, after the passage of this act, and once at least in every year thereafter, 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 provision 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

Certificate of in-  
spection.

Pressure of  
steam.



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 <sup>Penalty.</sup> his bond, and upon conviction shall be removed from office by the Governor.

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, <sup>Ibid, s. 7. Further duties of Inspector.</sup> 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 <sup>Certificate.</sup> is required, and order the use of the boiler discontinued until <sup>Notice.</sup> 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 be liable for <sup>When boiler to be discontinued</sup> <sup>Penalty.</sup> any damage to persons or property which shall occur from any defects, as stated in the notice of the inspector.

Any owner or renter of a boiler or boilers, who shall consider himself aggrieved by the action of the inspector under the provisions of section seven of this act, 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 in- <sup>Ibid, s. 8. Owner or renter aggrieved may demand re-examination. Engineer, &c.</sup>

Oath.                   spectator, 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  
 Final decision.   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  
 Costs,               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.           Any person erecting or using a steam boiler or boilers without having the same inspected by the inspector of the district  
 Using boiler       in which the said boiler or boilers is or are located, shall pay a  
 without having   fine of one hundred dollars, and fifty dollars for each day any  
 it inspected.     such boiler is used, without being inspected; and any person  
                       who shall alter or change a steam gauge 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,  
 Penalty.         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 re-  
                       fuse to place his certificate of inspection on the premises, as  
                       prescribed in section six of this act, shall pay a fine of five  
 Penalty.         dollars for each day's refusal or neglect.

Ibid, s. 10.       The inspector shall have power to examine the engineers and  
 Inspector to       assistants in charge of boilers, and if any engineer or assistant  
 examine en-       is found incompetent or addicted to intemperance, the inspector  
 gineers.           shall notify the owner or renter and withdraw the certificate of  
 When certifi-     inspection until such engineer or assistant is displaced.

Ibid, s. 11.       Before issuing any certificate of inspection, the inspectors  
 Inspectors' fees. 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 pro-  
                       vided, 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.

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*, sec. 12.  
Inspector's record.

Report to State Comptroller.

The inspectors shall receive an annual salary of fifteen hundred dollars each, and all money collected, after deducting the necessary incidental expenses of the office, shall be paid over to the treasurer of the State.

*Ibid*, sec. 13.  
1874, c. 96.  
Inspectors' salary.  
Payments into State treasury.

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*, sec. 14.  
This act not to conflict with ordinances.  
Permission for erecting steam boilers.

Any owner or renter of a steam boiler or boilers, who has the same insured in a steam boiler insurance company, doing business in compliance with the laws of this State, and having an established system of inspection, shall, by presenting annually to the inspector of the district in which said steam boilers are located, the said steam boiler insurance company's certificate of inspection, be exempted from the requirements of this act.

*Ibid*, sec. 15.  
Insurance in steam boiler insurance company.

Certificate.

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*, sec. 16.  
Neglect of duties.

The Governor shall fill all vacancies that may occur as soon as possible.

*Ibid*, sec. 17.  
Vacancies.

\*See p. 30, *ante*.

*Ibid*, sec. 18.  
Fines and pen-  
alties.  
How recovered.

All fines and penalties herein imposed, shall be recoverable by indictment before the criminal court of Baltimore city, or before any justice of the peace of said city, in the name of the inspector, for the benefit of the State.

## TOBACCO.

Acts repealed.

The act of 1872, ch. 36, repeals by implication the acts of 1864, ch. 346, 1867, ch. 368, and 1868, ch. 458 (pp. 397-414, City Code) so far as the same conflict with the act of 1872, ch. 36, and enacts in lieu thereof a new article regulating the inspection of tobacco, and transfers the same from article 4, Public Local Laws, city of Baltimore, to the Public General Laws. The act of 1874, ch. 394, amends the act of 1872, ch. 36.

## WEIGHERS OF GRAIN.

The act of 1872, ch. 244, enacts the following :

1872, c. 244, s. 1.  
Weighers of  
grain appointed  
by Governor.

The Governor, by and with the advice and consent of the Senate, shall before the adjournment of the present General Assembly, 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.

*Ibid*, sec. 2.

Oath.

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."

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 sec. 3.  
Weigher-General's bond.

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, sec. 4.  
Assistant Weigher's bond.

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 the State, and judgment rendered thereon as on other official bonds.

Ibid. sec. 5  
Failure to perform duties

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

Ibid, sec. 6.  
What grain to be reported to Grain weigher's office.

Weigher-General's duties.

Proviso.

Penalty.

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, sec. 7.  
Office of Weigh-  
er-General.

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 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.

Office hours.

Duties.

Ibid, sec. 8.  
Application to  
weigh.

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, sec. 9.  
Weights and  
scales.

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, sec. 10.  
Grain sold and  
delivered.

Not to be inter-  
ested.

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.

Penalty.

If any weigher shall accept or receive, directly or indirectly, any gratuity 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, sec. 11.  
Gratuity or  
reward.

Penalty.

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 entry of the same in a well-bound book, showing the number of bushels weighed and measured for each person, and the said 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, sec. 12.  
Return to  
Weigher-Gen-  
eral.

Record.

Fees of Weigh-  
er-General and  
Measurer.

The weigher-general shall make a return on the first 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 wages of not more than two clerks, at a salary of not more than six hundred dollars per annum for each, to the treasurer upon the warrant of the comptroller.

Ibid, sec. 13.  
Weigher-Gen-  
eral's return to  
the Comptroller

Clerks.  
Salaries.  
Payments to  
Treasurer.

The treasurer, upon the warrant of the comptroller, shall allow and pay over to the weigher-general and the other weighers one-fourth cent per bushel upon all grain weighed by them, provided, the same shall not amount to more than two 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 officer in gross more than two thousand dollars to the weigher-general and sixteen hundred dollars to each assistant.

Ibid, sec. 14.  
Allowance to  
Weigher-Gen-  
eral and assist-  
ants.

Proviso.  
Not to exceed  
what sum.

Ibid, sub-sec. 1.  
Mode of weighing.

Said weighers shall carefully weigh one bushel in every 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.

Ibid, sub-sec. 2.  
Meaning of term Grain.

Standard weight.

Contracts.

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. 3.  
Amount paid not to exceed grain weighing fund.

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. Deduction.

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 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 said section; 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. Ibid, sec. 15. Failure to report, &c. Penalty.

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. Ibid, sec. 16. False return. Penalty.

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 be put in suit; whose duty it shall be to proceed thereon for the speedy recovery of the penalty thereof as upon other official bonds. Ibid, sec. 17. Comptroller's duty on failure of return. Bond to be put in suit.

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 amount 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 building a warehouse or warehouses in the city of Baltimore, for the accommodation of the grain trade of this State. Ibid, sec. 18. Treasurer's account with grain weighing fund. Grain warehouses in Baltimore.

Ibid, sec. 19.  
 Assistants to  
 Weigher-Gen-  
 eral.  
 Compensation.  
 Proviso.

Neglect of duty.  
 Oath.

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 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.

Ibid, sec. 20.  
 No person to  
 weigh grain ex-  
 cept those ap-  
 pointed.  
 Penalty.

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, sec. 21.  
 To attend to du-  
 ties in person.

Penalty.

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.

The act. of 1874, ch. 303, enacts the following :

1874, c. 303.  
 Elevator re-  
 ceipts.

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.

WEIGHTS AND MEASURES.

The act of 1872, ch. 162, repeals section 17 of article 96, of Public General Laws, [sec. 17, p. 423, City Code,] and re-enacts the same with amendments, as follows :

17. 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. 1872, c. 162. Oats, measure of or weight.

ORDINANCES.

GAS METERS.

Ordinance No. 47, July 9, 1869, adds the following, see p. 426, City Code :

It shall not be lawful hereafter 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, 1869. Use gas meters. To be re-inspected and re-stamped. Penalty on gas company. Notice from Inspector.

INSPECTOR AND MEASURER OF CARTS.

Ordinance No. 77, June, 17, '72, entitled an ordinance to provide for the measurement of carts and other vehicles employed in hauling fire wood from the wharves or yards, and to regulate the sale of the same, for the better protection of consumers, enacts the following :

The mayor shall appoint annually, on the first day of March, two competent persons, whose duty it shall be to measure and stamp all carts or vehicles engaged in hauling cord wood from the wharves or yards within the corporate limits of the city of Baltimore, the said measurers to have power to appoint deputies, if they should find it necessary to facilitate the work, the said inspectors or their assistants to give certificate to the No. 77, June 17, 1872. Duties and powers of measurer of vehicles hauling cord wood. Deputies.

owners or owner of said cart or vehicle, which shall hold good for one year from date, unless some repairs or alteration be necessary to change the same; for which service 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 said service was performed; the said inspector or measurer, or his deputies, to be in no way interested as a clerk, or otherwise engaged in the purchase or sale of fire wood other than for his own use.

Fees.

*Ibid*, s. 2. The said measurers or inspectors, or their deputies, before entering 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 inspector and measurer of carts, according to the true intent and meaning of the ordinance—so help me God."

Oath.

*Ibid*, s. 3.  
Location of inspectors.

Mark on carts.

Standard of measurement.

Said inspectors shall locate themselves in some suitable section of the city, where they can be found, one in the eastern and one in the southern section, where the greatest quantity of wood is for sale; the said inspectors to plainly mark by a board on the standard of each side of said carts or vehicles, in such a manner as that the purchaser or consumer of fire wood may see the quantity contained in each 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 stored and packed wood.

*Ibid*, s. 4.  
Altering marks.

Penalty.

Any carter or person who shall alter the marks of said carts or vehicles after the same has been so inspected, or shall alter the measurement of said fire wood by increasing or taking from the same, 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 a justice of the peace.

In case of dispute between the purchaser and seller of any lot of fire wood, then one of the inspectors or measurers, or his deputies, appointed under this ordinance, may act as arbitrator between said parties, after having obtained their consent, which shall be in writing, 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 inspector to give certificate of number of cords contained in each lot.

Ibid, s. 5.  
Dispute between purchaser and seller.  
Inspector to arbitrate.

Fee.

Ordinance approved June 2, 1874, enacts the following :

It shall not be lawful for any person or persons to place upon the streets of the city of Baltimore, any carts or vehicles to be used in the hauling of fire-wood from the wharves or yards in the city of Baltimore, unless said carts or vehicles are measured and stamped as required by ordinance No. 77, section 1, approved June 17, 1872, [pp. 145, 146 *ante*] to which this ordinance is supplementary, and all persons violating this ordinance, shall forfeit and pay the sum of five dollars for each and every offence.

Ord. June 2, '74.  
Carts &c. used in hauling fire wood to be measured and stamped.

Penalty.

## ARTICLE —.

## JONES' FALLS.

### S T A T U T E S .

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Jones' Falls to be improved.</li> <li>2. Mayor, &amp;c., may acquire necessary property : may assess damages and benefits : other powers.</li> <li>3. Limits of Jones' Falls to be defined : title to land, wharves, &amp;c.</li> <li>4. Mayor, &amp;c., may change grades of streets.</li> </ol> | <ol style="list-style-type: none"> <li>5. May provide for expenses.</li> <li>6. What sections of public local law not applicable : proviso.</li> <li>7. Ordinance confirmed.</li> <li>8. Authority to issue bonds : ordinances : proviso.</li> <li>9. Authority to issue additional bonds.</li> <li>10. Registered or coupon bonds.</li> </ol> |
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## O R D I N A N C E S .

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| 1. Register authorized to issue bond to amount of 2,500,000, for improvement of Jones' Falls : proviso.<br>2. How bonds to be issued.<br>3. Sinking fund.<br>4. Submission to voters. | 5. Ballots : return to mayor : mayor to certify result.<br>6. Publication.<br>7. Tickets.<br>8. Ordinances repealed. |
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## S T A T U T E S .

The act of 1870, ch. 115, entitled an act to authorize the mayor and city council of Baltimore to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, enacts the following :

1870, c. 115.  
Jones' Falls to  
be improved.

1. The mayor and city council of Baltimore is 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, sec. 2.  
Mayor, &c.,  
may acquire ne-  
cessary pro-  
perty.

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 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 benefited, 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 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 purposes to acquire, or which may be thus decided to be damaged or benefited, 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

May assess  
damages and  
benefits.

Other powers.

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, sec. 3.  
Limits of Jones'  
Falls to be de-  
fined.

✓

Title to land.

Wharves, &c.

Ibid, sec. 4.  
Mayor, &c.,  
may change  
grades of streets

Ibid, sec. 5.  
May provide for  
expenses.

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.

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.

5. The mayor and city council of Baltimore are hereby authorized to make such provisions as to them shall seem best, for



the defraying of 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.

6. None of the provisions of article four, Public Local Laws, in reference to constructing sewers and opening and paving streets in the city of Baltimore, [Art. 40 and 43, City Code,] 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. Ibid, sec. 6.  
What sections  
not applicable  
hereto. Proviso. ✓

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 thirty-first, eighteen hundred and seventy, 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. Ibid, sec. 7.  
Ordinance con-  
firmed. ✓

NOTE.—Opinions by Brown, C. J., in City Court, *White vs. Mayor, &c* :—

The appellant, Henry White, leased two adjoining lots of ground on Holliday street, running eastwardly to Jones' Falls, to Adam Denmead, William Denmead and Talbott Denmead for ninety-nine years, renewable forever, at the annual rent of \$387 for one of the lots and \$160 for the other. The commissioners for the improvement of Jones' Falls condemned a strip or portion of the entire rear of both lots lying on Jones' Falls, and awarded the nominal damages of \$1 to the owners of the leasehold interest and nothing to the appellant, owner of the fee. The owners of the leasehold estate appealed to the Baltimore city court, and the jury awarded them damages to amount of \$3,000. The portion condemned is improved by a brick building standing in part thereon, and used by the lessees, who have a large foundry, for their boiler work.

The opinion of Brown, C. J., is as follows:

The lessees have, by the terms of the leases, the right to buy out the respective lots and thereby extinguish the ground rents thereon, on the payment of a principal sum, the interest on which at six per cent. would be equivalent to said ground rents. The act of 1870, chapter 115, under which the condemnation is made, requires compensation to be made to the owner to the amount of the "true value" of his property taken and of the damages done to the rest of his property, while he is to be charged with the benefits which have accrued to such residue. Mr. White, by said leases, has not only fixed the annual rental value of the lots, but also the value of the fee, by his covenant to sell it to the lessees on the payment of said principal sum. He is, therefore, not injured, if the residue of his property is made as valuable by the proposed improvement as the entire lots without such improvement, so that the ground rents continue to be equally well secured and his right remains unimpaired to collect the said ground rents from the lessees, without any abatement for the part taken. On the first point I entertain no doubt. The portion taken is a strip in the rear of the lots, wedge-like in shape, bounding on the Falls, leaving the front on Holliday street unchanged, with a depth of more than one hundred feet, well adapted for the erection of warehouses or for manufacturing purposes. The security which the remaining portion will obtain against injury from future inundations renders it, in my opinion, as valuable as the entire lots without such improvements, and leaves the ground rents as well secured as they were before.

The next question is, I think, sealed by a great preponderance of authority — The condemnation for public purposes under the authority of the State of a part of a lot leased cannot be considered a violation of the covenant expressed or implied on the part of the lessor for quiet enjoyment, and does not constitute an eviction by the lessor of the lessee, and therefore does not at law effect an apportionment of the rent; *Patterson vs. City*, 20 Pick., 159; *Parks vs. City*, 15 Pick., 198; *Schuylkill vs. Schenck*, 57 Penn., 271; *Foote vs. Cincinnati*, 11 Ohio, 408. But if part of a leased lot is condemned for public purposes, and the owner of the fee is compensated for its value, equity will interfere and decree a corresponding abatement of the rent; *Wrightly vs. Pittsburg and Fort Wayne Railroad Co.*, 2 Grant, 243; *Cuthbert vs. Kuhn*, 3 Wharton, 357; and *Dyer vs. Wrightman*, 66 Penn., 428. In the case of *Warfield vs. the Mayor and City Council of Baltimore*, recently tried before me, Mr. Warfield was lessee under a lease of ninety-nine years, renewable forever of a lot of ground, part of which was condemned by the said commissioners, who allowed to the lessors the value of the part so taken, and I held, in conformity with these decisions last referred to (*Cuthbert vs. Kuhn*, 3 Wharton, 357, and *Dyer vs. Wrightman*, 66 Penn., 428), and with my own view of the law applicable to the cases, that Mr. Warfield was entitled to a proportionate abatement of his rent. The lessors, by a covenant with the lessee, had fixed the value of the fee at a sum which, at the rate of six per cent. would produce the amount of the rent, and I held that the lessor, by

accepting from the city the value of the part taken, bound himself to make a proportionate abatement of the rent. But in this case, as Mr. White has received nothing from the city, he is not bound to make any abatement of the rent, and his right to collect it remains unimpaired. I therefore ratify and confirm the award of the commissioners.

In the cases of *Mary H. Norris and William H. Norris vs. The Mayor and City Council*, in the matter of opening Laurens street, and of *Henry M. Warfield, administrator of Daniel Warfield, deceased, vs. The Mayor and City Council*, there were appeals from awards. These appeals were tried in the city court and judgment given in favor of the plaintiffs. Execution on these judgments was refused.

The opinion of Brown, C. J., is as follows:—

These cases came up to this court on appeals by the plaintiffs, and were submitted to the jury, who had found their inquisitions. These inquisitions had been confirmed by the court, but such a confirmation is not a judgment *in personam* against the defendant. It is only a final ascertainment and settlement of the value of the property as between the parties. *Graff vs. Mayor and City Council of Baltimore*, 10 Maryland, 545. *Slate vs. Graves*, 19 Maryland, 355, 375.

The act of 1870, ch. 371, which adds an additional section to article 29 of the Code of Public General Laws, provides that "in all cases of proceedings to condemn lands for any purpose whatever, under any law or charter, upon the *return and ratification* of the inquisition by the proper court, the said court shall render a judgment against the persons or corporation for whose use the condemnation may be so made in favor of the owners named in the inquisition for the amount of the damage awarded by the jury, and unless within ninety days after condemnation ratified the same shall be abandoned by written notification to said owners, execution may immediately thereafter issue on said judgments as in other cases of judgments rendered in courts of law."

But the important inquiry arises: Does this act apply to condemnations of land for the purpose of opening streets in the city of Baltimore, or for the purpose of improving Jones' Falls? I think it does not. It is a provision of the Public Code which expressly provides, Article 1 section 11, page 10, that "where the general public law and the local public law of any county, city, town or district are in conflict, the public local law shall prevail." The Public Local Laws of the city of Baltimore, Article 4, section 837, &c., [City Code, p. 819, &c.,] contain ample provisions for the opening of streets, and it is nowhere therein directed that the proceeding shall be *returned* to this Court, or to any court for ratification. And the act of 1870, chap. 115, which authorizes the mayor and city council of Baltimore to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, does not require the proceedings of the commissioners to be *returned* to court for ratification. The only power vested in this court is to hear appeals taken by parties who may be dissatisfied with the assessment of their property.

The act of 1870, chapter 371, is a supplement to the General Public Law, and not to the Local Public Law of the city, and I do not think that it was designed by implication to alter the latter. Nor do I think that it by implication alters the law providing for the improvement of Jones' Falls. But there is a large class of cases to which the law evidently does refer; namely, those in which inquisitions to condemn lands for railroad and other purposes are held under the direction of the sheriff, and by law are required to be *returned* to a particular court to be *ratified* by it. The entire proceedings embracing all the inquisitions are certified to the proper court, and must be ratified by it before they become valid and binding. Not only was no *return* required to be made of the cases before me, but the proceedings of the commissioners are valid as to all cases not appealed without the ratification of this court. The plaintiffs in these cases came into this court voluntarily on their own appeal, in order to have the assessments made by the commissioners submitted to the decision of a jury. If they are right in their position they would have a great advantage over the parties who were satisfied with the assessments, and did not appeal, and who therefore cannot issue executions. I cannot think that the law intended to make any such discrimination among the different parties. I am of opinion that executions should not issue in these cases against the city.

Opinion of Brown, C. J., in *Warfield, administrator, v. Mayor &c.*, in City Court, June 23, 1874:—

This case comes before the court on the appeal of Henry M. Warfield, administrator of Daniel Warfield, from the allowance made to him for damages for property condemned by the board of commissioners for the improvement of Jones' Falls. The allowance made by the commissioners was \$6,666 67, and that made by the inquisition of the jury empaneled in this court is \$40,000.—After the inquisition was found by the jury a motion was made by the city to set aside the inquisition on various grounds, but the only one insisted on in argument was that the court had erred in certain of its instructions to the jury. This motion was overruled by the court. Thereupon the clerk of this court, acting in pursuance of what he considered the established practice, but without authority or any instruction from the court, entered on the docket Judgment on inquisition. The case now comes up upon two motions, both made on the same day, one by the appellant, that the clerk of this court be ordered and directed or permitted to issue a writ *feri facias* by way of execution on said judgment; the other by the city, that said docket entry of judgment be stricken out.

The questions argued before me are whether any judgment should have been entered in the case, and if it should, what is the proper form of judgment, and whether such judgment can be enforced against the city by any process. The question whether such process should be a writ of *feri facias* or a writ of *mandamus* was not argued, but was left for future determination, if it should become necessary. The questions which have been raised are of great importance, and

involve the rights not only of the parties to this particular case, but the rights of the parties in all other similar cases. The Act of Assembly of 1870, chapter 115, authorized the mayor and city council of Baltimore to provide for the improvement of Jones' Falls within the limits of the city of Baltimore, giving the corporation power to acquire property which in its judgment might be advisable for the purpose, and to provide for ascertaining the value of such property, and also to ascertain the damages which might be caused by the improvement to owners of property, for which they ought to be compensated, and also the benefits to owners of property, for which they ought to pay a compensation. The act further authorized the corporation to assess and levy on the whole assessable property of the city, or specially on the property of persons benefited, the whole or any part of the damages and expenses, and also to provide for appeals from the decisions of the commissioners to this court, with the further provision that every owner should have the right "to have decided by a jury trial the true value of the property proposed to be acquired," and whether 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 corporation "for him," "and to provide for the collection by sale of the property assessed or otherwise of all sums assessed as benefits aforesaid." By the seventh section of the Act the ordinance of the city previously passed, approved January 31, 1870, was made valid. The ordinance contains twenty-three sections and fully provides for and regulates the whole course of proceeding. In making estimates of the damages sustained by the owners of property, the commissioners are required to take into consideration the benefits, if any, which will accrue to the owners of such property, but no benefits are charged to any other persons, so that the actual expenses of the improvement are required to be borne by the city generally.

Section 20 provides that any person interested in and dissatisfied with the assessment of damages may appeal to this court, and shall have the right to a trial by a jury, and this court is directed not to set aside the proceedings of the commissioners for any defect or omission, but to amend or supply all such defects or omissions, and increase or reduce the amount of damages assessed, and correct the said return of proceedings, and to cause the proceedings and decisions on said return and appeals to be entered in the book containing the record of the proceedings 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." The ordinance does not in terms direct that the inquisition found by the jury shall be confirmed by the court, or that any judgment shall be entered thereon, and if any power to either exists it can only be derived from inference from the language of the ordinance, or from the provisions of the act of assembly, or from established practice in similar cases.

Section twenty-one provides that if no appeal is taken the assessment and ascertainment of damages by the commissioners is conclusive upon all parties, and

further enacts that upon the payment or tender of payment to the parties respectively entitled to receive the same, of the sum of money so ascertained by the said board of commissioners, or by the said Baltimore city court in case of an appeal prosecuted under the provisions of this ordinance to be the value of the property designated in the aforesaid statement as necessary to be acquired by the mayor and city council of Baltimore in construction of works connected with the improvement of Jones' Falls hereinbefore mentioned. Or upon the investment thereof in the city five per cent. stock, the said property shall become to all intents and purposes the property of the said mayor and city council of Baltimore for the purpose aforesaid.

It will be seen, then, that, by the act of assembly and the ordinance above referred to, full power is given to the city to acquire such property within its limits, as, in its judgment, may be advisable for the improvement of Jones' Falls, and also to ascertain the value of such property. The latter is to be accomplished by means of a board of commissioners appointed by the city, but any person dissatisfied with the assessment may appeal to this court, where he is entitled to a trial by jury, and the value so ascertained by the commissioners, if not appealed from, or by proceedings in this court in case of appeal, is equally conclusive upon all parties. But until the money is actually paid, or tendered to the parties, or invested for them in city stock, the title does not become vested in the city. The ascertainment of the value is a mere preliminary proceeding.

The vesting of the title depends on the payment or tender of the money, or the investment of the money in the city stock, which is meant to be an equivalent thereto. Until that is done, the owners remain in the enjoyment and control of their property, and the city has no right to take possession. If it had been the intention of the act or the ordinance that payment should be made at any fixed period, they ought to have so declared, but instead of so doing, they allow the city to fix its own time by authorizing it to provide for collecting and paying over the amount, by providing that, upon payment or tender by the city, the title is to vest in it. It has been forcibly urged on the part of the appellant that, to give this privilege to the city might cause great damage to the owner, because, until the property is actually taken, they are prevented by the uncertainty of their tenure from making profitable use or disposition of it and because the value of the property might change and be largely enhanced before the city might choose to take it at the prices previously fixed. But the reply to these considerations is, that the law must be interpreted as it stands, according to its true intent and meaning, and that it cannot be construed by the court so as to obviate the real or supposed hardship which may arise in particular cases, and still further that the construction contended for by the appellant might inflict some greater injury than it would prevent. The city was by the said act of 1870, chapter 115, authorized to acquire all property which in its judgment might be advisable for the purpose in view, but until the value of the property was ascertained according to law, it was impossible for it to exercise sound judgment on the subject. It might be advisable for the city to purchase the pro-

perty if it could be obtained for a certain price, and very unadvisable if that price was greatly exceeded. It was estimated that the cost of the entire improvement would not exceed two millions five hundred thousand dollars, and the city by the act of 1870, chapter 113, [p 162 *post*,] was authorized to issue its bonds for that amount, but the assessment by the commissioners of the property to be taken alone amounted to \$2,027,815 78, and has been increased by the amount of \$43,639 by the appeals, and it was then estimated that the additional sum of \$1,500,000, would be required in order to complete the improvement. The discretion of either making or declining the purchase, the act and the ordinance intended that the city should exercise, with a view to the public good, and it has in fact exercised it by repealing the ordinance, [p. 166 *post*,] while the motions in this case were under argument. The city has thus refused to take the property of the appellant. Can it be compelled to pay for it by any process issued in this case from this court? The question is not a new one in this State, but has, I think, been substantially settled in three cases, one decided by the Supreme Court of the United States, and two by the Court of Appeals of Maryland. The first was that of the *Baltimore and Susquehanna Railroad Company*, against *Nesbit*. 10 Howard 395, decided in 1850. In that case certain land of Nesbit in Baltimore county, was under its charter condemned by the inquisition of a jury, for the purposes of the road, and the inquisition was duly confirmed by the court.

This condemnation and confirmation fixed the value of the land. The charter provided, as in this case, that when the valuation so made was paid or tendered to the owner the title to the property should vest in the company, but the amount was not tendered for upwards of seven years. In the meantime, in about four years from the date of the confirmation it was set aside by the court under the authority of a special Act of Assembly, and a new inquisition was ordered by the court under the same Act. The case was then taken by writ of error to the Supreme Court which decided that no title vested in the company under the inquisition and confirmation because the company had neither paid nor tendered payment of the assessed value. The court says in its opinion "it can hardly be questioned that without acceptance by the acts and in the mode prescribed the company was not bound, that if they had been dissatisfied with the estimate placed upon the land, or could have procured a more eligible site for the location of their road they would have been at liberty before such acceptance wholly to renounce the inquisition. The proprietors of the land could have no authority to coerce the company into its adoption."

The case of the *State vs. Graves*, 19th Maryland 351, arose out of the condemnation of land for opening Holliday street. After the lot in question had been assessed by the commissioners, an appeal was then taken to the criminal court, which then had jurisdiction of such appeals, where there was an inquisition of the jury, which was confirmed by the court. Subsequently the city repealed the ordinance. The court of appeals, relying on the decisions above referred to, decided that "the dedication of private property to public use is not complete until the proprietor is paid or tendered the value of his property as ascertained

by the inquest or assessment. No preliminary step prior to actual payment or tender, so fixes the corporation as to prevent an abandonment of the condemnation or of the enterprise."

The court thus held that although the value of the land had been established by the inquisition and the confirmation thereof the company had the right to refuse to take it because no title vested until the company choose to pay the price. In the case of *Graff vs. the Mayor and City Council of Baltimore*, decided by the court of appeals in 1857, 10 Maryland, 544, it appeared that the city, by virtue of an act passed for supplying it with pure water, proceeded to condemn certain land in Baltimore county. The inquisition of the jury was returned to the proper court and by it confirmed. But before the final confirmation the city repealed the ordinance which it had passed on the subject and refused to take the property.—The act of assembly contained a clause that the title of the property was to vest in the city on payment or tender by it of the assessed value. The court of appeals decided that the above mentioned decisions of the Supreme Court were conclusive of the case, quoted with approval the language above cited from that decision and added: Now if the title does not vest in the city until payment or tender and the owner could compel payment by legal process there would be no mutuality. The city might be required to pay for land that it may never use or need for the purpose of the act. This certainly would be a hardship on the citizens of Baltimore from which we think, they should be relieved by adopting the decision of the Supreme Court in the case cited.

These decisions are, I think, conclusive that the inquisition of the jury and the proceedings of the court in this case settled only the value of the property, and that as the city neither tendered nor paid the price, it did not accept the property and the title did not vest in it, and that the city has, by a repeal of the ordinance, put an end to the entire proceedings. It is contended, however, that the provisions contained in the ordinance that "the proceedings and decisions of this court when certified to the register shall be final and conclusive in every respect" gave to this court the power and made it its duty to enter such a judgment on the inquisition as would absolutely bind the city to pay the price of the property. But I understand this provision to refer only to the proceedings and decisions of this court in the determination of the value of property which was the question before it, and not in any way to relate to or affect the right of the city subsequently to accept the property by paying or tendering the price, or to put an end to the proceedings by repealing the ordinance, which are matters over which this court has no control; and I am confirmed in this opinion by the decision of the Court of Appeals in the Holliday street case above referred to, because the ordinance under which that street was opened contained a similar provision.

In that case it appears that the criminal court entered a judgment of confirmation of the inquisition of the jury, but neither the Court of Appeals nor the counsel in that case relied on that provision as in any degree impairing the right of the city to refuse to accept and pay for the property, or its right to repeal the



ordinance. I have been referred to decisions both in Massachusetts and Pennsylvania on statutes of those States in which it was held that the inquisitions of juries condemning land in one case for a railroad, and in the other for a turnpike company, after the inquisitions were confirmed by the proper court, became absolutely binding on the companies; but those statutes did not give to those companies the right conferred by the statutes of this State on the parties asking for condemnation to accept or reject the property after condemnation, and the decisions in those States, therefore, are not applicable to the case now before me.— And in the case in Pennsylvania of *Hampton vs. Commonwealth*, 7 Harris, 329, where an act was passed authorizing the extension of a street in Pittsburgh, and providing for an assessment of damages on lots in the vicinity, it was held after the damages were assessed and the report was confirmed, but where before proceedings were instituted to recover damages the act was repealed, that the repealing act put an end to opening the street, and rendered void all proceedings under it, and that the parties in whose favor damages had been assessed could not recover.

But it is further contended that the act of assembly, passed in 1870, chapter 371, which adds an additional section to the Code of Public General Laws, article 29, entitled Courts, applies to this case. [See p. 153 *ante*.] The act clearly implies that in proceedings to condemn land the return and ratification of the inquisition by the proper court do not constitute a judgment on which an execution can issue.

But it provides that, on such returns and ratification, this Court shall render a judgment against the persons or corporation for whose use the condemnation may be made in favor of the owners named in the inquisition for the amount of damages awarded by the jury, and it gives ninety days after ratification in which the property can be abandoned before execution can issue. Now, to what class of cases does the act apply? To those, certainly, which are provided for by the Act of 1868, chapter 471, sections 170 to 175, inclusive—that is, to cases where corporations are authorized to acquire land, etc., by condemnation. The Sheriff in these cases is directed to summon a jury, which is to value the property and reduce its inquisition to writing. The Sheriff is then to return the inquisition to the proper court for ratification, and the title is to vest in the corporation on the payment or tender of the price. And the Act of 1870, chapter 371, also applies to all other cases of condemnation under any special act where there is an inquisition of a jury which is required to be returned to court for confirmation.

But the act of 1870, chapter 115, authorizing the improvement of Jones' Falls, or the city ordinance which was passed for the same purpose and is made valid by the same act, establish an entirely different system. The valuation is not directed to be made by a jury, and therefore there is no inquisition which could be returned to this court or to any court for ratification, but the valuation is required to be made by a board of commissioners, and is conclusive on all parties, except those who, considering themselves aggrieved by the action of the board, appeal to this court within the time limited. The case of appellant was, there-

fore, not returned to this court for ratification, but was brought here by his own appeal for the purpose of reviewing and correcting the valuation made by the commissioners. This was the object of the appeal as stated in his petition. On the appeal he was entitled to a jury trial, or, at his option, he could have submitted the case to the court. He elected to have a jury trial.

The jury, it is true, returned its inquisition to this court as it was bound to do, for the inquisition or finding of a jury must be returned somewhere, and as the trial was held under the court's direction there was no other tribunal to which it could be returned, but the inquisition was not returned for the purpose of ratification within the meaning of the act of 1870, chapter 371. It was returned to this court as the tribunal having jurisdiction of the appeal, and was valid, whether it was ratified or not, unless it was actually set aside by the court. There is no provision in the act of assembly or in the ordinance of the city which requires such a ratification in order to make the inquisition valid.— Again the act of 1870, chapter 371, applies only to cases where the inquisition of a jury is returned to court and is ratified by it; but of the numerous assessments made for the improvement of Jones' Falls only a few were appealed to this court, and of those appealed only a portion were submitted to a jury and the rest were left to the decision of the court. If the contention of the appellant be sustained the few cases which were in this court submitted to a jury have alone received such a judicial sanction that under the act of 1870, chapter 371, process can be issued on them against the city, while no such process can issue on the cases brought here by appeal, which were decided by the court, or in the very numerous cases which were not appealed at all. I cannot think it possible that any such unreasonable and unjust discrimination was intended to be established by law among the different owners of condemned property who are all entitled to equal consideration and to the same treatment. Three things are made necessary by the act of 1870, chapter 271, in the cases to which it applies, first, a return of the inquisition; second, a ratification thereof by an order of the court; and third, a judgment against the person or corporation for whose use the condemnation is made.

If the judgment on the inquisition entered by the clerk in this case be allowed to stand as it is in effect and meaning nothing more than a judgment of ratification of the inquisition, it is not such a judgment against the city as is contemplated by the act as being the proper basis of an execution, and as I think that the act does not apply to this case, I shall not enter any further judgment therein. The judgment regarded as an order of ratification is, I think, proper, in view of the sanction given to such a practice by the Court of Appeals in the parallel case of the *State vs. Graves*, 19th Md. 351. In that case the inquisition of the jury was confirmed by the criminal court, page 355, and the Court of Appeals, page 367, speak of it as a judgment of the court. From the language of the act of 1870, chapter 371, and the nature of its provisions, I have come to the conclusion that it does not apply to this case.

But there is another consideration which confirms me in this opinion: that is

it cannot do so unless by implication it repeals the powers previously granted to the city by the act of 1870, chapter 115, in relation to Jones' Falls. Such an implication is not favored in law, and should not be made unless it satisfactorily appears to have been the intention of the legislature. On this point I cite a passage from the able work of Dillon on Municipal Corporations, volume 1, page 54: "It is a principle of very extensive operation that statutes of a general nature do not repeal by implication charters and special acts passed for the benefit of particular municipalities, but they do so when it appears to have been the purpose of the legislature. If both the general and special acts can stand they will be construed accordingly."

If one must give way, it will depend on the supposed intention of the law-maker, to be collected from the entire course of legislation, whether the charter is superseded by the general statute, or whether the special charter provisions apply to the municipality in exclusion of the general enactments. "And the Court of Appeals has emphatically declared that if laws and statutes seem contrary to one another, yet if by interpretation they may stand together, they shall stand, and when two laws only so far disagree or differ as that by any other construction they may both stand together, the latter is no repeal of the former." (*Mayor et al. of Cumberland vs. Magruder*, 34 Md., 381.) Moreover the act of 1870, ch. 371, is part of the General Public Law and the act of 1870, ch. 115, which confers on the city its powers in reference to the improvement of Jones' Falls, is part of the Local Public Law. Both were passed at the same session, and the Code provides, article 2, section 11, that "where the General Public Law and the Local Public Law of any county, city, town or district, are in conflict the Public Local Law shall prevail." As I see no conflict between the two acts, but am of opinion that they respectively refer to proceedings of an essentially different description, I do not think that the act relating to Jones' Falls is altered by the latter enactment. I accordingly dismiss the motion to strike out the judgment because, although it might be more explicit in form, it is only a judgment of ratification, and such an order or judgment was, I think, proper to be entered in the case; and I dismiss the motion for an execution against the city for the reasons given.

It was held by circuit court for Baltimore county in *German Church vs. Park Commissioners, Druid Park*, February, 1873, that judgment on condemnation under the act of 1870, ch. 371, is only "for amount of damages awarded," and does not carry interest.

The act of 1870, c. 113, entitled an act to authorize the mayor and city council of Baltimore to issue bonds of the city of Baltimore to an amount not exceeding two millions five hundred thousand dollars, for the purpose of providing means for the improvement of Jones' Falls within the limits of the city of Baltimore, enacts as follows :

1870, c. 113.  
Authority to is-  
sue bonds.

Ordinances.

Proviso.

8. The mayor and city council of Baltimore is 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 improvements 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 thirty-first, eighteen hundred and seventy; 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 fourth section of the said last mentioned ordinance.

The act of 1874, ch. 179, entitled an act supplementary to an act entitled an act to authorize the mayor and city council of Baltimore to issue bonds of the city of Baltimore to an amount not exceeding two millions five hundred thousand dollars, for the purpose of providing means for the improvement of Jones' Falls within the limits of the city of Baltimore, passed at January session, 1870, chapter 113, and provide for an additional issue of bonds not to exceed in amount one million five hundred thousand dollars, enacts the following :

9. The mayor and city council of Baltimore are hereby au-<sup>1874, c. 179, s. 1.</sup>thorized to issue bonds to an amount not exceeding one mil-<sup>Authority to is-</sup>lion five hundred thousand dollars in addition to the amount<sup>sue additional</sup> of two million five hundred thousand dollars heretofore pro-<sup>bonds.</sup>vided 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 ordi-<sup>Ordinances.</sup>nance 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 number twelve, and to authorize an additional issue of one million five hundred thousand dollars for the same purpose, approved eighteen hundred and seventy-four.

10. Such portion of the bonds of the two million five hun-<sup>Ibid, sec. 2.</sup>dred thousand dollars issue authorized by the act of assembly<sup>Registered or</sup> to which this is a supplement, as have not already been issued<sup>coupon bonds.</sup> 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 eighteen hundred and seventy-four in relation thereto.\*

#### ORDINANCES.

Ordinance No. 12, January 31, 1870, 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, enacts the following :

The register of the city is hereby authorized and directed to<sup>No. 12, Jan. 31,</sup> issue the bonds of the city, to an amount not exceeding two<sup>770.</sup>

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\* The above recited ordinance was submitted to the voters of the city, April 21, 1874, and rejected.

Register authorized to issue bond to amount \$2,500,000 for improvement of Jones' Falls.

Proviso.

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; 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 ordinance, or in any supplement thereto, and for no other purpose whatever; 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. 2.  
How bonds to be issued.

2. The said bonds shall be issued in sums of not less than one hundred dollars each, redeemable in thirty years, and bearing interest of six per cent. per annum, payable quarterly, and transferable as other city bonds.

Ibid, s. 3.

Sinking fund.

3. The sum of two cents on every one hundred dollars' worth of assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied as a sinking fund for the redemption of the debt created by this ordinance, and the proceeds of said tax, when collected, shall be paid over to the commissioners of finance, and be applied by them to the extinguishment of said debt.

Ibid, s. 4.  
Submission to voters.

4. This ordinance shall be submitted to the legal voters of the city of Baltimore, for their approval or disapproval, at an election to be held on the third Thursday after the passage by the general assembly of Maryland of an act authorizing the issue of the aforesaid bonds, on which day polls shall be opened in the various precincts of the said city at the usual places of

voting in said precincts, said polls to be opened and closed at the same time as provided by law for other elections; at which said election each of the said voters that shall approve the adoption of the ordinance shall deposit a ticket or ballot on which shall be written or printed the words "For the Jones' Falls ordinance," and each of the said voters that shall be opposed to the adoption of this ordinance shall deposit a ticket or ballot upon which shall be written or printed the words "Against the Jones' Falls ordinance."\*

5. Immediately after the closing of the polls the judges of election in the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the Jones' Falls ordinance," and the number of votes cast "against the Jones' Falls ordinance;" and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor shall certify the fact to the presidents of the respective branches of the city council, and this ordinance shall take effect from the date of the said certificate. <sup>Ibid, s. 5. Ballots.</sup> <sup>Return to mayor.</sup> <sup>Mayor to certify result.</sup>

6. And a copy of this ordinance and notice of the time of holding the said election shall be published in at least four of the daily newspapers of the city of Baltimore twice a week for two weeks prior to the said election. <sup>Ibid, s. 6. Publication.</sup>

7. And the city comptroller is hereby authorized and directed to have printed tickets of the description mentioned in section four of this ordinance, and placed at all the polls of the said city on the day of the said election; and the register is hereby authorized and directed to pay the expenses of the said printing and publication provided for in the preceding section out of any moneys in the treasury not otherwise appropriated. <sup>Ibid, s. 7. Tickets.</sup>

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\*See act of 1870, ch. 113, p. 162, *ante*. This ordinance was approved in the manner above prescribed.

## R E P E A L.

Ordinance approved May 27, 1874, enacts the following :

Ordinance May  
27, 1874.  
Ordinances re-  
pealed.

8. 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, together with all ordinances supplementary thereto, are hereby repealed.

NOTE.—(1.) The ordinances enacted *previously* to and repealed by the passage of ordinance 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.

(2.) The ordinances enacted *since* the passage of ordinance No. 51, April 24, 1872, and which are repealed by the ordinance of 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 the ordinance 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.



# ARTICLE XXIX.

## JURORS.

### STATUTE.

#### EXEMPTION.

Certificates of membership of militia  
company : honorary members : cer-

tificate : exemption from jury duty :  
proviso.

### S T A T U T E .

#### EXEMPTION.

The act of 1870, ch. 182, sec. 22, enacts the following :

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 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 member shall be entitled to receive a certificate of honorary membership of the company, to be signed as aforesaid, and bearing date at the time

1870, c. 182, s. 22.  
Certificates of  
membership of  
militia com-  
pany.

Honorary mem-  
bers.

Certificate.

Exemption  
from jury duty.  
Proviso.

of its issue; which certificates of membership, whether of uniformed and active members or of honorary members, shall exempt the person therein named from jury duty, for the period of one year from the date of his said certificate; provided, he files his said certificate with the clerk of the court before the drawing of the jury.\*

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\* An honorary member of any legally organized volunteer company of the militia of the State, is, by virtue of above sec. 22, of 1870, ch. 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 [see p. 454 note City Code] 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, ch. 1, form no part of the existing laws of the State; they having been repealed by implication, by virtue of the act of 1860, ch. 308, [sec. 601, &c., P. L. L., art. 4; sec. 1, p. 447, &c., City Code] 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, ch. 308, [sec. 1, p. 447, City Code] refer to the qualification of jurors, prescribed by art. 50, of the Code of Public General Laws. *Albert, Sheriff v. White*, 33 Md., 297.

Decision of Brown, C. J., in city court, May, 1874, in *John Ieffler vs. Jacob Brandt, Jr.* In this case a motion for a new trial has been made by the defendant on two grounds. \* \* \* 2d. 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. \* \* \* The Code, vol. 1, article 50, section 4, provides that "no person shall be summoned and returned upon a panel as a juror who may not have arrived at the age of twenty-five years." Section 3 provides that "all persons over seventy 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 therefore 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 assem-

bly of 1797, chapter 87, section 5, and that as to the age of seventy 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 vs. 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, ch. 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 vs. Archer*, 9 G. & J. 497, 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 suitability 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 vs. 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 case, would not be a 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 Massachusetts of *Amherst vs. 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 very recent case of *Barnett vs. Matthews*, 40 Howard Pr. Rep. 428, it was held in New York that the verdict of a jury will not be 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 the trial; and in the case of the *United States vs. 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 empanelled, it was held that it was no cause for setting aside the verdict.

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## ARTICLE XXX.

### LICENSES.

#### STATUTES.

License for billiard tables : provisos.	penalty.
Pawnbrokers to take out license :	Commissions on licenses.

#### ORDINANCE.

Payment in lieu of license.

#### STATUTES.

The act of 1870, ch. 250, repeals sec. 6, art. 56, P. G. L., [sec. 1, p. 457, City Code,] and enacts as follows :

1870, c. 250.  
License for billiard table.

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. Provisos.

The act of 1874, ch. 256, enacts *inter alia* the following :

Any person applying for the same and paying the sum of one hundred dollars, may obtain a license to carry on the business of 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. 1874, c. 256.  
Pawnbrokers  
to take out li-  
cense.  
  
Penalty.

By act of 1874, ch. 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*. Commissions  
on licenses.

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 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 dollars 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, ch. 413, p. 458-459, City Code,] to sell, offer for sale or expose for sale, within certain limits in the State, any goods, wares or merchandise, whatever, other than agricultural products and articles manufactured in Maryland, within the said limits, 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.

## O R D I N A N C E S .

Ordinance No. 111, June 24, 1871, repeals and re-enacts section 12, p. 464, City Code, as follows :

No. 101, June  
24, '71.  
Payment in lieu  
of license.

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.

## ARTICLE XXXII.

## MARKETS.

## O R D I N A N C E S .

## STALLS AND STANDS IN CENTRE MARKET.

14. Annual rent for stalls, &c., in Centre market.

41. Location for sale of cheese, dried fish, &c., under supervision of clerk of market.

Market house on fish market space, a market for sale of fresh fish : duty of comptroller and clerk of market : expenses.

## MARKET DAYS AND HOURS.

66. Market days.

Market hours at Lafayette market.

## SALARIES.

68. Salaries of clerks, &c.

## BELAIR MARKET.

Additional market house.

## BROADWAY MARKET.

Wagons and vehicles to reverse positions.

## CANTON MARKET.

Leased to Canton Company.

## CROSS MARKET.

Butcher stalls, &c.

## LAFAYETTE MARKET.

Appointment of clerk : bond.

Powers and duties.

Market ordinances and regulations applicable : salary of clerk.

## LEXINGTON MARKET.

New market house.

## RICHMOND MARKET.

Additional market : new market.

Armory 5th Md. R., M. N. G.

## ORDINANCES.

## STALLS AND STANDS IN CENTRE MARKET.

Ord. No. 26, April 10, 1873, repeals and re-enacts to read as follows, so much of sec. 14, p. 507, City Code, as relates to rents of butchers' stalls in the upper Centre market, and the permanent and eave stalls in the upper, the middle, and the lower houses of the Centre market:

14. 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 side four dollars, and the eave benches two dollars; in the middle and lower market houses the permanent benches on the east and west sides to be four dollars, and the eave benches two dollars.

Ord. No. 16, March 15, 1873, amends sec. 41, p. 516, City Code, as follows:

41. So much of section 41, article 32, as relates to the location for the sale of cheese, salted, cured and dried fish in the Centre market, is left under the supervision and direction of the clerk of 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.

Ordinance No. 41, April 17, 1873, repeals so much of sections 76, 77, 78 and 80, p. 528, City Code, as appertains to the limits of the fish market in Centre market, and enacts and ordains the following:

The several stalls now held, or what has been formerly held by and used for the sale of dried fish, cheese, &c., in the westernmost portion of the fish market, are hereby devoted to the exclusive sale of fresh fish, and the whole of said market house on fish market space is declared a market exclusively for the sale of fresh fish.

The comptroller, with the clerk of the Centre market is required to carry out the provisions of the foregoing section, and all expenses incurred thereon shall be equally borne by the city and the fish dealers in said market.

## MARKET DAYS AND HOURS.

Ordinance No. 43, April 24, 1873, substitutes the following for sec. 66, p. 522, City Code :

No. 43, April 24, 1873.  
Market days. 66. 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.

Ordinance No. 1, November 14, 1871, enacts and ordains the following :

No. 1, Nov. 14, 1871.  
Market days at Lafayette market. Monday, Thursday and Saturday are hereby designated as the regular market days of the Lafayette market house.

Ordinance No. 5, November 18, 1871, enacts and ordains the following :

No. 5, s. 2.  
Nov. 18, 1871.  
Market hours at Lafayette market. Market hours at the Lafayette market shall begin at day-break 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.

## SALARIES.

Ordinance No. 11, March 18, 1873, amends sec. 68, p. 523, City Code, as follows, and repeals sec. 4, p. 505, City Code :

No. 11, March 18, 1873.  
Salary of clerk of Belair market. 68. Hereafter the annual salary of the clerk of the Belair market shall be seven hundred dollars, payable as the salaries of other clerks of other markets are payable, and said clerk shall not be required to give his official services as assistant to the clerk of Centre market.

Ibid, s. 2.  
Salaries of clerk of Richmond market, of Cross street market and keeper of said market hall, and cleaner of Richmond market. The annual salary of the clerk of Richmond market shall be four hundred and fifty dollars; the annual salary of the clerk of Cross street market and keeper of Cross street market hall shall be eight hundred dollars, and the annual salary of the cleaner of Richmond market shall be two hundred and



forty dollars, payable as the salaries of the city officers of other markets are payable.

Ordinance No. 18, February 28, 1871, enacts and ordains as follows :

It shall be the duty of the clerk of Cross street market, 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 it up when necessary.\*

No. 18, Feb. 28,  
'71.  
Additional  
duties of clerk  
of Cross street  
market.

Ordinance No. 81, June 27, 1870, amends said sec. 68, as follows :

68. The salary of the cleaner of Centre market shall be six hundred dollars per annum.

No. 81, June 27,  
'70.  
Salary of cleaner  
Centre market.

#### BELAIR MARKET.

By No. 188, June 22, 1870, the city commissioner was authorized and directed to have erected an additional market house on the lot purchased from E. L. Rogers, situated on Forrest street, running southwardly from Low to Orleans streets, [see note, p. 526, City Code] on the plan submitted to the council, and the sum of ten thousand dollars was appropriated therefor.

#### BROADWAY MARKET.

Resolution No. 251, July 2, 1872, is as follows :

The city comptroller is hereby authorized and directed to have 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, reversed in such a manner as to expose their products for sale on the side of the street nearest the sidewalk.

Res. No. 251,  
July 2, '72.  
Wagons and  
vehicles to re-  
verse position.

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\*This ordinance increased the salary of clerk of Cross street market to \$600, with above duties added. It is superseded by ordinance No. 11, March 18, 1873, as to said increase of salary.

NOTE.—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 is to be revoked upon six months' notice to that effect from the mayor.

## CANTON MARKET.

Ordinance No. 106, June 19, 1871, enacts and ordains the following :

Canton market  
leased to Canton  
Co.

For five years.

Proviso.

The comptroller is hereby authorized and directed to lease to the Canton company of Baltimore 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.

## CROSS MARKET.

Ordinance No. 39, April 14, 1873, enacts and ordains the following :

No. 36, April 14,  
73.  
Comptroller to  
provide an  
equal number  
of butchers and  
other stalls in  
new Cross street  
market house.

The city comptroller is hereby 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 may 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 may be assigned them by the city comptroller free of any extra charge.

The owner or owners of stalls held by him or them under the Cross street hall, shall as soon as the comptroller, having complied with the first section of this ordinance, surrender and deliver to the city 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 city comptroller may designate for them respectively in the new market; and the city comptroller is hereby to sell such stall or stalls under said hall to the best advantage under law regulating the sale of stalls in the different markets, and to be designated and known as the Cross street fish market.\*

*Ibid*, s. 2.  
Owners of stalls under Cross street hall to surrender them to Comptroller.

Comptroller to sell stalls under Cross street hall.

#### LAFAYETTE MARKET.

Ordinance No. 5, May 18, 1871, entitled an ordinance to appoint a clerk for the Lafayette market and prescribing his duties, enacts and ordains the following:

There shall be appointed annually as other city officers are appointed, one clerk for the Lafayette market, who, 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 condition that he will faithfully discharge the trust reposed in him.

No. 5, May 18, 1871.  
Appointment of clerk.

Bond.

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

*Ibid*, sec. 3.  
Powers and duties.

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\* This ordinance recites 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 previous to the erection of said hall, and that 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, are desirous of making said market in uniformity with others in the city of Baltimore, thereby making provisions for a suitable 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.

or other unavoidable accident or necessity, the market to which he is appointed during the market hours prescribed in the second section of this ordinance, [on p. 174 *ante*] 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. 4.  
Market ordi-  
nances and  
regulations.

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, and shall receive for his services the sum of three hundred dollars per annum, payable monthly.

Salary.

NOTE.—Lafayette market house was erected under resolutions Nos. 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, for thirty thousand dollars. This lot of ground is bounded on the east, north and west by Pennsylvania avenue, Cook and Fremont streets.

#### LEXINGTON MARKET.

Under resolution No. 193, 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; and the sum of twenty thousand dollars was appropriated for the purpose, the work was continued by resolutions No. 78, March 31, 1871; 81, April 7, 1871; May 11, 1871.

#### RICHMOND MARKET.

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 the Richmond market [see *note* p. 532, City Code] 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 may elect, with open space on other side; the section of roof and elevation to be the same as indicated by plan "D" submitted, and the sum of twelve thousand dollars was appropriated for the purpose, necessary to execute said work, the same to be taken out of any money in the treasury not otherwise appropriated.

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, for which they were to pay such rental as may be determined by the city comptroller; and the sum of seventy thousand dollars, including the amount heretofore appropriated for the erection of said market house, was appropriated therefor.

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 shall 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 superintendent of public buildings; and in the event of the said regiment disbanding then the said gas fixtures and heating apparatus to remain in the said building, without cost to the city.

By resolution No. 448, November 6, 1873, the inspector of public buildings was directed and authorized to tear down and erect a new market house on the site of the old Richmond market house, bound by Richmond, Garden, Howard and Biddle streets, the plan of construction conforming with the designs accompanying the resolution, and the sum of thirty thousand dollars was appropriated therefor.

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## ARTICLE XXXIV.

### PARKS.

#### STATUTES.

5. Condemnation of land by park commissioners.
6. Park commissioners may enlarge streets, &c., leading to parks.

#### HOMWOOD PARK.

Deed of property for park: proviso.  
Improvement, &c., of park: park commissioners.

## O R D I N A N C E S .

## PATTERSON PARK.

Office of keeper abolished : superintendent : compensation.

Park commissioners to purchase or condemn land for extension of park : description.

Register to issue bonds of city : proceeds to be used for purchase of property : proviso : when to go into effect.

Bonds redeemable in twenty years.

Ordinance to be submitted to voters of Baltimore city : election.

Duties of judges of election : when ordinance to take effect.

Publication in newspapers.

Duty of city comptroller : of register.

Investment : sinking fund.

Surplus of revenue of city passenger railway company to be applied to interest on bonds.

## RIVERSIDE PARK.

Mayor authorized to lease ground for enlargement of battery square : rent to be paid semi-annually.

Name.

## S T A T U T E S .

The act of 1870, ch. 68, repeals sections 958 and 959 as enacted by act of 1862, ch. 29, being sections 5 and 6, p. 545, &c., City Code, and also the act of 1870, ch. 4, and re-enacts the same to read as follows :

1870, c. 68.  
Condemnation  
of land by Park  
Commissioners.

5. 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 a *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 related 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 than 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 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 for 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.

6. 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

May enlarge streets, &c., leading to parks

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.

#### HOMEWOOD PARK.

The act of 1874, ch. 270, recites that it is proposed by certain property owners in Baltimore county to convey to the mayor and city council of Baltimore city, certain property situate on, or near Charles Street avenue, in Baltimore county, to be held and used only for, and as a public park, and enacts as follows :

1870, c. 270.  
Deed of prop-  
erty for park.

That the mayor and city council of Baltimore are authorized to accept a deed or deeds of conveyance of, and to hold certain property, not exceeding thirty acres, lying on, or near Charles street avenue, in Baltimore county, from the heirs of Samuel Wyman, late of Baltimore county, deceased, from the Peabody Heights Company, of Baltimore, and from William Remington, of Baltimore county; to be held and used only for, and as a public park; provided said deed or deeds of conveyance be executed and delivered before the expiration of two years from the date of the passage of this act, (April 11, 1874.)

Proviso.

Ibid, sec. 2.  
Improvement,  
&c., of park.  
Park Commis-  
sioners.

That the mayor and city council of Baltimore are authorized and empowered to provide for the improvement, maintenance and regulation of said park, and the park commissioners of said mayor and city council of Baltimore shall have in respect to any park that may be established under this act, the same police powers and the same authority to make rules and regulations for the government of the same, as now exist in them in respect to Druid hill park.



## ORDINANCES.

## PATTERSON PARK.

Ordinance No. 69, June 7, 1872, enacts and ordains the following :

The office of keeper of Patterson park [p. 548, City Code] is hereby abolished; and in lieu of a keeper, the park commission is authorized to appoint a superintendent 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.

Office of Keeper  
abolished.

Superintendent

Compensation.

Ordinance No. 116, June 23, 1871, enacts and ordains the following :

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 Commis-  
sioners to pur-  
chase or con-  
demn land for  
extension of  
park.

Description.

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 embraced in the extension hereby contemplated, and for the improvement of the same, and for no other purpose whatever; 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 as-

Ibid, s. 2.

Register to is-  
sue bonds of  
city.

Proceeds to be  
used for pur-  
chase of prop-  
erty.

Proviso.

When to go  
into effect.

sembly 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, sec. 3.  
Bonds redeemable in twenty years.

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, sec. 4.  
Ordinances.  
To be submitted to voters of Baltimore city.

Election

This ordinance shall be submitted to the legal voters of the city of Baltimore for their approval or disapproval, at an election to be held on the third Thursday in the year eighteen hundred and seventy-two, after the passage of the enabling act by the legislature, on which day polls shall be opened in the various precincts of the said city at the usual places of voting in said precincts, said polls to be opened and closed at the same time as provided by law for other elections; at which said election each of the said voters that shall approve the adoption of this ordinance shall deposit a ticket or ballot, on which shall be written or printed the words, "For the extension and improvement of Patterson park;" and each of the said voters that shall be opposed to the adoption of this ordinance shall deposit a ticket or ballot upon which shall be written or printed the words, "Against the extension and improvement of Patterson park."

Ibid, sec. 5.  
Duties of judges of election.

Immediately after the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore, of the number of votes cast "for the extension and improvement of Patterson park," and the number of votes cast "against the extension and improvement of Patterson park," and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor shall certify the fact to the president of the respective branches of the city council, and this ordinance shall take effect from the date of said certificate.

When ordinance to take effect.

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\* Ordinance was duly approved.

A copy of this ordinance and notice of the time of holding the said election, shall be published in at least four of the daily newspapers of the city of Baltimore, until said election. Ibid, s. 6.  
Publication in  
newspapers.

The city comptroller is hereby authorized and directed to have printed tickets of the description mentioned in section 4 of this ordinance, and placed at the polls of the said city, on the day of the said election; and the register is hereby authorized and directed to pay the expenses of the said printing and publication provided for in the preceding section, out of any money in the treasury not otherwise appropriated. Ibid, s. 7.  
Duties of City  
Comptroller.  
Register.

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. 8.  
Investment.  
Sinking fund.

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; provided, that not less than one-fifth of the said ten thousand dollars and of the excess of annual receipts from the passenger railways over the amount necessary to provide for the interest on the bonds, heretofore and hereby authorized to be issued, shall be expended in the improvement and preservation of Patterson park.\* Ibid, s. 9.  
Surplus of  
revenue of City  
Passenger Rail-  
way to be ap-  
plied to interest  
on bonds.  
Proviso.

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\* By the act of 1872, ch. 7, the mayor and city council of Baltimore are authorized and empowered to issue the bonds of 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 of Baltimore, approved June twenty-third, eighteen hundred and seventy-one, and entitled an ordinance for the extension of Patterson park, is ratified and confirmed.

See art. 36, Railroads, Reduction of Tax.

## RIVERSIDE PARK.

Ordinance No. 65, June 11, 1873, enacts and ordains the following:

No. 65, June 11,  
73.

Mayor author-  
ized to lease  
ground for en-  
largement of  
Battery Square.

Rent to be paid  
semi-annually.

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.\*

Ibid, s. 2.  
Name.

The name of the property shall be "Riverside Park."

\*By resolution No. 418, October 22, 1873, the mayor, for and in behalf of the corporate authorities of Baltimore city, is 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 article 41, Squares.

# ARTICLE XXXV.

## POLICE.

### STATUTES.

#### BOARD OF POLICE COMMISSIONERS.

2. Election of police commissioners : removal, &c. : salary : bond : oath : when to take effect.
6. Board to enroll, &c., police force : what police force to consist of : pay : term : commission : proviso : dismissal : proviso : qualifications : pay : absence from duty : dismissal.
12. Proceedings : receipts and disbursements : inspection by general assembly : report to general assembly : inspection by mayor and city council : duty of comptroller.

#### CLERK TO MARSHAL.

Clerk to marshal : salary : bond.

#### CARRYING CONCEALED WEAPONS.

Carrying concealed weapons : penalty : proviso : persons arrested in daytime : penalty on officer.

#### MILITIA.

When called out by board of police or sheriff, subject to their orders.

#### REGISTRATION.

Order.

#### RACES.

Maryland Jockey Club.

### STATUTES.

#### BOARD OF POLICE COMMISSIONERS.

The act of 1874, ch. 2, repeals sec. 806, of art. 4, P. L. L., as repealed and re-enacted by 1867, ch. 367, being sec. 2, p. 551, City Code, and re-enacts the same to read as follows :

2. Immediately after the passage of this act, (February 3, 1874) 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 commission-

1874, c. 2.  
Election of  
Police Commis-  
sioners.

**Removals, &c.** ers shall be subject to removal as provided in said article four ; 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 of 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 by them made 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 political 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.

**Bond.**

**Oath.**

**Ibid, sec. 2.**  
**When to take**  
**effect.**

This act shall take effect from the date of expiration of the terms for which the present board of police have been elected.

1874, ch. 146, repeals section 810, of art. 4, P. L. L., as repealed and re-enacted by 1870, ch. 287, [sec. 6, p. 555, City Code] and re-enacts the same so as to read as follows :

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

1874, c. 146.

Board to enroll,  
&c. police force.

What police  
force to consist  
of.

Pay.

Term.

Commission.

Proviso.

Dismissal.  
Proviso.

Qualifications.

Pay.

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; 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 shall 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 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 report shows 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 dis-

Absence from  
duty.

Dismissal.



charged by the said board of police commissioners, if they shall deem it proper so to do.\*

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\* The act of 1874, ch. 75, also repeals and re-enacts sec. 10 (sec. 6, p. 555, City Code,) of act of 1870, ch. 287. This act was approved March 12, 1874, and the act of 1874, ch. 146, was approved March 30, 1874. The act of 1874, ch. 75, is consequently repealed by act of 1874, ch. 146.

*Powers of Board.*

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. Amongst their other duties they are specially required to prevent and remove nuisances within the city. [See pp. 554, 883, City Code.] 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. *Altwater v. Mayor, &c.*, 31 Md., 462; *Flynn's case*, 39 Md. 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. 34, p. 195, City Code.] The captain read the order to his men, one of whom very early on the morning of independence day 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. The officer entered 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, 1873, 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. 100 ante.

The act of 1874, ch. 146, repeals sec. 816 of art. 4, P. L. L., as repealed and re-enacted by the act of 1867, ch. 367, being sec. 12, p. 560, City Code, and re-enacts the same to read as follows :

1874, c. 146. Proceedings. Receipts. Disbursements.  Inspection by General As- sembly. Report to Gen- eral Assembly.  Inspection by Mayor and Council. Duty of Comp- troller.	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.
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#### CLERK TO MARSHAL.

The act of 1874, ch. 458, enacts the following :

1874, c. 458. Clerk to Mar- shal of Police.  Salary.  Bond.	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 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.
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## CARRYING CONCEALED WEAPONS.

The act of 1874, ch. 178, repeals sec. 827, of act of 1870, ch. 473, and amends and re-enacts the same as follows :

Whenever any person shall be arrested, charged with any <sup>1874, c. 178.</sup> crime or misdemeanor, and carried to any of the justices of the <sup>Carrying concealed weapons.</sup> 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 <sup>Penalty.</sup> 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 ; <sup>Proviso.</sup> 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 <sup>Persons arrested in day time.</sup> than five nor more than ten dollars. <sup>Penalty on officer.</sup>

## MILITIA.

The act of 1870, ch. 182, sec. 25, enacts the following :

Whenever the board of police commissioners for the city of <sup>1870, c. 182, s. 25</sup> Baltimore, or the sheriff of any county shall call out any por- <sup>Militia, when called out by Board of Police or sheriff, subject to their orders.</sup> tion 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. 558, City Code] 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.

The act of 1874, ch. 490, sec. 19, relating to registration, enacts the following :

1874, c. 490, s. 19.  
Order.

The board of police commissioners for Baltimore city, shall detail police officers sufficient to preserve order at the place where the officers of registration for Baltimore city, are discharging the duties of their office.

#### RACES.

The act of 1872, ch. 55, sec. 5, enacts the following :

1872, c. 55, s. 5.  
Order.

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 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.\*

NOTE.—By the act of 1874, ch. 310, the board of police commissioners is authorized and empowered to purchase or lease ground in the city of Baltimore as may be 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 cost of erecting the station houses to be paid by board of police commissioners out of their special fund.

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\*The Maryland Jockey Club, for the improvement of the breed of horses, was incorporated by act of 1872, ch. 55.



ARTICLE —.

PRINTER.

ORDINANCES.

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. Departments to have printing executed.</li> <li>2. To procure necessary stationery.</li> <li>3. To approve bills.</li> <li>4. City printer to be appointed annually by convention of city council: duties: bond to be approved by</li> </ol> | <ol style="list-style-type: none"> <li>mayor and comptroller.</li> <li>5. Joint standing committee on printing and stationery.</li> <li>6. Term of office of city printer: how removed.</li> <li>7. Prices to be paid printer.</li> </ol> |
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ORDINANCES.

Ordinance No. 138, October 21, 1871, entitled an ordinance creating a joint standing committee on printing, and for other purposes, enacts and ordains the following, and repeals sections inconsistent herewith, relating to city printing, pp. 18, 19, and 20, City Code:

1. On and after the first Monday of November, 1871, each department of the city government is hereby specially empowered to have the necessary printing of said department executed by any responsible person or persons bona fide engaged in the printing business in the city of Baltimore it may deem most advantageous to the interest of the city to select. No. 138, s. 1,  
Oct. 21, '71.  
Departments to  
have printing  
executed.
2. Each department is hereby empowered to procure the necessary stationery required by said department, from any person or persons bona fide engaged in the stationery business in the city of Baltimore it may deem most advantageous to the interest of the city to select. Ibid, s. 2.  
Departments to  
procure neces-  
sary stationery.

*Ibid*, s. 3.  
To approve bills

3. Each department shall examine and approve every bill incurred by it under the provisions of the preceding sections of this ordinance before such bill is presented to the comptroller for settlement, or paid by him.

*Ibid*, s. 4.  
No. 6, s. 2, Nov.  
21, '71.  
City Printer to  
be appointed  
annually by  
convention of  
City Council.

4. 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 required of him or them by this or any other ordinance, and who shall, before he or they shall enter upon the 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.

Duties.

To give bond,  
Approved by  
by Mayor and  
Comptroller.

No. 138, s. 5,  
Oct. 21, '71.  
Joint Standing  
Committee on  
Printing and  
Stationery.

5. 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.

*Ibid*, sec. 6.  
Term of office  
of City Printer.

6. The person or firm appointed as printer or printers to the city council shall enter upon the discharge of the duties as such immediately upon his or their appointment, and continue therein for two years, or during the term of the second branch of the city council, unless removed by the city council in convention assembled.

How removed.

Ordinance No. 6, Nov. 21, 1871, entitled an ordinance supplementary to an ordinance entitled an ordinance to appoint a joint standing committee on printing and stationery, enacts and ordains the following :

7. For the work performed by the printer selected by the council in pursuance of the ordinance to which this is a supplement, the printer 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 :

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

No. 6, s. 1, Nov. 21, '71.  
Prices to be paid Printer.  
Journals First and Second Branches.

Binding 100 copies each of first and second branch journals in the usual style, 200 books, at for binding per copy..... 50

Binding.

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

Proceedings.

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

Ordinances and resolutions.

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

Reports of departments.

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

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.....	10
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.	



## ARTICE XXXVI.

## RAILROADS.

## ORDINANCES.

## REDUCTION OF TAX.

Twelve per centum of gross receipts to be paid to city.

Agreement: Slawson fare boxes: children's fare.

Penalty for non-payment of tax.

Repeal.

Slawson boxes on B. P. H. & W. P. R.: proviso: amounts due by companies.

License on cars.

## BALTIMORE CITY PASSENGER RAILWAY.

Authorized to lay tracks on certain streets to Philadelphia depot.

Ordinances.

Repeal.

Citizens' Railway: authority to construct track on Exeter street, &c.

Conditions on City Passenger Railway Co.: transfer tickets.

Tracks to Camden station.

Ordinances.

Railway switch on Eutaw street.

Tracks.

Ordinances.

To remove certain tracks.

## CITIZENS' RAILWAY.

Additional tracks: proviso.

Ordinances.

Completion of work: proviso.

Additional tracks.

Completion of work: proviso.

Additional tracks.

Double track: ordinances: proviso: intervals of running cars.

Completion of work.

BALTIMORE, PEABODY HEIGHTS AND WAY-  
ERLY RAILROAD.

Tracks.

To be laid subject to inspection and approval of city commissioner: proviso: penalty for non-compliance.

Tracks to conform to grades of streets: streets to be kept in proper repair: free from snow, &c.

Tracks not to be used by street vehicles: fine.

Quarterly statement to city register: tax: license.

Completion of work: proviso.

Intervals of time at which cars shall be run: penalty.

Bond.

Privilege to use track on Charles street, between Fayette and German streets: consideration.

Books of subscription: notice in daily papers.

Assignment: additional tracks.

Right of way to other roads to run cars on track: consideration.

Requirements: bond to B. P. H. & W.  
R. R.

BALTIMORE AND YORKTOWN TURNPIKE  
ROAD.

Railway on Holiday street.  
Ordinances.

BALTIMORE AND HALL SPRINGS RAILWAY.  
Manner in which tracks shall be laid.  
Tracks to conform to grades of streets.  
Tracks not to be used by vehicles:  
penalty.

Fare: quarterly statement to city  
register: tax: license.

Completion of work.

Turnouts or sidings.

Bond.

Turnout or siding.

How constructed.

Indebtedness to city: no tax till Janu-  
ary, 1, 1876.

BALTIMORE AND HERRING RUN RAILROAD.

Tracks.

Manner in which tracks shall be laid:  
proviso: penalty.

Tracks to conform to grades of streets.

Tracks not to be used by vehicles:  
penalty.

Fare: quarterly statement to city reg-  
ister: tax: license.

Completion of work.

BALTIMORE AND RANDALLSTOWN HORSE  
RAILROAD.

Tracks.

Tracks to be laid subject to approval  
of city commissioner.

To correspond to the grade of the  
streets: streets to be kept paved and  
in proper repair: free of snow, &c.

Street vehicles prohibited from using  
track.

Police regulations.

BALTIMORE AND OHIO RAILROAD.

Branch road.

Restrictions.

Grades of streets.

Reservations to city.

Additional track.

Switch, &c.

Authorized to change grade of Fort  
avenue: expense.

BALTIMORE AND POTOMAC RAILROAD.

Repeal: completion of tunnel.

Temporary track: proviso: no steam  
engine to be used thereon.

NORTHERN CENTRAL RAILWAY.

Red lights: bells on horses: penalty.

UNION RAILROAD.

To lower bed of Belair avenue:  
bridge: proviso.

To occupy beds of John and Wolfe  
streets: proviso.

How changes made.

Authorized to construct its railroad  
under Belvidere street: provisos.

WESTERN MARYLAND RAILROAD.

Tram railway.

How laid.

PRIVATE TRACKS.

Empire Transportation Company: pro-  
viso.

Denmead & Son: proviso.

Abbott Iron Co.

Cockran & Co.

Diggs Bros.

STATUTES.

BALTIMORE, CALVERTON AND POWHATAN  
RAILROAD.

Incorporation, &c.

BALTIMORE, CATONSVILLE AND ELLICOTT'S  
MILLS PASS. RAILWAY.

Incorporation, &c.

BALTIMORE, HAMPDEN AND TOWSONTOWN  
RAILROAD.

Incorporation, &c.

BALTIMORE, HAMPDEN AND LAKE ROLAND  
RAILROAD.

Incorporation, &c.

BALTIMORE AND REISTERSTOWN RAILROAD.

Incorporation, &c.

CARBOLLTON AVENUE RAILROAD.

Incorporation, &c.

## O R D I N A N C E S .

## REDUCTION OF TAX.

Ordinance June 9, 1874, enacts and ordains the following :

The Baltimore City Passenger Railway Company, Citizens' Railway Company, Baltimore, Peabody Heights and Waverly Passenger Railroad 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.

On or before this act shall take effect it shall be agreed 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 that children under twelve years of age shall pay not more than four cents fare.

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.

So much of all ordinances relating to the several railway companies herein named inconsistent herewith are hereby repealed.

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

Ordinance June 9, 74.

Twelve per cent. of gross receipts to be paid to city.

Ibid, sec. 2. Agreement.

Slawson fare boxes.

Children's fare.

Ibid, s. 3. Penalty for non-payment of tax.

Ibid, s. 4. Repeal.

Ibid, s. 5.

Slawson box on B. P. H. & W. R.

Proviso.

Amounts due  
by companies.

Baltimore and Peabody Heights Railway 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 of July, 1874, have settled up or made payment for the amount that may be respectively due, on the first day of July, 1874.

Ordinance No. 55, April 30, 1873, enacts and ordains the following:

No. 55, April 30,  
73.

License on cars.

The license of city passenger railway cars is declared to be from and after May 1st, 1873, five dollars upon each car per annum.\*

#### BALTIMORE CITY PASSENGER RAILWAY.

Ordinance No. 27, March 30, 1870, enacts and ordains the following:

No. 27, March  
30, '70.  
Authorized to  
lay tracks on  
certain streets  
to the Phila.  
depot.

The Baltimore City Passenger Railway Company are 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 present terminus at North avenue to the President street station of the Philadelphia and Wilmington and Baltimore railroad.

Ibid, s. 2.  
Ordinances.

The Baltimore City Passenger Railway Company, in the construction of the tracks authorized by this ordinance, shall be in all respects governed by and subject to the rules and regulations prescribed by the ordinance of the mayor and city council of

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\* This ordinance further provided that each and every city passenger railway company shall be exempted from any other taxation as long as they pay into the city treasury twenty per cent. [now twelve] of their gross receipts, and that all taxes and license upon the stock, property and cars of the Citizens' Passenger Railway Company be remitted, except that which is above provided for.

Baltimore, under which the said company were empowered to lay down their present existing tracks.

So much of section 80, article 36, of the Baltimore City Code, Ibid, s. 3.  
[p. 604] and all ordinances or parts of ordinances, inconsistent Repeal of part  
or conflicting with the provisions of this ordinance, are hereby sec 80, art. 36,  
repealed. B. C. C.

Whenever the persons named in section 80, of article 36, of Ibid, s. 4.  
the Baltimore City Code, or any company which may be incor- Citizens' Rail-  
porated with the authority to build the passenger railway men- way.  
tioned in said section of said article, shall have constructed the  
railway therein mentioned, from Patterson park to Lafayette  
square, they shall be authorized to construct a double track on Authority to  
Exeter street, between Pratt and Lombard streets, and thence construct a  
along Lombard street to and beyond Albemarle street. track on Exe-  
ter street.

The privileges by this ordinance extended to the Baltimore Ibid, s. 5.  
City Passenger Railway Company, are extended upon condition Conditions on  
that said company shall first abandon in such form as shall be City Passenger  
prescribed by the mayor, all right which they now have, under Railway Co.  
their charter or existing ordinances, to lay down tracks on Lom-  
bard street, between Exeter and South streets, and upon Exe-  
ter 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 4th  
section of this ordinance shall be constructed, issue to passen-  
gers riding on the cars of said Baltimore City Passenger Rail-  
way Company, running from the depot of the Philadelphia,  
Wilmington and Baltimore railroad, transfer tickets to the cars Transfer tickets  
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 ar-

ranged satisfactorily between the proprietors of said two railway companies.

Ordinance No. 3, Nov. 29, 1870, enacts and ordains the following :

No. 3, Nov. 29,  
1870.  
Tracks on Cam-  
den station.

The Baltimore City Passenger Railway Company are 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.

Ibid, s. 2.  
Ordinances.

The Baltimore City Passenger Railway Company, in the construction of the tracks authorized by this ordinance, and the running of their 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, under which the said company was empowered to lay down and operate their present existing lines of railways.

Ordinance No. 4, Nov. 18, 1871, enacts and ordains the following :

No. 4, Nov. 18,  
1871.  
Railway switch  
on Eutaw street

The Baltimore City Passenger Railway Company are 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.

Ordinance No. 88, July 5, 1872, enacts and ordains the following :

No. 88, July 5,  
1872.  
Additional  
tracks.

The Baltimore City Passenger Railway Company, are 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 line, and enable the company to run a line of cars, giving direct connection between the central and the extreme south-eastern portions of the city.

Ibid, s. 2.  
Ordinances.

The 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 Baltimore City Passenger Railway Company.

The same company is hereby authorized and empowered to remove their tracks from Aliceanna and Windsor streets. Ibid., s. 3.  
To remove track.

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, [p. 594 City Code] 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 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.

The act of 1872, ch. 298, recites : that it appears by the books of the comptroller's office that the Baltimore City Passenger Railway Company is largely indebted to the State of Maryland for State taxes on its capital stock, from the time of its incorporation to the present time, and that no notice was ever given to said

company until some time in the year eighteen hundred and seventy that any State taxes were due by said company, and that said company has since discovered that the capital stock of said company has been in former years taxed to the holders thereof, and the taxes paid thereon to the collectors; and it then enacts, that in the settlement of said accounts with said Baltimore City Passenger Railway Company for arrearages of State taxes on its capital stock, the comptroller was authorized and required to allow as a credit to said company all State taxes paid by the several stockholders thereof on the stock of said company held by them, as of the years respectively in which said payments were so made.

#### CITIZENS' RAILWAY.

Ordinance No. 85, June 29, 1870, enacts and ordains the following :

No. 85, June  
29, '70.  
Additional  
tracks.

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 is a supplement, [No. 70, July 9, 1868, p. 604, City Code] 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 Gilmore street, along Gilmore street from Lafayette avenue to Cumberland street, and along Cumberland 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.

Proviso.

Ibid, s. 2.  
Ordinances.

The said tracks shall in all respects be laid on the streets mentioned in the first section of 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.

Ibid, s. 3.  
Completion of  
work.

The tracks shall be laid down and completed before the first day of September, eighteen hundred and seventy-one, in all the streets enumerated in this ordinance, and the ordinance to which



this is a supplement, 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.

NOTE.—By the act of 1870, ch. 438 :

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, [p. 604, City Code,] 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 besued, 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 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 condi-

tions 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. The capital stock of said corporation shall be three hundred thousand dollars, divided into shares of twenty dollars each.

5. The affairs of this corporation shall be managed by a president and seven directors, consisting of persons to be chosen from and by the stockholders thereof; and said president and directors shall be elected on the first Monday of January, in each year, or within ninety days thereafter, and to continue in office until their successors are chosen and qualified.

6. The board of directors of said corporation shall have power to appoint a treasurer, and such other officers and agents as may be deemed necessary for the transaction of the business of the corporation, and to remove any of the same at pleasure, to define the duties of said officers and agents, fix their compensation, declare dividends of profits, to make by laws, rules and regulations for the government of the affairs of the corporation, and to repeal the same at will; and to exercise all other powers incident to the corporation.

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.

8. The parties herein named shall choose from their own number a president, and the remaining incorporators or a majority of them shall act as a board of directors for the management of the affairs of the company until the first general meeting of the stockholders as provided for in section five of this act; and shall open books of subscription for the capital stock of said corporation, which said books shall remain open for at least twenty days, of which notice shall be given in two of the daily papers published in Baltimore city, for ten days preceding such opening, stating the time and place thereof.

A bill alleged the incorporation of certain persons by the name of "The Citizens' Railway Company," and that by section 8, [above act of 1870, ch. 438,] of the act of incorporation, it was provided that the parties named in the act should choose from their own 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 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 incorporators 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 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 not 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. *Busey et al. v. Hooper et al.* 35 Md., 15.

Ordinance No. 109, June 19, 1871, enacts and ordains the following:

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 is a supplement, [sec. 80, p. 604, City Code] 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

No 109, June 19,  
71.  
Additional  
tracks.

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 that 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. [See p. 201 *ante*.]

*Ibid*, s. 2.  
Completion of  
work.

Proviso.

The tracks authorized to be laid by the first section of this ordinance shall be commenced within thirty days from the passage of this bill, and shall be finished and completed within six months from the commencement thereof, otherwise the privileges hereby 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 tracks before the time above limited.

Ordinance No. 7, Nov. 22, 1871, enacts and ordains the following :

No. 7, Nov. 22,  
'71.  
Additional  
tracks.

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 is a supplement, [sec. 80, p. 604, City Code] 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.

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.*, sec. 2.  
Double track.

*Ordinances.*

*Proviso.*  
Intervals of running cars.

The tracks shall be laid down and completed on or before the 1st day of April, 1872, in the streets enumerated in this ordinance, otherwise the privileges so granted shall be revoked and cease.

*Ibid.*, sec. 3.  
Completion of work.

#### BALTIMORE, PEABODY HEIGHTS AND WAVERLY RAILROAD.

Ordinance No. 27, March 28, 1872, entitled an ordinance to authorize the construction of City Passenger Railway Tracks on German, Charles, Howard and other streets, in the City of Baltimore, enacts and ordains the following :

James L. McLane, Wallace King, C. Oliver O'Donnell, Darins C. Howell, George P. Frick, Cumberland Dugan, Jas. W. Tyson, John S. Hogg, Gerard T. Hopkins, or a majority of them, and those who 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, single or double, with turn-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 follow-

No. 27, March 28, '72.  
Tracks.

ing 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.

Ibid, s. 2.

To be laid subject to inspection and approval of city commissioner.

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, as 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 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 that 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.

Proviso.

Penalty for non-compliance.

Ibid, s. 3.

Tracks to conform to grades of streets.

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.

Streets to be kept in proper repair.  
Free from snow &c.

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 no more than ten nor less than five dollars, to be collected according to the provisions of Baltimore City Code, relating to fines.

Track not to be used by street vehicles.

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, see p. 201 *ante*] 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, [five, see page 202 *ante*] 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, made and provided in such cases.

Ibid, s. 5.

Fare.

Quarterly statement to city Register.

Ibid, s. 6.  
Completion of  
work.

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 provision 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.

Proviso.

Ibid, s. 7.  
Intervals of  
time at which  
cars shall be  
run.

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.

Penalty.

Ibid, s. 8.  
Bond.

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. 9.  
Privilege to use  
track on Charles  
street, between  
Fayette and  
German streets.

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 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.

Consideration.



Ordinance No. 74, June 7, 1872, enacts and ordains the following :

The persons named in the first section of an act of the general assembly of Maryland, passed at the January session 1872, and entitled an act to incorporate the Baltimore, Peabody Heights and Waverly railroad,\* shall, on or before the twentieth day of June next, 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—day—1872," and shall thereupon give notice in one or more 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

No. 74, June '72.

Books of subscription.

Notice in daily papers.

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\* This ordinance No. 74, June 7, 1872, recites that by the ordinance [pp. 211—214 *ante*] approved March 28, 1872, the persons therein named and their successors and assigns were authorized to lay down railway tracks on the streets named in said ordinance, and that such rights have been by them assigned to the Baltimore, Peabody Heights and Waverly Railroad, a corporation to be managed and controlled by the same persons, and it is desirable that said company shall also be allowed to lay passenger railway tracks on North avenue, and that books of subscription to the capital stock of said company shall be opened.

The Baltimore, Peabody Heights and Waverly Passenger Railroad was incorporated by act of 1872, ch. 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 that 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.

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.

*Ibid*, s. 2.  
Assignment.

Additional  
tracks.

In addition to the powers which the said company has now or may hereafter acquire by assignment from the persons named in the ordinance, entitled an ordinance to authorize the construction of city passenger railway tracks on German, Charles, Howard and other streets in the city of Baltimore, approved March 28, 1872, 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. 3.  
Right of way to  
other roads to  
run cars on  
track of B. P.  
H. & W. R. R.  
on North  
avenue.

Consideration.

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 North avenue on 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. 4.  
Requirements.

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 pro-Requirements.  
 vided for in section nine in an ordinance approved March  
 28, 1872, entitled an ordinance to authorize the construc-  
 tion of city passenger railway tracks on German, Charles,  
 Howard and other streets in the city of Baltimore, or on North  
 avenue between Charles and John streets as provided in section  
 third of this ordinance, shall require in either case of such  
 party or parties before exercising such rights a good and suf-  
 ficient bond to be given to the Baltimore, Peabody Heights and  
 Waverly Railroad as security for the faithful performance of all Bond to B. P.  
 the requirements of any agreement made and fixed by the H. & W. R. R.  
 mayor, city commissioner and president of said P. H. & W.  
 R. R., by whom also said bond shall be fixed and approved.

## BALTIMORE AND YORKTOWN TURNPIKE ROAD.

Ordinance No. 130, Oct. 14, 1871, enacts and ordains the following :

The president, managers and company of the Baltimore and No. 130, Oct. 14,  
 Yorktown Turnpike Road are hereby authorized and empow- 771.  
 ered to extend their lines of railway on Holiday street from  
 the present terminus, at the intersection of Holiday and Lex-  
 ington streets, to its intersection with Baltimore street. Railway on  
 Holiday street.

The president, managers and company of the Baltimore  
 and Yorktown turnpike road shall, in laying down and work-  
 ing the extension authorized to be made by this ordinance, be  
 governed by and subject to all the provisions of the ordinance,  
 approved February 17, 1863, No. 7, and of ordinance No. 20, Ordinances.  
 of 1865, [p 598, 601, City Code,] under which they were em-  
 powered to lay down railway tracks within the limits of the city  
 of Baltimore.

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 affect the right of the turnpike company to  
 collect tolls under its charter. Under the provisions of the act of 1804, ch. 51,  
 and its supplements, and of the act of 1824, ch. 105, the Baltimore and York-  
 town Turnpike Company have the right to charge and collect tolls on such por-

tion 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, ch. 337, authorized the president, managers and company 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, ch. 259, entitled a further supplement to an act entitled an 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.

#### BALTIMORE AND HALL SPRINGS RAILWAY.

Ordinance No. 90, July 16, 1872, enacts and ordains the following:

Tracks.

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 passenger railways now in use in the city of Baltimore, and to run passenger cars thereon,) to

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\* The Baltimore and Hall Springs Railway Company was incorporated by the act of 1870, ch. 444. The fifth section thereof authorizes 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 interests 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, ch. 199, extends the time for completion of this road to April 13, 1875.

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.

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 cross-ings of the gutters by the said railway tracks shall be covered in such manner and to such extent as the city commissioner may direct.

*Ibid, s. 2.*  
Manner in which tracks shall be laid.

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.

*Ibid, s. 3.*  
Tracks to conform to grades of streets.

Free of snow &c.

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 Baltimore City Code relating to fines.

*Ibid, s. 4.*  
Tracks not to be used by vehicles

Penalty.

The fare for the 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

*Ibid, s. 5.*

- Fare.** 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 [see ord., June 9, '74, p. 221 *post*] 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, see p. 202 *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.
- Quarterly statement to City Register.**
- Tax.**
- License.**
- Ibid, s. 6. Completion of work.** The said Baltimore and Hall Springs Railway 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. 7. Turn-outs or sidings.** The said Baltimore and Hall Springs Railway 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.
- Ibid, s. 8. Bond.** The said Baltimore and Hall Springs Railway 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.

Ordinance No 107, Oct. 18, 1872, enacts and ordains the following :

The Baltimore and Hall Springs Railway Company is hereby authorized and empowered to construct a turn-out or siding upon the line of the route, authorized by the ordinance to which this is supplemental [No. 90, July 16, 1872] 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-out or  
siding.

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 ordinance to which this is supplemental.

How construct-  
ed.

Ordinance June 9, 1874, enacts and ordains the following :

The Baltimore and Hall Springs Railway Company is relieved from its accrued indebtedness to the city of Baltimore upon transferring \$6,243  $\frac{1}{100}$  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.

Ordinance June  
9, '74.  
Indebtedness to  
city.

No Park tax till  
Jan. 1, '76.

#### BALTIMORE AND HERRING RUN RAILROAD.

Ordinance No. 99, Nov. 1, 1873, enacts and ordains the following :

George W. Bishop, Charles D. Blake, Samuel Ellinger, Louis Seldner, Edward Patterson, Jr., Thomas H. Beyer and Samuel S. Shaw, directors of the Baltimore and Herring Run Railroad Company, or a majority of them, and those who are now or may hereafter become associated with them, and their successors and assigns, are hereby authorized and empowered

No. 99, Nov. 1,  
'73.

## Tracks.

to lay down and construct iron railway tracks, single or double, with turn-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 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.

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.

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 obstruc-

Free of snow,  
&c.



tions, at the expense of the said company, not only between the tracks, but for two feet beyond the outer edge thereof.

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 the Baltimore City Code, relating to fines. Ibid, s. 4. Tracks not to be used by vehicles. Penalty.

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. 201 *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 page 202 *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.

The said Baltimore and Herring Run Railroad 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.

The said Baltimore and Herring Run Railroad 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 HORSE RAILROAD.

Ordinance No. 63, May 24, 1873, enacts and ordains the following :

No. 63, May 24,  
'72.

Tracks.

The Baltimore and Randallstown Horse 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 ap-  
proval of City  
Commissioner.

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.

*Ibid*, s. 3.  
To correspond  
to the grade of  
streets.

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

Streets to be  
kept paved and  
in proper repair

Free from snow,  
&c.

the expense of the said company, between the tracks and for two feet beyond the outer edge thereof.

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, to be collected according to the provisions of the Baltimore City Code relating to fines. Ibid, s. 4. Street vehicles prohibited from using track. Penalty.

Said railway shall be subject to all 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, s. 5. Police regulations.

#### BALTIMORE AND OHIO RAILROAD.

Ordinance No. 52, July 17, 1869, enacts and ordains the following :

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, [p. 615 &c., City Code] 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 notherly by a curved street, as now in process of condemnation [by ordinance No. 53, June 17, 1869] to the centre of Neale street, and thence northeasterly on the line of Neale street, as laid down on Poppleton's plat, to the northeast side of Fort avenue to a connection No. 52, s. 1, July 17, '69. Branch of road.

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.

Ibid, s. 2.  
Restrictions.

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. 3.  
Grades of  
streets.

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. 4.  
Reservations to  
city.

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.

Ordinance approved June 8, 1874, enacts and ordains the following :

Ordinance June  
8, '74.  
Additional  
track.

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 present track on Wells street, between Henry and Johnson streets, and running thence by a curved line over the property of the 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.

Resolution No. 198, April 10, 1873, is as follows :

Resolution No.  
198, April 10,  
'73.  
Permission to  
place switch, &c

Permission is hereby granted to John W. Garret, President of 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 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 their own expense.

Ordinance No. 40, April 12, 1873, enacts and ordains the following :

The Baltimore and Ohio Railroad Company are 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 Neale 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.

Authorized to  
change the  
grade of Fort  
avenue.  
  
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 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.

#### BALTIMORE AND POTOMAC RAILROAD.

Ordinance No. 49, April 25, 1870, enacts and ordains the following :

No. 49, April 25,  
'70.  
Sec. ten of or-  
dinance of May  
29, 1869, amend-  
ed.

Section ten of an ordinance approved May twenty-ninth, eighteen hundred and and sixty-nine, and entitled an ordinance to authorize the Baltimore and Potomac Railroad Company to make certain uses of the streets in the city of Baltimore, in the construction of the said railroad within the limits of the city, [p. 625, City Code] is hereby amended by adding thereto the words following, that is to say : 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 Northern 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 said section ten of

Completion of  
tunnel.

said ordinance; provided that the work on said portion of said Proviso. tunnel shall be commenced on or before the first day of May, eighteen hundred and seventy, and completed within five months from that time.\*

Ordinance No. 98, June 12, 1871, enacts and ordains the following :

The president and directors of the Baltimore and Potomac Railroad Company are hereby authorized and permitted to lay down a temporary railroad track to be used for the delivery of Temporary track. materials for the construction of the Baltimore and Potomac Railroad tunnel, from where the Northern Central Railway crosses north Boundary avenue along the north side of north Boundary avenue, to the intersection of Oliver and McMechin streets with the said north Boundary avenue; provided, said Proviso. track shall be removed at the expense of said Baltimore and Potomac Railroad Company upon the completion of the tunnel of the Baltimore and Potomac Railroad Company, authorized to be constructed by an ordinance of the mayor and city council of Baltimore, approved May twenty-ninth, eighteen hundred and sixty-nine; [p. 620 &c., City Code,] provided, however, that no steam engine be used thereon, and that the said track No steam engine to be used thereon. be removed at fifteen days' notice from the mayor of the city.

#### NORTHERN CENTRAL RAILWAY.

Ordinance May 5, 1874, enacts and ordains the following :

The Northern Central Railroad Company is hereby required to place a red light upon each car passing along Monument Ordinance May 5, '74. street and Central avenue after dark, and said light shall be so Red lights.

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\* The act of 1870, ch. 80, sec. 7, recites the ordinance May 29, 1869, [p. 620, &c., City Code] 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. 137, p. 622, City Code] be complied with,

The constitutionality of this act of 1870, ch. 80, providing for taking private property for the construction and repair of railroad is maintained in *Shipley v. Balto. & Poto. R. R. Co.*, 34 Md., 336.

displayed as to be seen by vehicles coming from 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.

**NOTE.**—By ordinance No. 20, April 7, 1873, the Northern Central Railway Company is 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, from Foster alley given for the beds of said streets, in conformity with the act of assembly of the State of Maryland, 3d section, chapter 532, year 1849, [supplement to act of incorporation of Baltimore and Susquehanna Railroad Company.]

#### UNION RAILROAD.

Ordinance No. 2, December 1, 1870, enacts and ordains the following:

No. 2, Dec. 1, '70. 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, resetting 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 to the proposed change of grade be obtained.

Ibid, s. 2. To occupy bed of John and Wolfe streets. 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 make use of the same for the passage of its locomotives or 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 company. Proviso.  
Wagon ways.

The changes aforesaid shall be under the supervision of the city commissioner, and in a manner to be approved by him. Idio, s. 3.  
How changes made.

NOTE.—As to right of Union Railroad Company under legislative grant of power to cross Baltimore and Havre de Grace turnpike, see 35 Md., 224.

Ordinance No. 77 June 21, 1873, enacts and ordains the following :

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. No. 77, June 21, 1873.  
Authorized to construct its railroad under Belvidere street  
Proviso.

#### WESTERN MARYLAND RAILROAD.

Ordinance No. 95, October 22, 1873, enacts and ordains the following :

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 No. 95, Oct. 22, 1873.  
Tram Railway.

turnouts and turntables, on Patterson avenue, Fremont, Cooke 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.

*Ibid*, s. 2.  
How laid.

The said track or tracks shall be laid under the supervision of the city commissioner, and in a manner which shall meet his approval.

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.

#### PRIVATE TRACKS.

Resolution No. 173, June 15, 1870, is as follows :

Resolution No.  
173, June 15, '70.  
Empire Transportation Co.

The Empire Transportation Company is hereby permitted to change the switch leading to its warehouse from the track of the Northern Central Railway Company, in North street, between Monument and Centre streets, so that said switch, instead of running into the warehouse of said company will run into the lot belonging to it on the south of said warehouse, provided, the said company do the said work, and such repairs to said street as may be rendered necessary thereby, under the direction of the city commissioner, and at its own expense.

Proviso.

Resolution No. 159, May 8, 1872, is as follows :

Resolution No.  
159, May 8, 1872  
Denmead & Son

Permission is hereby granted to Denmead & Son, to lay a track on the north side of Monument street running parallel with their works, from North street to Jones' Falls, to connect with the track of the Northern Central Railway Company, already laid, the said Denmead & Son to pay all expenses attending the same ; provided, it is hereby stipulated, that they

Provisos.

shall properly repave and grade that portion of the street so used, under the supervision of the city commissioner; and further provided, that said Denmead & Son shall remove said track at sixty days notice from the Mayor.

Resolution No. 190, June 22, 1870, is as follows:

The Abbott Iron Company is hereby permitted to put down Resolution June 22, '70. under the supervision of the city commissioner, and use a track Abbott Iron Co. across Hudson street, at a point where said street would intersect Cannon street, were the same continued from Lancaster street; the said track to be laid of rails similar in pattern to those used by the City Passenger Railway Company, said track to be used only for the purpose of transporting material from one to another of said company's mills.

Resolution No. 188, April 4, 1873, is as follows:

Permission is hereby granted to the firm of Wm. J. Cochran Resolution No. 188, April 4, '73. & Co., at their own expense, to lay a railroad track on the bed Cochran & Co. of Concord street, (Canton,) from their car-wheel foundry on said street, to connect by a switch with the track of the Philadelphia, Wilmington and Baltimore Railroad Company on Boston street, the said track to be laid under the supervision of the city commissioner, and to be removed upon six months' notice to that effect from the mayor.

Ordinance June 9, 1874, enacts and ordains the following:

Permission is hereby granted to Diggs Brothers to lay down Ordinance June 9, '74. and construct a railroad switch connecting the Baltimore and Diggs Bros. Ohio railroad track with their premises on the southwest corner of Ostend and Eutaw streets; provided, the laying down Proviso. and construction of said switch in no manner interfere with the rights to private property, and that the said switch shall be removed on sixty days' notice from the mayor, at the expense of the said Diggs Brothers or their assigns.

## S T A T U T E S .

*Baltimore, Calverton and Powhatan Railroad.*

The Baltimore, Calverton and Powhatan Railroad Company, was incorporated by act of 1870, ch. 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, ch. 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 act of 1874, ch. 113, authorizes the Baltimore, Catonsville and Ellicott's Mills Passenger Railway Company [see p. 601, note City Code,] 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 shall 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.

*Baltimore, Hampden and Townsontown Railway.*

The charter of the Baltimore and Swann Lake Passenger Railway Company, incorporated by act of 1868, ch. 314, is amended by act of 1874, ch. 272, and the name changed to the Baltimore, Hampden and Townsontown Railway Company.

*Baltimore, Hampden and Lake Roland Railroad.*

The Baltimore, Hampden and Lake Roland Railroad Company, was incorporated by act of 1872, ch. 284; the company is authorized to construct a railway, with one or two tracks and the necessary sidelings, for the transportation of travelers 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 and Reisterstown Railroad.*

The act of 1870, ch. 249, authorized the laying of the tracks of the Baltimore and Reisterstown Railroad 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.

*Carrollton Avenue Railroad.*

The Carrollton Avenue Company, incorporated by the act of 1860, ch. 113, was authorized by act of 1870, ch. 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 XXXVII.

### REGISTER.

#### ORDINANCES.

10. Additional clerk: salary. 11. Salary of register: salary of deputy.

#### ORDINANCES.

Resolution No. 73, March 11, 1870, adds the following to sec. 10, p. 646, City Code:

10. The register is authorized to employ one additional clerk in his office; provided the annual salary of the said clerk shall not exceed twelve hundred dollars.

Resolution No.  
73, March 11,  
'70.  
Additional  
clerks salary.

Ordinances No. 101, June 15, 1871 and No. 121, June 23, 1871, amends sec. 11, p. 646, City Code, as follows:

11. The salary of the register of the city shall be three thousand dollars per annum, and the salary of the deputy register of the city shall be eighteen hundred dollars per annum.

No. 101, June  
15, '71.  
Salary of Regis-  
ter.  
No. 121, June  
23, '71.  
Salary of Depty.

## ARTICLE XXXVIII.

## SABBATH.

3. Keeping open dancing saloons, opera houses, ten-pin alleys, barber saloons, &c., on Sunday : penalties.

## S T A T U T E .

The act of 1874, ch. 71, repeals sec. 180, of art. 30, P. G. L., as re-enacted by act of 1866, ch. 66, [sec. 3, p. 649, City Code] and enacts the following in lieu thereof :

1784, 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 a 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.

## ARTICLE XXXIX.

## SCHOOLS.

## S T A T U T E .

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| 1. Mayor and council to establish schools: powers.<br>2. Powers of commissioners of public schools: proviso: report to State | board of education.<br>3. Ordinances by mayor and council.<br>4. Taxes. |
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## O R D I N A N C E S .

- |   |  |
|---|--|
| Assistant superintendent of public schools: term of office.<br>Duties.<br>Salary. | Children of non-residents: charges: how paid.<br>Rent of public school halls: proviso.<br>Revenue of halls to be paid to register. |
|---|--|

## S T A T U T E .

The act of 1872, ch. 377, repeals the act of 1870, ch. 311, which had repealed the act of 1868, ch. 407, [in part, p. 652, &c., City Code] providing a system of free public schools for the State of Maryland, and re-enacts the same to read *inter alia* as follows, so far as it directly concerns the city of Baltimore: [The act of 1874, ch. 463, modifies the act of 1872, ch. 377, in matters not especially affecting the city of Baltimore.]

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, ch. xvi, sec. 1.  
 Mayor and Council to establish schools

Powers.

Ibid. s. 2  
Powers of Com.  
missioners 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 Educa-  
tion.

Ibid, sec. 2.  
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.

NOTE.—The act of 1865, ch. 160, repealed by act of 1868, ch. 407, relating to free public schools, and the State constitution of 1864 construed, so far as the city of Baltimore was concerned, in 26 Md., 505.

#### ORDINANCES.

Ordinance No. 50, April 22, 1872, enacts and ordains the following:

No. 50, April 22,  
1872.  
Assistant Su-  
perintendent of  
Public Schools.

As soon after the passage of this ordinance as conveniently may be, there shall be appointed by the board of commissioners of public schools, 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. Term of office.

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 public school commissioners may establish. Ibid, s. 2. Duties.

The salary of the assistant superintendent shall be fixed by the board of public school commissioners, subject to the approval of the mayor and city council. Ibid, s. 3. Salary.

Ordinance June 9, 1874, enacts and ordains the following:

The board of public school commissioners 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 amounts, to wit: Ordinance June 9, '74. Children of non-residents. Charges.

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, three dollars per quarter.

The said amounts 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. How paid.

Ordinance No. 78, November 5, 1869, enacts and ordains the following :

No. 73, s. 1,  
Nov. 5, '69.  
Rent of public  
school halls.

Proviso.

The board of public school commissioners are 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 so as to interfere with or interrupt the regular exercises of the schools.

Ibid, s. 2.

Revenue to be  
paid to Register

The revenue derived therefrom, as provided in the above 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.

NOTE.—Resolutions No. 384, July 8, 1873, No. 425, October 29, 1873, and No. 445, November 3, 1873, relate to the erection of the new Baltimore city college on Howard street, and the sale of the old city college property, lately burned, on the corner of Holiday and Fayette streets. The act of 1874, ch. 469, provides for the purchase of suitable grounds, and for the erection thereon of suitable buildings for the State normal school.

## ARTICLE XLI.

### SQUARES.

#### BATTERY SQUARE.

Commissioners: their duties.

#### BROADWAY SQUARE.

Commissioners: duties.

Keeper of: salary.

#### EASTERN CITY SPRING.

Commissioners: duties.

#### HARLEM SQUARE.

Keeper of: compensation.

#### LAFAYETTE SQUARE.

Salary of keeper.

#### PERKINS' SPRING SQUARE.

Lease of property.

Commissioners: powers and duties.

#### BAKER CIRCLE.

Acceptance of deed of property: improvement.

## BATTERY SQUARE.

Ordinance No. 98, September 23, 1872, enacts and ordains the following :

The mayor shall annually appoint three commissioners for <sup>No. 98, Sept. 23, 1872.</sup> Battery square, as other city officers are appointed, to be <sup>Commissioners.</sup> selected from the residents in and near as practicable to said square, who shall serve without compensation.

It shall be the duty of said commissioners to supervise the <sup>Ibid, s. 2.</sup> management of said square, to see that the keeper thereof at- <sup>Duties of Commissioners.</sup> tends faithfully to his duties, and in the event of any appropriations made for the use of said square, the same shall be expended under the direction and control of said commissioners.\*

## BROADWAY SQUARES.

Ordinance No. 80, June 17, 1872, enacts and ordains the following :

The mayor shall annually appoint on the first day of March <sup>No. 80, June 17, 1872.</sup> three suitable persons to act as commissioners for the Broadway <sup>Commissioners' duties.</sup> squares, whose duties shall be similar to those of the commissioners of other squares, and who shall serve without pay.

Ordinance No. 32, April 3, 1872, enacts and ordains the following :

There shall be annually appointed, as other city officers are <sup>No. 32, April 3, 1872.</sup> appointed, a keeper of the public squares on Broadway, be- <sup>Keeper.</sup> tween 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. <sup>Salary.</sup>

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\*See Riverside park, under art. 34, Parks, *ante*.

## EASTERN CITY SPRING.

Ordinance No. 76, June 11, 1872, enacts and ordains the following :

No. 76, June 11, 1872. The mayor shall annually appoint three commissioners for Commissioners. 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.

Ibid, s. 2.  
Duties.

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.

## HARLEM SQUARE.

Ordinance No. 65, May 30, 1872, enacts and ordains the following :

No. 65, May 30, 1872. There shall be annually appointed, as other city officers are appointed, a keeper for Harlem square, who shall possess some knowledge of gardening.

Ibid, s. 2.  
Compensation.

The compensation of the keeper of said square shall be three hundred and fifty dollars per annum, payable monthly.

## LAFAYETTE SQUARE.

Ordinance No. 78, May 19, 1872, enacts and ordains the following :

No. 78, May 19, 1872. The salary of the keeper of Lafayette square is hereby fixed at the sum of three hundred and fifty dollars per annum.

NOTE.—The iron railings around Lafayette square were removed under resolution No. 256, May 8, 1873, and those around Franklin square under resolution September, 1874. Resolution No. 132 May 10, 1870, provided for erecting the iron railings, &c., around two squares on Eutaw Place.

## PERKINS' SPRING SQUARE.

Ordinance No. 300, October 1, 1872, enacts and ordains the following :

The city comptroller is authorized and directed to lease <sup>No. 300, Oct. 1 1872.</sup> for public use all that portion of the Perkins' spring prop- <sup>Lease of prop- erty.</sup> erty 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, (formerly Chatsworth street,) 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 6 per cent. capitalized at the convenience of the city.

Ordinance No. 14, April 3, 1873, enacts and ordains the following :

The mayor shall appoint, at his discretion, and removable at <sup>No. 14, April 3, 1873.</sup> his pleasure, three commissioners for Perkins' spring square, <sup>Commissioners.</sup> located at the junction of George and Chatsworth streets, 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, <sup>Ibid, s. 2. Powers and duties.</sup> and perform all the duties required under article XLI of the City Code, title Ordinances, sub-title Squares and Springs.

## BAKER CIRCLE.

Resolution No. 241, September 14, 1869, is as follows:

The corporation will accept from the executors of the late <sup>Resolution No. 241, Sept 14, '69.</sup> William Baker, in accordance with the proposition heretofore <sup>Acceptance of deed of prop- erty.</sup> made by said executors, 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 said mayor and council agree to lay out within said circle <sup>Improvement.</sup> another circle of one hundred and twenty feet in diameter, to be bounded by a fifty feet street, and to place in the centre of

the inner circle a fountain with a neat iron railing, all the said improvements to be made whenever Fulton and Baker streets are graded and paved, and when water pipes shall have been laid therein, the said mayor and city council to be at all expense of grading and paving within said circles.\*

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## ARTICLE XLII.

### STOCKS, LOANS AND FINANCE.

#### ORDINANCES.

##### DEPARTMENT OF FINANCE.

Real estate, &c., set apart for payment of public debt and interest.  
Commissioners of finance to open books of account: report to council: duties of deputy register.  
Commissioners of finance styled department of finance.  
Repeal of sec. 16, p. 718, City Code.

##### FUNDING FLOATING DEBT.

Funded debt: floating debt.  
\$800,000 funded.  
Consolidation of sinking funds.  
\$2,000,000 funded.

##### STOCKS.

City Hall.  
Jones' Falls.  
Park.  
Water: Gunpowder river.

##### LOANS, ENDORSEMENTS, &c.

Northwestern Virginia Railroad,  
Pittsburg and Connellsville Railroad,  
Union Railroad,  
Virginia Valley Railroad,  
Western Maryland Railroad.

##### SUBSCRIPTIONS AUTHORIZED BY ACTS OF 1874.

Baltimore and Drum Point Railroad.  
Maryland Canal.  
Washington city and Point Lookout Railroad and Southern Maryland Railroad.

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\*This circle was fenced in and planted with trees under resolution No. 105, Feb. 26, 1873, and under resolution No. 253, May 8, 1873, it was graded with top-soil and put in grass seed.

## O R D I N A N C E S .

## DEPARTMENT OF FINANCE.

Ordinance No. 26, March 27, 1872, enacts and ordains the following ; and repeals all ordinances or parts of ordinances inconsistent herewith :

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 be come due and payable.

March 27, '72.  
Real Estate, &c.  
to be set apart  
for payment of  
public debt and  
interest.

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. 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.

Ibid, s. 2.  
Commissioners  
of Finance to  
open books of  
account.

Report to Council.  
Duties of Deputy  
Register.

The commissioners of finance shall hereafter be constituted and known as the department of finance of the city of Baltimore.\*

Ibid, s. 3.  
To be known as  
Department of  
Finance.

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\* This ordinance recites, that 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 that 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;

Ordinance No. 115, June 23, 1871, enacts and ordains the following :

No. 115, June 23  
71.

Repeal of sec.  
16, p. 718 City  
Code.

Ordinance number ninety-three, approved October twenty-second, eighteen hundred and sixty-four, entitled an ordinance to authorize the commissioners of finance to sell and reinvest the stock or bonds held by the city in any railroad or other company, in city, State, or United States securities, incorporated into the City Code, article forty-two, entitled Stocks and Loans, sub-title Commissioners of Finance, section sixteen, is hereby repealed.

#### FUNDING FLOATING DEBT.

No. 3, Nov. 13,  
'69.

Preamble.

Constitutional  
provision.

Funded debt.

Ordinance No. 3, November 13, 1869, recites that : Whereas, at the time of the adoption of the present constitution of Maryland (1867), there were in existence unfunded debts and obligations of the city of Baltimore theretofore contracted or imposed, exceeding in amount two million dollars, and it is provided in the seventh section of the eleventh article of said constitution, that the mayor and city council of Baltimore may make due and proper arrangements and agreements for the renewal and extension, in whole or in part, of any and all debts and obligations created according to law before the adoption of this constitution ; and whereas, there has been funded of the said unfunded debts so existing at the time of the adoption of said constitution, seventeen hundred thousand dollars, in accordance with the provisions and authority contained in ordinance No. 1, approved February seventh, eighteen hundred and sixty-eight, [section 25, p. 720, City Code,] and it is desirable that an additional three hundred thousand dollars of the said unfunded debt should be funded at this time ; therefore, this ordinance enacts and ordains as follows :

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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, it enacts the foregoing.



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 present constitution of Maryland, 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 first, eighteen hundred and ninety, 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.

The register of the city is hereby authorized to use the credit of the city for the purpose of making such temporary loans as are authorized by the seventh section of the eleventh article of the constitution, and shall be necessary to provide the money requisite to pay the appropriations heretofore made, and for the payment of which no provision has been already made.

Ordinance No. 14, January 31, 1870, enacts and ordains the following :

The city register is hereby 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, nineteen hundred, 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 till redeemed.

This ordinance shall not take 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

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\*By the act of 1870, ch. 143, the mayor and city council of Baltimore was authorized to fund the floating debt of the city to an amount not exceeding eight hundred thousand dollars, and to issue the bonds of the city for the amount of the debt so funded, payable at the pleasure of the city of Baltimore after July the first, nineteen hundred, 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, as provided in section one of an ordinance of

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.

Sinking fund.

The sum of one cent on every hundred dollars' worth of assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied as a sinking fund for the redemption of the debt created by this ordinance, and the proceeds of said tax when collected shall be paid over to the commissioners of finance, and be applied by them to the extinguishment of said debt.

*Ibid.*, s. 4.

To be submitted to voters.

How to be conducted.

This ordinance shall be submitted to the legal voters of the city of Baltimore, for their approval or disapproval, at an election to be held on the third Thursday after the passage by the general assembly of Maryland of an act authorizing the issue of said bonds; on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts, said polls to be opened and closed at the same time as provided by law for other elections; at which said election each of the said voters that shall approve the adoption of this ordinance shall deposit a ticket or ballot on which shall be written or printed the words, "for the funding ordinance;" and each of the said voters that shall be opposed to the adoption of this ordinance shall deposit a ticket or ballot on which shall be written or printed the words, "against the funding ordinance."

*Ibid.*, s. 5.

Duties of judges of election.

Immediately after the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the funding ordi-

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the said mayor and city council of Baltimore, entitled an ordinance to authorize the city register to fund the floating debt of the city to an amount not exceeding eight hundred thousand dollars, approved January the thirty-first, eighteen hundred and seventy; *provided*, that the said bonds shall not be issued unless the said 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 fourth section of the said ordinance. This ordinance was duly approved April 21, 1870.

nance" and the number of votes cast "against the funding ordinance;" and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor shall certify the fact to the presidents of the respective branches of the city council, and this ordinance shall take effect from the date of the said certificate.

Mayor to certify  
to Presidents of  
Council.

A copy of this ordinance and notice of the time of holding the said election shall be published in at least four of the daily newspapers of the city of Baltimore, twice a week for two week's prior to the said election.

Ibid, s. 6.

Publication.

The city comptroller is hereby authorized and directed to have printed tickets of the description mentioned in section four of this ordinance, and placed at all the polls of the said city, on the day of the said election; and the register is hereby authorized to pay the expenses of the said printing and publication provided for in the preceding section, out of any monies in the treasury not otherwise appropriated.

Tickets.

Expenses.

Ordinance No. 19, February 28, 1872, enacts and ordains the following:

The commissioners of finance are hereby authorized and empowered to add to and consolidate with the general sinking fund any of the funds now 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. 19, Feb. 28,  
'72.  
Consolidation of  
sinking funds.

Ordinance February 12, 1874, enacts and ordains the following:

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 of finance, and the proceeds therefrom applied to the payment of the loan of seven hundred thousand dollars, authorized by ordinance approved

Ord., Feb. 12,  
'74, s. 1.

Issue of City  
Bonds to the  
amount of  
\$2,000,000.

How proceeds  
from sale ap-  
plied.

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. 49, Water, *post*] 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; [p. 81, *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; [p. 83, *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. 49, Water, *post*] 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.

*Ibid*, s. 2.

How bonds issued.

State taxes.

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 of February, 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 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.

The sum of two cents on each one hundred dollars of the assessed value of the assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied upon the same, and the proceeds of said tax, when collected, shall be paid over to the commissioners of finance, to be by them applied to the establishment of a sinking fund for the redemption of the bonds herein provided for. Ibid, s. 3.  
Levy.  
Redemption of bonds.

This ordinance shall be submitted to the legal voters of the city of Baltimore, for their approval or disapproval, at an election to be held on the third Tuesday after the passage of an act of the general assembly of Maryland authorizing the issue of the additional bonds herein provided for, and the approval of such act by the Governor, on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts; said polls to be opened and closed at the same time as provided by law for other elections, at which election each voter who may approve the adoption of this ordinance shall deposit a ticket or ballot on which shall be written or printed the words, "for the funding ordinance," and each voter who may disapprove the adoption of this ordinance shall deposit a ticket or ballot, on which shall be written or printed the words, "against the funding ordinance." Ibid, s. 4.  
Submission to voters.

Immediately after the closing of the polls, the judges of election of the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the funding ordinance," and the number of votes cast "against the funding ordinance," and if a majority of the votes cast at said election shall be in favor of this ordinance, the said mayor shall certify the fact to the president of each branch of the city council, and sections one, two and three of this ordinance shall take effect on and from the date of said certificate. Ibid, s. 5.  
Return of judges of election.

**Ibid, s. 6.**      A copy of this ordinance and notice of the day of holding  
**Publication.**    the said election shall be published in at least four of the daily newspapers of the city of Baltimore, twice a week for two weeks preceding the said election.

**Ibid s. 7.**      The city comptroller is hereby authorized and directed to  
**Tickets.**      have tickets of the description mentioned above, printed and placed at all the polls of the said city on the day of the said election; and the register is hereby authorized and directed to  
**Expenses.**    pay the expense of said printing, publication and election out of any moneys in the treasury not otherwise appropriated.

**Ibid, s. 8.**      Sections one, two and three of this ordinance shall not go into effect unless the debt herein proposed to be created shall be authorized by an act of the general assembly of Maryland, nor unless it shall have been approved by a majority of the votes cast at the election hereinbefore provided for.\*

Authorization  
by act of as-  
sembly and ap-  
proval of voters.

#### STOCKS.

#### CITY HALL.

Ordinance No. 37, April 15, 1870, enacts and ordains the following:

**No. 37, April 11,**    The register of the city is hereby authorized and directed to  
**70.**                    issue the bonds of the mayor and city council of Baltimore, to  
**Register au-**      an amount not exceeding in the whole one million of dollars,  
**thorized to**      in addition to the one million of dollars which were authorized  
**issue \$1,000,000**    to be issued by virtue of the provisions of the ordinance of the  
**in addition to**  
**\$1,000,000 of**  
**City Hall bonds**

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\*Submitted to voters and approved April 21, 1874.

By the act of 1874, ch. 185, the mayor and city council of Baltimore is 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 remains 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, and according to the terms, conditions and provisions of said ordinance.

mayor and city council of Baltimore, approved June twenty-fourth, eighteen hundred and sixty-eight, entitled an ordinance to provide for the issuing of the bonds of the city, as authorized by chapter three hundred and ninety-one of the acts of the general assembly of Maryland, entitled an act to authorize the mayor and city council of Baltimore to issue the bonds of the said city for the purpose of building a city hall, [p. 723, City Code,] which bonds shall be issued from time to time, as the same may be required in the course of the erection of the city hall now being erected in the said city; and the said bonds, and the proceeds of the sale thereof, shall be used for the purpose of providing the funds necessary in the course of the construction of the said city hall; provided that the said bonds shall not be issued until this ordinance shall have been approved by a majority of such of the votes of the legal voters of the city of Baltimore as may be cast at the time and places hereinafter designated.

Bonds to be issued from time to time.

Proviso.

Submission to vote.

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 to be issued.

The sum of two cents on every one hundred dollars' worth of assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied as a sinking fund for the redemption of the debt created by this ordinance; and the proceeds of said tax, when collected, shall be paid over to the commissioners of finance, and shall be applied by them to the extinguishment of said debt.

Ibid, s. 3.

Levy for sinking fund.

This ordinance shall be submitted to the legal voters of the city of Baltimore, for their approval or disapproval, at an election to be held on Thursday, April the twenty-first, eighteen hundred and seventy, on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts, said polls to be opened and closed at

Ordinance to be submitted to voters.

the same time as provided by law for other elections ; at which said election each of the said voters that shall approve the adoption of this ordinance shall deposit a ticket or ballot, on which shall be written or printed the words " for the city hall ordinance," and each of the said voters that shall be opposed to the adoption of this ordinance shall deposit a ticket or ballot, upon which shall be written or printed the words " against the city hall ordinance." \*

How to be voted on.

Ibid, s. 5.

Return of judges of election.

Mayor to certify to Council.

Immediately after the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast " for the city hall ordinance," and the number of votes cast " against the city hall ordinance;" and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor shall certify the fact to the presidents of the respective branches of the city council, and this ordinance shall take effect from the date of the said certificate.

Ibid, s. 6.

Publication.

A copy of this ordinance, and notice of the time of holding the said election, shall be published in at least four of the daily newspapers of the city of Baltimore until the said election.

Ibid, s. 7.

Tickets.

Expenses.

The city comptroller is hereby authorized and directed to have printed, tickets of the description mentioned in section three of this ordinance, and placed at the polls of the said city on the day of the said election ; and the register is hereby authorized and directed to pay the expenses of the said printing and publication provided for in the preceding section, out of any monies in the treasury not otherwise appropriated.

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\* This ordinance was duly approved.

The act of 1870, ch. 303, entitled an act to authorize the mayor and city council of Baltimore to issue its bonds to defray the expenses of the building of the new city hall enacts :

1. That the mayor and city council of Baltimore is authorized to issue the bonds of the said mayor and city council of Baltimore 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, ch. 391, [p. 723, *note*, City Code,] the proceeds of the sales of said bonds hereby authorized to be issued to be used in the construction of the new city hall, now being erected in said city of Baltimore, which bonds so to be issued, together with interest thereon, shall be made payable at such times as shall be determined by the said mayor and city council of Baltimore, which is further hereby 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.

2. That before any of the bonds mentioned in the preceding section shall be issued, the ordinance of the mayor and city council of Baltimore authorizing the same shall have been 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 of Maryland.

3. That all acts or parts of acts of assembly inconsistent herewith, and especially the act of 1866, ch. 1, (p. 724, City Code,) are hereby repealed.

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., of Baltimore to build a new city hall, (see p. 724, City Code,) in which there was not only, either in the title or the body of the law, no 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. *State, ex. rel. mayor, &c., v. Kirkley, et. al.* 29 Md., 85.

Ordinance No. 15, February 8, 1872, enacts and ordains the following :

No. 15, Feb. 8,  
'72.

Register to issue  
five hundred  
thousand dol-  
lars more of  
bonds.

The register of the city is hereby authorized and directed to issue the bonds of the mayor and city council of Baltimore, to an amount not exceeding in the whole five hundred thousand dollars, in addition to the one million of dollars authorized to be issued by virtue of the provisions of the ordinance of the mayor and city council of Baltimore, approved June twenty-fourth, eighteen hundred and sixty-eight, entitled an ordinance to provide for the issuing of the bonds of the city, authorized by chapter three hundred and ninety-one of the acts of the general assembly of Maryland, entitled an act to authorize the mayor and city council of Baltimore to issue the bonds of the said city for the purpose of building a city hall; [p. 723, City Code,] and also in addition to the one million of dollars, authorized to be issued by virtue of the provisions of the ordinance of the mayor and city council of Baltimore, approved April fifteenth, eighteen hundred and seventy, entitled an ordinance to authorize the issue of the bonds of the city of Baltimore, to provide funds for the building of the new city hall, authorized by chapter three hundred and three of the acts of the general assembly of Maryland, (1870) entitled an act to authorize the mayor and city council of Baltimore to issue the bonds of the said city for the purpose of building a city hall, which bonds shall be issued from time to time as the same may be required in the course of the erection of the city hall now being erected in the said city; and the said bonds, and the proceeds of the sale thereof, shall be used for the purpose of providing the funds necessary in the course of the construction of the said city hall; provided, that the said bonds shall not be issued until this ordinance shall have been approved by a majority of such of the votes of the legal voters of the city of Baltimore as may be cast at the time and places hereinafter designated.

To be issued as  
required in  
course of erec-  
tion of City  
Hall.

Proviso.

To be approved  
by voters of  
city.

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.  
Description of  
bonds.

The sum of one cent on every one hundred dollars' worth of assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied as a sinking fund for the redemption of the debt created by this ordinance; and the proceeds of said tax when collected shall be paid over to the commissioners of finance, and shall be applied by them to the extinguishment of said debt.

*Ibid*, s. 3.

Tax to be levied  
as a sinking  
fund for re-  
demption of  
debt.

This ordinance shall be submitted to the legal voters of the city of Baltimore for their approval or disapproval at an election to be held on the third Thursday of the year eighteen hundred and seventy-two, after the passage of the enabling act by the legislature, on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts, said polls to be opened and closed at the same time as provided by law for other elections, at which said election each of the said voters that shall approve the adoption of this ordinance shall deposit a ticket or ballot on which shall be written or printed the words "for the city hall ordinance," and each of the said voters that shall be opposed to the adoption of this ordinance, shall deposit a ticket or ballot upon which shall be written or printed the words "against the city hall ordinance."

*Ibid*, s. 4.

To be submitted  
to voters of city

Enabling act.

Voting.

Immediately after the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at said election and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the city hall ordinance" and the number of votes cast "against the city hall ordinance," and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor

*Ibid*, s. 5.

Returns of  
judges of elec-  
tion.

Certification  
from Mayor.

shall certify the fact to the presidents of the respective branches of the city council, and this ordinance shall take effect from the date of the said certificate.

Ibid, s. 6.  
Publication.

A copy of this ordinance and notice of the time of holding the said election shall be published in at least four of the daily newspapers of the city of Baltimore until said election.

Ibid, s. 7.  
Tickets.

The city comptroller is hereby authorized and directed to have printed tickets of the description mentioned in section three of this ordinance and placed at the polls of the said city on the day of the said election; and the register is hereby authorized and directed to pay the expense of the said printing and publication provided for in the preceding section, out of any money in the treasury not otherwise appropriated.

Expenses.

Ibid, s. 8.

Enabling act.

The mayor of the city of Baltimore is hereby requested to transmit a duly certified copy of this ordinance to the general assembly of Maryland, as soon as practicable, and respectfully request the passage of an act to authorize the endorsement and loan of the credit of the city, provided for in this ordinance.\*

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\* Ordinance duly approved.

By act of 1872, ch. 37, the mayor and city council of Baltimore was authorized and empowered to issue the bonds of said city to the amount of five hundred thousand dollars, for the purpose of providing funds for the building of the new city hall; and the ordinance of said mayor and city council approved February eight, eighteen hundred and seventy-two, was thereby ratified and confirmed.

The building and completion, &c., of the city hall (see *note* p. 726, City Code) is further provided for by ordinances 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 June 9, 1874, and resolutions No. 27, Dec. 22, '69, and No. 246, Oct. 25, '70.

## JONES' FALLS.

Stock for improvement of, see Jones' Falls, pp. 162-165, *ante*.

## PARK.

Ordinance No. 75 $\frac{1}{2}$ , June 8, 1870, repeals section two of ordinance number thirty-seven, approved May the second, eighteen hundred and sixty-three, [p. 741, City Code,] and re-enacts the same, so as to read as follows :

After deducting from the revenue derived from the city pas-  
 senger railways the interest on the present 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  
 ten thousand dollars 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 maybe laid  
 within Druid Hill park shall be applied as far as necessary  
 to reimburse the city the interest upon the bonds hereby author-  
 ized 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 pas-  
 senger railway over the amount necessary to provide for the  
 interest on the bonds issued under the provisions of this or-  
 dinance, shall be expended in the improvement and preserva-  
 tion of Patterson park.\*

No. 75 $\frac{1}{2}$ , June 8, '70.

Interest on park stock.

Surplus revenue and rent of pavilion at D. H. Park and receipts from railway in D. H. Park.

Proviso.

Patterson Park

## WATER.

Ordinance No. 32, April 15, 1870, enacts and ordains the following :

The register of the city is hereby authorized and directed to  
 issue, in the name and on behalf of the mayor and city council  
 of Baltimore, certificates of debt, to be denominated on their  
 face, "Baltimore water stock," to an amount not exceeding in  
 the whole three hundred and seventy thousand dollars, in ad-  
 dition to the amount which, under existing ordinances, has

No. 32, April 15, '70.

Authorizing the Register to issue Baltimore water stock not exceeding \$370,000, in addition to amount already issued.

\* See further under Parks, art. 34, Patterson Park, *ante*.

When. been issued, or is authorized to be issued, for the purposes connected with the supply of water for said city of Baltimore; which certificates shall be issued from time to time as the same may be demanded by the water board of the city of Baltimore, and the said certificates, and the proceeds from the sale of the same, shall be used for the purposes mentioned in the nine hundred and thirty-ninth section of article four of the Code of Public Local Laws of Maryland, relating to Baltimore city, as the same was amended and re-enacted by the general assembly at the January session of eighteen hundred and seventy, [see sec. 12, art. 49, Water, *post*] provided, that said certificates

Purposes. shall not be issued until this ordinance shall be approved by a majority of such of the votes of the legal voters of the city of Baltimore as may be cast at the time and places hereinafter designated.

Proviso. Not to be issued until approved by majority of voters.

Ibid, s. 2.  
How issued.

Interest payable semi-annually.

The said certificates 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 expiration of the year eighteen hundred and seventy-five, and bearing interest at the rate of six per cent. per annum, payable semi-annually on the first days of May and November in each and every year, and transferable as other city stocks are transferable.

Ibid, s. 3.  
Ordinance to be submitted to vote of people.

Ballots.

This ordinance shall be submitted to the legal voters of the city of Baltimore for their approval or disapproval, at an election to be held on Thursday, the twenty-first day of April, eighteen hundred and seventy, on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts, said polls to be opened and closed at the same time as provided by law for other elections; at which said election each of the said voters that shall approve the adoption of this ordinance shall deposit a ticket or ballot, on which shall be written or printed the words "for the water ordinance;" and each of the said voters that shall be opposed

to the adoption of this ordinance shall deposit a ticket or ballot, upon which shall be written or printed the words "against the water ordinance."

Immediately after the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the water ordinance," and the number of votes cast "against the water ordinance;" and if a majority of the said votes shall have been cast in favor of the ordinance, the said mayor shall certify the fact to the presidents of the respective branches of the city council, and this ordinance shall take effect from the date of the said certificate.

Ibid s. 4.

Returns of election.

Mayor to certify to Presidents of Branches of Council.

A copy of this ordinance, and notice of the time of holding the said election, shall be published in at least four of the daily newspapers of the city of Baltimore until the said election.

Ibid, s. 5.

Publication.

The city comptroller is hereby authorized and directed to have printed tickets of the description mentioned in section three of this ordinance, and placed at all the polls of the said city on the day of the said election; and the register is hereby authorized and directed to pay the expenses of the said printing and publication provided for in the preceding section, out of any moneys in the treasury not otherwise appropriated.

Ibid, s. 6.

Tickets.

Expenses.

#### GUNPOWDER RIVER STOCK.

Ordinance February 12, 1874, enacts and ordains the following:

The register of the city, upon notice from the commissioners of finance, and from time to time, as in their judgment the same may be required, is hereby authorized and directed to issue the bonds of the city, in addition to any water stock heretofore authorized, to an amount not exceeding four millions

Ordinance Feb. 12, '74, s. 1.

Issue of bonds to amount \$4,000,000.

Disposition of bonds. of dollars, and the said bonds shall be sold or disposed of, by the said commissioners of finance, and the proceeds therefrom shall be placed in the hands of the city register, to the credit of the water board of the city of Baltimore, to be paid upon the warrant of said water board and 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 October 25, 1872, No. 115, and any supplement or amendment that may be made thereto. [See art. 49, Water, *post.*]

Ibid, s. 2.  
Bonds.

State taxes.

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 of July, 1894, bearing 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, 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 their direction be issued with coupons attached, transferable by delivery, and with interest and principal, payable in gold, or to make them payable, principal and interest in London, in sterling money.

Ibid, s. 3.

Levy.

Sinking fund.

The sum of four cents on each one hundred dollars of the assessed value of the assessable property in the city of Baltimore, and in like proportion for any greater or less amount, shall be annually levied upon the same, and the proceeds of said tax, when collected, shall be paid over to the commissioners of finance, to be by them applied to the establishment of a sinking fund for the redemption of the bonds herein provided for.



This ordinance shall be submitted to the legal voters of the city of Baltimore, for their approval or disapproval, at an election to be held on the day of the general election in November, after the passage of an act of the general assembly of Maryland, authorizing the issue of the additional bonds herein provided for, and the approval of such act by the Governor, on which day polls shall be opened in the various precincts of the said city, at the usual places of voting in said precincts; said polls to be opened and closed at the same time as provided by law for other elections; at which election each voter who may approve the adoption of this ordinance shall deposit a ticket or ballot, on which shall be written or printed the words "for the water ordinance," and each voter who may disapprove the adoption of this ordinance, shall deposit a ballot or ticket on which shall be written or printed the words "against the water ordinance."

Ibid, s. 4.  
Submission to  
voters.

Immediately after the closing of the polls, the judges of election of the several precincts shall count the ballots deposited at said election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the water ordinance" and the number of votes cast "against the water ordinance;" and if a majority of the votes cast at said election shall be in favor of this ordinance, the said mayor shall certify the fact to the president of each branch of the city council, and sections one, two and three of this ordinance shall take effect on and from the date of said certificate.

Ibid, s. 5.

Returns from  
judges of elec-  
tion.

Certificate from  
Mayor.

A copy of this ordinance and notice of the day of holding the said election shall be published in at least four of the daily newspapers of the city of Baltimore, twice a week, for two weeks preceding the said election.

Ibid, s. 6.

Publication.

The city comptroller is hereby authorized and directed to have tickets, of the description mentioned above, printed and placed at all the polls of the said city on the day of the said election, and the register is hereby authorized and directed to

Ibid, s. 7.

Tickets.

to pay the expense of said printing, publication and election out of any moneys in the treasury not otherwise appropriated.

*Ibid*, s. 8.

Authorization  
by act of As-  
sembly.  
Approval by  
majority of  
voters.

Sections one, two and three of this ordinance shall not go into effect unless the debt herein proposed to be created shall be authorized by an act of the general assembly of Maryland, nor unless it shall have been approved by a majority of the votes cast at the election hercinbefore provided for.\*

#### LOANS, ENDORSEMENTS, ETC.

#### NORTHWESTERN VIRGINIA RAILROAD.

Ordinance No. 21, March 14, 1872, enacts and ordains the following :

No. 21, Mar. 14,  
72.

Commissioners  
of Finance to  
exchange  
stocks for bonds  
of Co.

The commissioners of finance are hereby authorized and empowered in their discretion, to exchange any of the stocks now 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 guaranteed 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.

To sell stocks  
to provide for  
redemption of  
bonds outstand-  
ing.

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\* By the act of 1874, ch. 209, the mayor and city council is 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 for in an ordinance of the said mayor and city council, entitled an ordinance to provide means for the introduction of the waters of the Gunpowder river, in order to furnish an additional supply of water to the city of Baltimore, approved February 12, 1874, and according to the terms, conditions and provisions of said ordinance and for the purposes thereof.

## PITTSBURGH AND CONNELLSVILLE RAILROAD.\*

Ordinance No. 107, June 19, 1871, enacts and ordains the following :

The time for the payment of the interest due and owing by <sup>No. 107, June 19, 1871.</sup> the Pittsburgh and Connellsville Company, on the bonds of the <sup>Interest due by P. & C. R. Co.</sup> city of Baltimore, issued in pursuance of an ordinance approved June the tenth, eighteen hundred and fifty-six, entitled a supplement to an ordinance guaranteeing the bonds of the Pittsburgh and Connellsville Railroad Company, approved June the twenty-fourth, eighteen hundred and fifty-three, [p. 788, City Code,] is extended until the first day of July, eighteen <sup>Time extended.</sup> hundred and seventy-two; provided, said interest be funded in <sup>Proviso.</sup> accordance with section three of ordinance number sixteen, approved March thirteenth, eighteen hundred and sixty-eight, [p. 793, City Code,] and the interest be paid by said company on the first day of July, eighteen hundred and seventy-two on the aggregated capital.

Ordinance No. 48, April 13, 1872, recites that :

Whereas, the Pittsburg and Connellsville Railroad Company <sup>No. 48, April 13, 1872.</sup> has completed its line of railway from Pittsburgh to Cumberland in Maryland, and has thus established, by a new route, a direct connection between the city of Baltimore and the western and northwestern States ; and whereas, the complete advantage of this additional line can not be secured to the city of Baltimore unless the road so built is provided with the appliances and equipments necessary to make it a first class railway ; and whereas, the said road needs for its proper working the erection of adequate machine and repair shops, and the addition of water stations, and many other permanent buildings and im- <sup>Preamble.</sup> provements, and also requires a large increase in the number of its engines and passenger and freight cars ; and whereas, certain of these improvements and additions cannot be completed by

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\* The act of 1872, ch. 400, changed the name of this corporation, (incorporated by act of 1853, ch. 88,) to the Pittsburg, Washington and Baltimore Railroad Company.

the said Pittsburgh and Connellsville Railroad Company, and others of the said improvements and additions cannot be commenced unless it is enabled to borrow a sum of money sufficient to discharge obligations already incurred, and to meet the said outlays which must be so made to give complete utility to its road; and whereas, the claim of the city of Baltimore upon the said road is secured by its existing lien, and it is proper that those who are willing to loan additional sums should be also secured to an equal degree by a lien upon the works on which such money is expended; therefore this ordinance enacts and ordains as follows:

*Ibid*, s. 1.  
Acceptance of  
ordinance by  
Company.

Trustees on part  
of city.

Description of  
bonds.

Upon the acceptance by the Pittsburgh and Connellsville Railroad Company of the provisions of this ordinance, Robert T. Baldwin, Charles J. Baker and William Keyser are hereby appointed trustees to receive from the Pittsburgh and Connellsville Railroad Company, by whatsoever name the said company shall be then known and designated, a deed of all the property of said company of whatsoever description, whether real or personal, to be held by them in trust to secure the payment of the bonds of the said company, not exceeding in all five millions of dollars, and the interest thereon, said bonds to be issued by the said company to an amount not exceeding in the aggregate five millions of dollars, bearing interest according to the tenor of the coupons annexed to each of said bonds, at the rate of six per centum per annum, payable half yearly; and the said bonds so to be secured and issued, shall be each for the sum of one thousand dollars, and shall each bear even date with the deed of mortgage by which the said bonds are to be secured; and each of said bonds shall be made payable to bearer thirty years after the date thereof, and shall be signed by the president and treasurer of the said company, and be sealed with its corporate seal; and each of said bonds shall be endorsed by said trustees, or their successors in such office, and certified by such trustees, or such successors, to be one of the

bonds secured by the said mortgage; and the said bonds shall be disposed of at such time, or times, and in such manner as Disposition of bonds. the said company and the said trustees shall determine; and it shall be expressed in the said mortgage that the use of the Use of bonds. said bonds or of the proceeds thereof, other than those to be issued, as hereinafter provided, to the mayor and city council of Baltimore, shall be confined to the payment of the obligations already incurred by the Pittsburgh and Connellsville Railroad Company, and to the construction and completion of Obligations incurred. the necessary works of the said Pittsburgh and Connellsville Railroad Company, and to the complete equipment of the said Pittsburgh and Connellsville Railroad Company, as a carrier of goods and passengers. Completion of works.

Upon the delivery to the register of the city of Baltimore Ibid, s. 2. of an amount of the said bonds, so secured by the said mortgage referred to in the first section of this ordinance, equal to Delivery of bonds. the amount of the bonds of the city of Baltimore, issued in pursuance of an ordinance, approved on the tenth day of June, in the year eighteen hundred and fifty-six, entitled a supplement to an ordinance entitled an ordinance to guarantee the bonds of the Pittsburgh and Connellsville Railroad Company, and also to the further amount of one million three hundred and thirty-seven thousand two hundred and thirty dollars and ninety cents, which is the amount of funded interest up to January 1st, 1872, as adjusted in pursuance of the ordinances of 1868, No. 16, [p. 792, City Code,] and 1871, No. 107, (less Amounts. the credit of thirty thousand four hundred and sixty-five dollars and eighteen cents derived from the sinking fund, which, upon its acceptance of this ordinance, is to be deemed relinquished by said company to said city) and of the interest on said bonds of the city of Baltimore, and on said funded interest for the Release of mortgages. current year up to January 1st, 1873, the aggregate amount which will be due on said last mentioned date being two million three hundred and thirty-seven thousand two hundred and thirty dollars and ninety cents, and also to the further amount

of any interest that may accrue and remain unpaid on said aggregate amount after January 1st, 1873; should the said bonds not be issued until after said last mentioned date, the mortgage made by the said Pittsburgh and Connellsville Railroad Company to Charles M. Keyser and Robert Clinton Wright, dated on the twenty-ninth day of October, in the year eighteen hundred and fifty-five, and duly recorded in the office of the recorder of deeds for Alleghany county, in the State of Pennsylvania, and the mortgage made by the said Pittsburgh and Connellsville Railroad Company to the said Charles M. Keyser and Robert Clinton Wright, dated on the fourth day of August, in the year eighteen hundred and fifty-six, and duly recorded in the office of the clerk of the circuit court of Alleghany county, in the State of Maryland, and in the proper offices for the recording of deeds in the counties of the State or Pennsylvania, in which the property so mortgaged was located, shall be deemed and taken to be wholly vacated and released; and it shall be the duty of the mayor of the city of Baltimore to execute formal releases of the said mortgages when required so to do by the said Pittsburgh and Connellsville Railroad Company; which said releases, it is agreed, shall be as valid and effectual as if the same were made by the said Robert Clinton Wright and Charles M. Keyser, the trustees named in the said mortgages, under and by virtue of an ordinance or ordinances passed for the purpose of directing them to make and execute such releases.

When Mayor to  
execute formal  
releases.

Ibid, s. 3.  
Condition.

This ordinance is enacted and made upon the express condition that all expenses connected with the making, executing and recording of the said new mortgage, provided to be made in the first section of this ordinance, shall be paid by the said Pittsburgh and Connellsville Railroad Company.

Ibid, s. 4.  
Extension of  
time for pay-  
ment of inter-  
est.

The time for the payment of interest on the bonds issued under the above recited ordinance of 1856, June 10th, shall be extended to July 1st, 1873, the said company being entitled to

cancel any coupons attached to the bonds herein provided to be delivered to the register as aforesaid which may be for the interest thereon during the year 1872, the said interest being provided for in the aggregate sum adjusted as herein recited up to January 1st, 1873, the above extension being granted upon the proviso that on the 1st July, 1873, interest shall be payable and paid on the above mentioned aggregate amount of two million three hundred and thirty-seven thousand two hundred and thirty dollars and ninety cents.

Interest to be paid.

#### UNION RAILROAD.

Ordinance No. 71, May 31, 1870, recites that:

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 north west boundary of the city of Baltimore, and hath been authorized so to do by an act passed by the general assembly at its late 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 of the said company should be completed as soon as possible, and the company be placed in

No. 71, May 31, 1870.

Construct line of railway.

Construction to be completed as soon as possible

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\* Act of 1870, ch. 412, which repealed the act of 1867, ch. 74, (p. 796, note, City Code), and amended the charter (1866, ch. 119) of the company.

condition to pay its interest; therefore, this ordinance enacts and ordains as follows:

Ibid, s. 1.  
Relief to Union  
Railroad Co.

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 guaranteed at such time and in such amounts as the commissioners of finance shall deem best, and the bonds

Bonds to be sold  
by Commissioners  
of Finance.  
Proceeds.

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.

Termini.

Ibid, s. 2.  
Mortgage.

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

Release in part.

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. 3.  
Conditions.

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 that the said Union Railroad Company of Baltimore has entered into a valid contract, or valid contracts, to build said railroad

Precedent.



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 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 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.

Endorsement of  
bonds.

Commencement  
of work.

The time limited for the completion of the road and the 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, [p. 795, City Code,] as are inconsistent herewith are hereby repealed.

Ibid, s. 4.

Time extended.

Ordinance No. 24, March 21, 1872, recites that :

Whereas, by an ordinance, approved on the eleventh day of June, 1867, [p. 795, City Code,] 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 endorsements 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

No. 24, March  
21, '72.  
Preamble.

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:

The mayor and city council hereby assents to the passage of No. 24, March 21, '72. an act by the general assembly of Maryland\* whereby the Act of Assembly. power of the mayor and city council of Baltimore, in reference Power of Mayor and City Council to be confined to two directors. 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 Right to vote at meetings of stockholders relinquished. 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 Proviso. Company to execute and deliver a full release. 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.

#### VIRGINIA VALLEY RAILROAD.

The act of 1870, ch. 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 an ordinance passed by the said mayor and city council of Baltimore on the fourteenth day of September, in the year eighteen hundred and sixty-nine. 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, [p. 798, City Code,] or upon such other terms and conditions, and in such manner as the said mayor and city council of Baltimore 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.

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\* The act of 1872, ch. 119.

## WESTERN MARYLAND RAILROAD.

Ordinance No. 2, Nov. 13, 1869, recites that :

No. 2, Nov. 13,  
'69.

Whereas, the city of Baltimore by various ordinances passed by the two branches of the city council, and approved by the mayor, has guaranteed 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 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 requires that immediate provision should be made by the city of Baltimore for the payment of the interest upon said guaranteed bonds ; therefore, this ordinance enacts and ordains as follows :

Preamble.

Ibid, s. 1.

City Register to  
pay interest on  
bonds.

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 guaranteed 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.

Ibid, s. 2.

City Register to  
borrow money.

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. 3.

How to be re  
paid.

The sum or sums of money, so borrowed, shall be repaid out of the levy for eighteen hundred and seventy.

Ordinance No. 11, January 21, 1870, enacts and ordains the following :

No. 11, Jan. 21,  
'70.

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, and 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.

Register to  
guarantee  
Western Mary-  
land Railroad  
bonds.

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 :

Ibid, s. 2.  
Endorsement.

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 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.

Coupons.

Ibid, s. 3.  
Act of Assem-  
bly authorizing  
endorsement.

Submission to  
voters.

Mortgage from  
company.

Priority of  
mortgage.

How bonds to  
be applied.

Ibid, s. 4.

Charter of com-  
pany to be  
amended.

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 counsellor, 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.

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.\*

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 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 reg-

*Ibid*, s. 10.

Sinking fund.

Interest.

Redemption of bonds.

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\* Section 2 of the act of 1870, ch. 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. 280—*post*.)

ister 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.

Ibid, s. 11.  
Ordinance submitted to the people.

This ordinance shall be submitted to the legal voters of the city of Baltimore for their approval or disapproval, at an election to be held on the third Tuesday next after the passage of an act by the general assembly of Maryland authorizing such endorsement of bonds:\* on which days polls shall be opened at the usual places of voting in the various precincts of said city, which polls shall be opened and closed at the time provided by law for other elections; and at said election each of said voters who shall approve the adoption of this ordinance shall deposit

Mode of voting.

a ticket or ballot on which shall be written or printed the words "for the ordinance," and each of said voters who shall disapprove of the adoption of this ordinance shall deposit a ticket or ballot upon which is written or printed the words "against the ordinance."

Ibid, s. 12.

Returns of judges of election.

Immediately upon the closing of the polls the judges of election in the several precincts shall count the ballots deposited at such election, and shall make return to the mayor of the city of Baltimore of the number of votes cast "for the ordinance," and the number of votes cast "against the ordinance," and if a majority of the votes shall have been cast in

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\* By the act of 1870, ch. 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.



favor of the ordinance, the mayor shall certify the fact to the  
 presidents of the respective branches of the city council, and  
 the said endorsements may be made immediately thereafter,  
 subject, however, to the provisions as to said endorsement here-  
 inbefore contained.

Mayor to certify  
 to Presidents of  
 Branches of  
 City Council.

A copy of this ordinance and notice of the time of holding  
 the said election, shall be published in at least four of the daily  
 papers of the city of Baltimore twice a week for two weeks  
 next preceding said election.

Ibid, s. 13.

Publication.

The comptroller is hereby authorized and directed to have  
 printed tickets of the description mentioned in the eleventh  
 section of this ordinance, and placed at the polls on the day of  
 the said election, and the register is hereby authorized and  
 required to pay the expenses of said printing, and of the publi-  
 cation aforesaid, and of said election, out of any money in the  
 treasury not otherwise appropriated.

Ibid, s. 14.

Tickets.

Expenses.

The mayor of the city of Baltimore is hereby requested to  
 transmit a duly certified copy of this ordinance to the general  
 assembly of Maryland during its present session, and respect-  
 fully request the passage of an act to authorize the endorse-  
 ment and loan of the credit of the city, provided for in this  
 ordinance.

Ibid, s. 15.

Enabling act.

Ordinance No. 108, June 19, 1871, recites that :

Whereas, the mayor and city council of Baltimore, by the pro-  
 visions of an ordinance, approved January twenty-first, 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 connec-  
 tion therewith, has come under obligation to endorse the  
 mortgage bonds of the said company to the amount of fourteen  
 hundred thousand dollars, payable on the first day of January,  
 nineteen hundred, and also the coupons for interest attached to

No. 108, June  
 19, '71.  
 Preamble.

the said bonds; and whereas, 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: and this ordinance enacts and ordains the following:

*Ibid*, s. 1.  
When City Register to pay interest upon bonds.

The city register is directed to pay the interest upon any of the bonds endorsed or guaranteed, or hereafter to be endorsed or guaranteed under the provisions of said ordinance, in case provision be not made by the said company for payment of such interest coupons at their maturity.

Ordinance No. 10, January 17, 1872, recites that:

No. 10, January 17, '72.

Preamble.

Preamble.

Preamble.

Preamble.

Whereas, it has been represented to the mayor and city council of Baltimore, 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, p. 274 *ante*,] to which thus is a supplement; and whereas, 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 impossible to dispose of the bonds of the said railroad company, although indorsed 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, as far as the city's liabilities is concerned, they are in all respects equivalent; and whereas, 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; therefore this ordinance enacts and ordains as follows:

The fifth, sixth, seventh, eighth and ninth sections of the original ordinance, to which this is a supplement, approved as aforesaid on the 21st day of January, 1870, are hereby repealed.

No. 10, Jan. 17,  
'72, s. 1.

Repeal.

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. 274 *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 thereof, in such forms as shall be approved by the city counsellor, 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 Janu-

Ibid, s. 2.

Surrender of  
bonds of com-  
pany.

Release of all  
rights in hands  
of Mayor and  
Commissioners  
of Finance.

Obligation to be  
deposited with  
City Register.

To be approved  
by the City  
Counsellor.

Mayor and  
Commissioners  
of Finance to  
issue to com-  
pany one mil-  
lion dollars of  
stock.

ary, eighteen hundred and seventy-two, payable semi-annually, which certificates shall be redeemable on the first day of January, 1902.

Ibid, s. 3.  
Condition of  
obligation.

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 respectfully become due and payable.

Ibid, s. 4.  
Conditions  
upon which  
stock to be de-  
livered to com-  
pany.

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. 5.  
Mayor and  
Commissioners  
of Finance to  
cancel and de-  
stroy surren-  
dered 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. 277, *ante*,) of the original ordinance to which this is a supplement, approved as aforesaid on 21st of January, 1870, is hereby so amended as that the sinking fund therein

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\*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.

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.

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 in the manner hereinafter mentioned and a majority of the votes cast at the said election shall be in favor of the said ordinance.

*Ibid, s. 7.*

*Issue of stock not to be made until act of Assembly be passed. Submission to voters.*

This ordinance shall be submitted to the legal voters of the city of Baltimore for their approval or disapproval at an election to be held on the third Tuesday next after the passage of an act of the general assembly of Maryland authorizing the issue of city stock herein provided for, on which day polls shall be opened at the usual places of voting in the various precincts of said city, which polls shall be opened and closed at the time provided by law for other elections; and at said election each of said voters who shall approve the adoption of this ordinance, shall deposit a ticket or ballot on which shall be written or printed the words "for the ordinance," and each of said voters who shall disapprove of the adoption of this ordinance, shall deposit a ticket or ballot upon which shall be written or printed the words "against the ordinance."

*Ibid, s. 8.*

*To be submitted to the legal voters of city.*

*Tickets.*

Ibid, s. 9.  
Returns of  
judges of elec-  
tion.

Immediately upon the closing of the polls, the judges of election in the several precincts shall count the ballots deposited at such election and shall make return to the mayor of the city of Baltimore, of the number of votes cast "for the ordinance," and the number of votes cast "against the ordinance," and if a majority of the votes shall have been cast in favor of the ordinance, the mayor shall certify the fact to the presidents of the respective branches of the city council, and the said issue of stock may be made immediately thereafter, subject however, to the provisions as to said issue of stock hereinbefore contained.

Mayor to certify  
to Presidents of  
Branches of  
Council.

Ibid, s. 10.  
Publication.

A copy of this ordinance and notice of the time of holding the said election, shall be published in at least four of the daily papers of the city of Baltimore, twice a week for two weeks next preceding said election.

Ibid, s. 11.  
Comptroller.  
Tickets.

The comptroller is hereby authorized and directed to have printed tickets of the description mentioned in the 8th section of this ordinance, and placed at the polls on the day of the said election, and that the register is hereby authorized and required to pay the expenses of said printing and of the publication aforesaid, and of said election, out of any money in the treasury not otherwise appropriated.

Expenses.

Ibid, s. 12.

Enabling act.

The mayor of the city of Baltimore is hereby requested to transmit a duly certified copy of this ordinance to the general assembly of Maryland as soon as practicable, and respectfully request the passage of an act to authorize the issue and application of city stock as herein provided for.

NOTE.—By the act of 1872, ch. 2, the mayor and city council of Baltimore, is 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 of 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 eighteen hundred and seventy two, to aid in the construction of the railroad of the said company.

The act of 1872, ch. 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 of Baltimore, approved January the seventeenth, eighteen hundred and seventy-two, 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 connection therewith, approved January the twenty-first, eighteen hundred and seventy, 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.

The act of 1872, ch. 62, recites that: the General Assembly at session of 1872, [chapter 23, art. 16, *ante*] passed an act entitled an act to repeal section 215, of P. L. L. art. 4, relating to city of Baltimore, sub-title Elections, and to enact a section in lieu thereof, whereby changes were made in the hours for keeping open the polls at elections in the city of Baltimore, and the said act became a law on 19th February, 1872, but was not known to the sheriff of the city of Baltimore, or the officers of said city until several days afterwards, and that prior to the passage of said act notices were issued for an election to be held on 20th February 1872, under the provisions of the ordinance approved January 17, 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 connection therewith, approved January 21, 1870, and said election was so held on February 20, 1872, under the the pre-existing law as to the hours during which the polls were kept open; and then said act of 1872, ch. 62, enacts that the election, so held, on the twentieth day of February last, in the city of Baltimore, shall be as valid to all intents and purposes as though the said act of assembly had not taken effect until after the said twentieth day of February.

Ordinance No. 23. April 10, 1873, enacts and ordains the following :

Commissioners  
of Finance au-  
thorized to in-  
vest \$320,000 in  
bonds of West-  
ern 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 [pp. 277, 282, *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 Company, 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.

Not to alter or  
change the pro-  
vision for a  
sinking fund.

Nothing contained in this ordinance shall alter or change the provision made by the tenth section of the ordinance heretofore 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.



Ordinance June 2, 1874, enacts and ordains the following :

The commissioners of finance of the city of Baltimore are hereby 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. Ord. June 2, '74.

*Purchase by City of Western Maryland Railroad authorized by Act of 1874.*

The act of 1874, ch. 477, enacts the following :

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 requirements of the seventh section of article eleven, of the constitution of Maryland, sub-title "Baltimore city." 1874, c. 477.  
Purchase.

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, providing 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 are or may be fixed by such ordinance, and be approved by a majority of the votes cast at such time and places. Ibid, s. 2.  
Bonds.

NOTE.—The ordinance of the mayor and city council of Baltimore entitled [p. 812, City Code,] 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 II, of the constitution of 1867, which declares 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,” [p. 5, City Code] 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., Gill, et. al., 31 Md., 375.*

#### SUBSCRIPTIONS AUTHORIZED BY ACTS OF 1874.

##### *Baltimore and Drum Point Railroad.*

By the act of 1874, ch. 433, the mayor and city council is authorized and empowered to subscribe to the capital stock of the Baltimore and Drum Point Railroad 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.

##### *Maryland Canal.*

The act of 1874, ch. 488, authorizes and empowers the mayor and city council of the city of Baltimore, to subscribe to the capital stock of the Maryland Canal Company, or to endorse the first mortgage bonds of said company to an amount not exceeding one million and five hundred thousand dollars, upon such terms and conditions as the said mayor and city council may by ordinance prescribe.

##### *Washington City and Point Lookout Railroad and Southern Maryland Railroad.*

The act of 1874, ch. 220, authorizes the mayor and city council of Baltimore, to subscribe to five hundred thousand dollars of the capital stock of the Washington City and Point Lookout Railroad Company and the Southern Maryland Railroad Company, upon such terms and conditions, and in such manner as the said mayor and city council of Baltimore may hereafter by ordinance prescribe, provided that such subscriptions shall not be made until an ordinance of the said mayor and city council of Baltimore, authorizing and directing the same to be made 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 XLIII.

## STREETS AND CITY COMMISSIONER.

## S T A T U T E .

Mayor and city council authorized to provide by general ordinance for establishing and changing grade lines. To provide for grading, paving, curb-	ing, &c. When special ordinance not required. Who deemed owners.
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## O R D I N A N C E S .

## GRADES, GRADING, PAVING, &amp;c.

Ordinances and sections of City Code, repealed.

Permanent grade lines: changes: record and return.

Notice of application, &c.

Grading, paving, &c.

Notice of application, &c.

Notice for proposals.

Who deemed owners.

Tax on owners: lien.

List of persons liable to pay.

Interest.

Flag and stepping-stones.

When alleys, &c. paved without curb-stones: proviso.

When streets, &c., paved with rubble stone, &c: gutter stones: curb-stones: proviso: security from contractor.

City commissioner and assistant to examine curb, flag, &c., stones, paving, &c.: penalty on contractor.

Petition for mayor for grading, &c.

Expenses of cross streets.

Regrading, &c.

Private contracts of owners for grading, &c., proviso: bond: penalty.

## OPENING STREETS.

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 commissioners: bond from purchaser: removal of materials, &c.: when commissioners to resell: penalty: proviso: condemnation of part of lot: proviso: notice.

Re-sale of property and materials: notice: oath.

Sec. 17, p. 838, City Code, repealed.

Removal of obstructions.

Duty of clerk to commissioners for opening streets: notice: proviso.

## CITY COMMISSIONER.

Salary of clerk to city commissioner.

## LAMPS.

Pillars and gas lamps at two corners of intersection of streets and midway in squares between streets: proviso.

## SUPERINTENDENTS OF LAMPS AND LAMP-

## LIGHTERS.

Additional lamplighters.

Salary of superintendents.

Pay of lamplighters.

## GAS.

Contract between city and gas companies: gas burners: pay: proviso: gas consumed or wasted.  
 Writing from companies obligating them to lay gas mains and supply gas, &c.  
 Cost to be paid by gas companies: bond.  
 Release and discharge from gas companies.  
 When contract may cease.  
 Condition of contract: plat and statement.  
 Companies jointly to bind themselves to lay gas mains.  
 How gas burned to be ascertained: inspection of meters: consumption of gas: pay to companies: burners.

## REGULATIONS.

Goods, &c., not to project more than three feet: bales or bulky articles not to be thrown from windows: sliding boards, skids, &c.: no salt to be used to melt ice or snow: penalty.

Steps, porches and porticos regulated: penalty: how to apply.

Sparrows, robins, wrens, &c., protected: bird boxes: penalty.

## HORSES, CATTLE, ETC.

Hitching posts: driving cattle, sheep and hogs through streets: proviso: prohibition.

Where cattle shall not be driven: penalty.

Hogs and cattle not permitted to run at large: penalty.

## S T A T U T E .

The act of 1874, ch. 218, repeals 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, statutes, City Code, pp. 822—825,) and also the acts of assembly of 1870, ch. 282, and of 1870, ch. 322, and enacts the following in lieu thereof:

74, c. 218, s. 1.  
 Mayor and City Council authorized to provide by general ordinance for establishing and changing grade lines.

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, sec. 2.  
 To provide for grading, paving, curbing &c.

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 curbing, or for

the regrading, reshellng, regravelling, repaving and recurbing 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.

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, gravelling, shelling, paving or curbing, or for the regrading, regravelling, reshellng, repaving, or recurbing, 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, sec. 3.

When special ordinance not required.

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.

Ibid, sec. 4.  
Who deemed owners.

## O R D I N A N C E S .

## GRADES, GRADING, PAVING, ETC.

Ordinance June 4, '74, entitled an ordinance in relation to establishing grades and grading, paving, &c., streets, lanes and alleys in the city of Baltimore, recites the act of 1874, ch. 218, and repeals all ordinances inconsistent herewith, and enacts and ordains as follows:

Ordinance June 4, 1874.

Ordinance number seventy-four, approved June 3, 1870, entitled an ordinance to add additional sections to article forty-three of Baltimore City Code, title Streets, and ordinance number seventy-eight, approved June 14, 1870, entitled an ordinance to repeal sections thirty, thirty-one, and thirty-nine, of article forty-three, of the Baltimore City Code, and re-enact the same with amendments, and sections twenty-seven to forty-nine inclusive [pp. 840-847,] and sections sixty-one, sixty-two, sixty-three, sixty-four, and sixty six, [pp. 850-852, Baltimore City Code,] entitled paving, re-paving and grading, are hereby repealed.

Ordinances, &c., repealed.

Ibid, s. 2.

Permanent grade lines.

Changes.

Record and return.

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 city register, 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.

Ibid, s. 2.

Notice of application, &c.

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.

The city commissioner, with the approbation of the mayor, shall have full authority to grade, gravel, shell, pave or curb 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.

When the city commissioner shall receive an application in writing to grade, gravel, shell, pave or curb any street, lane or alley, or part thereof, as provided in the foregoing 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.

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 curb any street, lane or alley, or part thereof, he shall give ten days' notice in three 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. 6. Notice for proposals.

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. 7. Who deemed owners.

After the contract has been awarded, as provided in section sixth, the city commissioner shall impose a tax upon the owner or owners of property binding upon such street, lane or alley, Ibid, s. 8. Tax on owners.

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.

Duty of City  
Collector and  
Register.

After the contract has been awarded to grade, gravel, shell, pave or curb 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 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.

Ibid, s. 10.  
Interest.

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. 11.  
Flag and stepping  
stones.

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 be not less than four feet long and two feet broad and five inches thick, and



shall be of hard stone, and shall be fitted or jointed for their whole thickness and securely bedded in sharp sand or gravel.

Streets, lanes or alleys, not more than twenty feet in width, hereafter to be paved, may be paved without curbstones, 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.

Ibid, s. 12.

When streets, alleys, &c., paved without curbstones. Proviso.

All streets, lanes and 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 curb 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; all paving to be rammed twice with rammers weighing fully 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; the curbstone 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 levelled to the pitch of the footways, and the two ends shall be made straight the whole depth, and the upper edge shall be 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 curbstones to be used may be not less than fifteen inches in depth; and all curbstones 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, 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. 13.

When streets, alleys, &c., paved with rubble stone, &c.

Gutter stones  
Curbstones.

Proviso.

Security from contractor.

Ibid, s. 14.  
City Commis-  
sioner and as-  
sistant to ex-  
amine curb,  
flag, paving, &c

The city commissioner, or his assistant, shall examine all curb, 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 foregoing 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 curb, flag, or gutter stones, or cover any paving with sand, previously to inspection by the commissioner or his assistant, he shall forfeit and pay a fine of twenty dollars for each and every offence.

Penalty on con-  
tractor.

Ibid, s. 15.  
Petition by  
Mayor for  
grading, &c.

The mayor shall have full power, whenever he may deem it advisable, to sign, on behalf of the city corporation, any petition for the paving, grading, or curbing of streets, lanes or alleys, on which may front any property belonging to the city.

Ibid, s. 16.

Expense of  
cross streets.

Whenever any street, lane or alley, has been graded, gravelled, shelled, curbed 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. 17.  
Regrading, &c.

The city commissioner, with the approbation of the mayor, shall have full authority to regrade, regravell, reshell, repave or recurb 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, shell-ing, paving or curbing 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 proper-

ties; the whole expense of the work on the cross streets to be defrayed by the city on the order of the city commissioner.

The city commissioner is hereby authorized to permit any street, lane or alley, or part thereof, to be graded, gravelled, shelled, paved or curbed 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 curb 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 be engaged in such work, the said fine to be collected as other fines are collected.

*Ibid*, s. 18.

Private contract of owners for grading, &c.

Proviso.

Bond.

Penalty.

#### OPENING STREETS.

Ordinance No. 25, April 10, 1873, repeals and re-enacts section 7, of this article, p. 831, City Code, so as to read as follows:

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 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 the fourteenth

No. 25, April 5, '73.

When Commissioners to ascertain full value of lot and improvement.

To sell materials of house necessary to remove and residue of lot.

Notice.

Deed from Commissioners.

Bond from purchaser.

Removal of materials.

When Commissioners to re-sell.

Notice. Proviso.

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 land 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, 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 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 less than five days' notice of said sale in two of the daily newspapers of the city aforesaid; 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 build-

ing 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 judgment 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.\*

Condemnation  
of part of lot.

Proviso.

Notice.

Ordinance No. 8, January 6, 1870, enacts and ordains as follows: [See sec. 12, p. 836, City Code.]

In every case where property or materials have been or may hereafter be sold by the commissioners for opening streets, and the purchaser has failed or shall fail forthwith to comply with the terms of sale, the commissioners for opening streets in office at the time of such failure, shall resell the property or materials at the risk of the former purchaser, giving not less

No. 8, July 6,  
1870.

Resale of prop-  
erty and ma-  
terials.

\* This ordinance repeals by implication as inconsistent therewith, ordinance No. 77, June 10, 1870, which is entitled an ordinance to amend section 7 of art. 43 of City Code. It is as follows:

In all cases where property or materials have been or may hereafter be sold by the commissioners for opening streets, and in all cases where property or materials have been heretofore resold, or may hereafter be resold, by the commissioners for opening streets by reason of the default of a former purchaser or purchasers, the purchase money for such property or materials shall be paid by the purchaser or purchasers thereof to the register of the city of Baltimore, and on full payment thereof the mayor and city council of Baltimore shall convey to the purchaser or purchasers such property, ground, or materials, so sold to them as aforesaid by said commissioners, by a good and sufficient deed or conveyance, to be signed by the mayor of said city under the corporate seal thereof, and to be acknowledged by an attorney to be appointed in said deed, according to the form and manner required by law for conveying the title to land in this State.

Notice.

than five days' notice of said sale in two of the daily newspapers in the city aforesaid, the expenses of said sale and notice to be paid by the original purchaser.

Ibid, s. 2.

Oath.

It shall not be necessary for such commissioners prior to making said sale to take any other oath than that which they may have taken upon their appointment to office.

No. 54, May 10,  
'70.

Section seventeen of article forty-three of the City Code, p. 838, is repealed by ordinance No. 54, May 10, 1870.

Ordinance No. 57, May 17, 1870, repeals and re-enacts sec. 20, p. 838, City Code so as to read as follows :

No. 57, May 17,  
'70.

20. 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 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.

Removals of  
obstructions.

Ordinance No. 76, June 21, 1873, enacts and ordains as follows :

No. 76, June 21,  
'73.Duty of clerk  
to Commission-  
ers for Opening  
Streets.

It shall be the duty of the clerk of the commissioners for opening streets to serve written or printed notices upon each and every party or parties assessed for damages, caused by the condemnation and opening of any public highway ; provided how-

ever, that the service of such notice shall not be so construed <sup>Notice.</sup> as to be one of the prerequisites to the condemnation and open-<sup>Proviso.</sup> ing of any street under any ordinance heretofore passed or hereafter to be passed by the mayor and city council of Baltimore.

*Decisions of Court of Appeals.*

**NOTE.**—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. 834, &c., City Code,) 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 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 section 6, Ordinance 26, 1866, (p. 830, City Code,) before taking the oath required by sec. 2, (p. 828). *Pope v. Mayor, &c.*, 34 Md., 558.

The acts of 1796, chapter 45, 1801, chapter 92, and 1805, chapter 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 Forest 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, chapter 12, section 3, [section 42, p. 234, City Code,] 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 ordinance was ever enforced. By the ordinance of 1869, No. 7, of the mayor and city council of Baltimore, 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, chapter 26, the 17th section of which provides 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, chapter 45, 1801, chapter 92, and 1805, chapter 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, [p. 838, City Code, now repealed, see p. 300, *ante*,] 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. *Hazlehurst et. al. v. Mayor, &c.*, 37 Md., 199.

#### *Opening Streets.*

By ordinance No. 48, April 22, 1870, the fourth section of the act of 1849, chapter 71, entitled an act to incorporate the proprietors of Baltimore cemetery is approved. This section enacts that no streets, lanes, alleys, roads or canals of any sort shall be opened through the property of said corporation, exclusively



used or appropriated to the purposes of a cemetery; provided, the said corporation permit, when required of them by the corporate authorities of the city of Baltimore, the continuation of the North avenue along the western and southern boundaries of its land fifty feet wide to the East avenue; and provided, further, that nothing herein contained shall authorize said corporation to obstruct any public road or street, lane or alley now actually opened and used as such.

The acts of 1874, chapter 441, 1870, chapter 99, and of 1872, chapters 78 and 387, provide for the laying off of streets in Baltimore county adjoining the city. The act of 1872, chapter 3, authorizes the Western Avenue Company to construct a road from the western terminus of any street of the city to Catonsville.

*Names of Streets Changed.*

Adams street, from Fremont street to the city limits, changed to Harlem avenue, by Ordinance No. 63, May 18, 1870; street opened on south side of Richmond market lot, between Howard street and Linden avenue, named Armory place, by Ordinance No. 4, February 12, 1873; street beginning at Scott street, between Columbia avenue and Ramsay street, and running westwardly, named Burnes street, by Ordinance No. 111, October 26, 1872; Chatsworth street, north of George street, changed to Myrtle avenue, by Ordinance No. 70, May 31, 1870; Choptank street to Collington avenue, by Ordinance June 9, 1874; Columbia street to Columbia avenue, by Ordinance No. 105, October 16, 1872; Cook street to Patterson avenue, by Ordinance No. 72, May 11, 1871; Dark lane, between St. Paul and Courtland streets, to Stewart court, by Ordinance No. 59, May 14, 1870; Gist street to Patterson Park avenue, by Ordinance No. 28, March 16, 1871; street opened from Neighbor street, northerly, named Hillman street, by Ordinance May 5, 1874; Johns street changed to Mt. Royal avenue; Ogston street, between George street and Myrtle avenue, fronting Perkins' Spring, changed to Clinton avenue, by Ordinance No. 60, June 27, 1873; Orbell alley to Orbell street, by ordinance No. 81, June 27, 1873; Oregon street, from Lexington street, north, to Fremont street, changed to Arlington avenue, by Ordinance No. 63, May 18, 1870; Park street to Park avenue, by Ordinance No. 3, January 27, 1874; Raborg street, from Fulton to Pulaski street, changed to Montrose street, by Ordinance No. 70, May 31, 1870; north Register street to McDonogh street, by Ordinance No. 52, April 22, 1872; Republican street to Carrollton avenue, by Ordinance June 9, 1874; Ringgold alley, commonly called Young alley, running south from No. 18 McHenry street, changed to Ringgold street, by Ordinance No. 193, October 1, 1872; street on south side of Lafayette market, named Sewell street, by Ordinance No. 72, June 11, 1873; Sterrett street changed to Barre street, by Ordinance No. 98, November 2, 1870; and Thompson street, from Fremont street, westwardly, changed to Edmondson avenue, by Ordinance No. 9, January 30, 1871.

## CITY COMMISSIONER.

Ordinance No. 17, Feb. 28, 1871, enacts and ordains the following: [See sec. 77, p. 855, City Code.]

No. 17, Feb. 28, '71. The salary of the clerk to the city commissioner is hereby fixed at fifteen hundred dollars per annum, commencing with the first day of March, eighteen hundred and seventy-one.\*

Salary to clerk to City Commissioner.

## LAMPS.

Ordinance No. 104, October 14, 1872, amends section 100, p. 862, City Code, as follows:

Pillars and gas lamps at two corners of intersection of streets, and midway in squares, between streets.

Proviso.

The city commissioner is hereby authorized and 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, the streets paved or contracted to be paved, and no pillars and lamps are now erected in such localities, the expense of the same to be provided for in the annual levy.

## SUPERINTENDENTS OF LAMPS AND LAMPLIGHTERS.

Ordinance No. 17, March 5, 1870, enacts and ordains as follows:

Additional lamplighters.

Section 106 of article 43 of City Code, (p. 864,) is amended so as to authorize the mayor to appoint an additional lamplighter for the middle district of Baltimore city. By Ordinance No. 64, May 2, 1871, he is authorized to appoint an additional lamplighter for said district, and by Ordinance No. 22, April 8, 1873, two additional for said district, and by Ordinance February 19, 1874, one additional for said district, and by June 14, 1874, one additional in said district.

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\* This ordinance repeals Ordinance No. 7, Jan. 20, '71, on same subject.

For the southern district the mayor, by Ordinance No. 14, <sup>Additional lamplighters.</sup> March 1, 1871, is authorized to appoint one additional lamp-lighter, by Ordinance No. 42, April 21, 1873, two additional for said district, and by June 15, 1874, one additional for said district.

For the eastern district the mayor, by Ordinance No. 34, <sup>Additional lamplighters.</sup> March 23, 1871, is authorized to appoint one additional lamp-lighter, by Ordinance No. 16, April 4, 1873, three additional for said district, and by Ordinance February 19, 1874, two additional for said district.

For the western district the mayor, by resolution No. 27, <sup>Additional lamplighters.</sup> February 10, 1870, is directed to appoint one additional lamp-lighter, if in his judgment said appointment is deemed necessary. By ordinance No. 1, Dec. 16, 1872, he is authorized to appoint one additional for said district, and by Ordinance February 19, 1874, two additional for said district.

Ordinance No. 15, Feb. 28, 1871, enacts and ordains as follows, (sec. 107, p. 864, City Code) :

Each of the superintendents of lamps shall receive as salary <sup>No. 15, Feb. 28, '71.</sup> the sum of ten dollars per week. <sup>Salary of superintendents.</sup>

Ordinance No. 25, March 16, 1871, enacts and ordains the following, (sec. 107, p. 864, City Code) :

The compensation of the lamplighters shall be eight dollars <sup>Ordinance No. 25, March 16, 1871.</sup> each per week. <sup>Pay of lamplighters.</sup>

G A S .

Ordinance No. 76, May 10, 1871, enacts and ordains the following:

The mayor, the city comptroller, and city register are hereby <sup>No. 76, May 10, '71.</sup> authorized, in the name of the mayor and city council of Baltimore, to contract with the Gaslight Company of Baltimore and the People's Gas Company of the city of Baltimore for a <sup>Contract between city and gas companies.</sup> supply of carbureted or illuminating gas to the public street

Gas burners.

Proviso.

Gas consumed  
or wasted.

Ibid, s. 2.

Writing from  
companies obli-  
gating them  
to lay gas  
mains and sup-  
ply gas, &c.

Cost to be paid  
by gaslight  
companies.

lamps in the district respectively lighted by them, for a period of five years from the date of the passage of this ordinance, the gas to be of a quality not inferior to that now required by section thirteen of ordinances, article twenty-seven of Baltimore City Code, the burners to be five feet burners, and to be supplied by the gaslight companies; the city to pay monthly for the gas so consumed at the rate of two and one-half dollars per thousand feet, the companies paying the government tax; provided, the said companies shall have no claim against the city for any gas consumed or wasted by reason of any greater pressure than may be necessary to give a uniform supply of five feet to the hour to the five feet burners.

Before any contract shall be entered into by the mayor, city comptroller, and register, as provided in section first of this ordinance, the president and directors of each of said companies shall certify to the city register, under the seal and signed by the president or other proper officer or officers of each of said companies, that the said companies will, and do hereby, obligate themselves and agree to lay at once gas mains of sufficient size in all streets covering resolutions or ordinances heretofore passed by the mayor and city council, and not complied with by the old board of directors of the Baltimore Gaslight Company, and also to lay said mains and supply the same with gas, in such avenues, streets, lanes, alleys, and places as may from time to time be directed by ordinance or resolution of the mayor and city council of Baltimore, from year to year, at the sole cost of the said gaslight companies, for their respective districts proportionally, and to the extent of fifteen thousand dollars in each year, or any part of seventy-five thousand dollars in the five years aforesaid, the same to be estimated at the actual cost of the same, and said certificate shall contain an obligation on the part of said gaslight companies respectively to comply with whatsoever ordinance or resolution that may be passed hereunder, immediately after and as soon as the same shall be approved; and the said companies shall respective-

ly file with the city register a good and sufficient bond, executed to the mayor and city council of Baltimore, in the penalty of seventy-five thousand dollars, conditioned for the faithful performance of the conditions and agreement mentioned in this section. Bond.

At or before the execution of any contract under this ordinance, the said Gaslight Company of Baltimore, and the People's Gaslight Company of Baltimore, shall execute and file with the city register a full, complete and final release and discharge, to be approved by the city counsellor, releasing and finally discharging the mayor and city council of Baltimore from, and renouncing on the part of said gaslight companies all claim and demands, both at law and in equity, which the said companies may have, or claim to have, arising from any past contract or transaction between the parties aforesaid. Ibid, s. 3.  
Release and discharge from gas companies.

If at any time during the duration of any contract entered into under this ordinance, the city may determine to furnish gas from its own works, said contract shall cease. Ibid, s. 4.  
When contract may cease.

As a condition of said contract, the said Gaslight Company of Baltimore, and People's Gas Company of Baltimore, shall furnish and lay before the council annually, in the month of January, a plat and statement, showing the number of feet of gas mains laid by and under the provisions of this ordinance and the number of private consumers connected therewith. Ibid, s. 5.  
Condition of contract.  
Plat and statement.

Ordinance No. 100, June 13, 1871, enacts and ordains the following, and repeals any inconsistent provisions in the ordinance preceding :

The true intent and meaning of the stipulation required of the two gaslight companies, as one of the conditions precedent to the contracts authorized to be made with said companies for furnishing city lamps with gas, and as set forth in the second section of the ordinance [No. 76, May 10, 1871,] to which this is a supplement, is as follows, viz: That the said companies shall jointly, and not severally, bind themselves to lay gas No. 100, June 13, '71.

Companies  
jointly to bind  
themselves to  
lay gas mains.

mains, in the manner, to the aggregate extents, under the penalties, and on the terms stated in said second section of the ordinance to which this is a supplement.

*Ibid.*, §. 2.

How gas  
burned to be  
ascertained.

Inspection of  
meters.

Registry.

Consumption of  
gas.

Pay to com-  
panies.

Burners.

It shall be provided in the contract, to be executed under the provisions of this ordinance, and that to which this is a supplement, that the number of feet of gas burned per hour in the street lamps, shall be ascertained by such meters as may be agreed upon by the mayor, city comptroller and city register and the officers of said companies; said meters to be furnished at the expense of said companies, and placed at certain distances apart, not less than ten in each ward, said meters to be at all times subject to the inspection and regulation of the gas meter inspector; and monthly during each year the registry of said meters shall be taken, and the average consumption of gas in each ward shall be calculated under the supervision and direction of the city comptroller, and the officers of said companies respectively appointed for that purpose; and the mayor and city council of Baltimore shall pay to said companies the amount of two dollars and fifty cents per thousand feet for the gas actually consumed and ascertained and determined by the registry of the meters and calculation of average consumption as aforesaid; and the city comptroller shall, from time to time, direct and control the placing on the street lamps wherever he may think proper, such burners as in his judgment will most effectually prevent waste, and insure as nearly as possible a consumption of gas not to exceed an average of five feet per hour; the changes in the burners, however, shall be made at the expense of the mayor and city council of Baltimore.

NOTE.—Resolution No. 207, May 10, 1871, authorized the mayor to contract with the Gas Company of Baltimore, for a supply of gas for the city for the period of one year. The act of 1870, ch. 52, amends the charter of the People's Gas Company; the act of 1870, ch. 246, amends the charter of the Equitable Gas Company, (*note*, p. 870, City Code); the act of 1874, ch. 423, incorporates the Citizens' Gas Company of Baltimore.

## REGULATIONS.

Ordinance No. 68, Oct. 12, 1869, amends sec. 146, p. 878, City Code, as follows :

146. Any person or persons who shall place or set any goods, No. 68, Oct. 12, '69.  
wares, merchandize or vegetables or fruit by way of exposing Goods, &c., not  
the same to sale so as to project a distance of more than three than three feet.  
feet from his or her house or store, shall forfeit and pay a fine  
of five dollars for each and every such offence, to be recovered Penalty.  
as other corporation fines and penalties are recovered.

Ordinance No. 22, March 7, 1871, repeals and re-enacts sec. 158, p. 884, City Code, as follows :

158. It shall not be lawful for any person to throw any bale or Bales or bulky  
bulky article from the second, or higher story door, or window articles not to  
into the street, or to use, or cause to be used, in or upon any be thrown from  
street, lane or alley, wharf or place of public resort, any windows.  
sliding board, skid or other device or contrivance, for the pur-Sliding boards,  
pose of receiving or delivering merchandize, without having skids, &c.  
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, Penalty.  
that this ordinance shall not be construed to extend to the re-  
moving of any merchandize or other article in case of danger  
by fire or other casualty.

Ordinance approved February 27, 1874, enacts and ordains the following : (See  
sec. 156, p. 882, City Code.)

No person or persons, or corporations, shall cast, throw, Ord. Feb'y. 27, '74.  
sprinkle or place salt or any other saline substance upon any No salt to be  
pavement, street, lane, alley or car track whatever within the used to melt ice  
corporate limits of the city of Baltimore, for the purpose of or snow.  
removing or melting ice or snow, under a penalty of not less Penalty.  
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.

Ordinances approved May 5, and June 15, 1874, enact and ordain the following :

Ord. May 5, '74. 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.

Steps, porches,  
and porticos  
regulated.

Penalty.

Ibid, s. 2.  
How to apply.

This ordinance shall not apply to buildings now in course of construction.

Ordinance approved April 14, 1874, enacts and ordains the following :

Ord. April 14, '74. 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 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 suitable 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.

Sparrows, rob-  
bins, wrens, &c.  
protected.

Bird boxes.

Penalty.

#### HORSES, CATTLE, ETC.

Ordinance approved June 9, 1874, enacts and ordains the following :

Ord. June 9, '74. 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 post to be removed after sixty days' notice from the mayor.

Ord. June 9, '74.

Hitching posts.



Ordinance approved June 17, 1874, enacts and ordains the following :

It shall not be lawful for any person or persons to drive any <sup>Ord. June 17, 74.</sup> cattle, sheep or hogs in any street lane or alley of Baltimore, <sup>Driving cattle, sheep and hogs through streets.</sup> 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 ordinance <sup>Proviso.</sup> 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.

It shall not be lawful for any one to drive any cattle, swine <sup>Ibid, s. 2. Prohibition.</sup> or sheep through any street or parts of streets where the same is now prohibited by ordinance.

Ordinance No. 49, April 22, 1872, adds the following to section 166, p. 886, City Code :

It shall not be lawful for any person or persons to drive any <sup>No. 49, April 22, 72.</sup> cattle, sheep or hogs 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., under a penalty of <sup>Where cattle shall not be driven.</sup> twenty dollars for each offence. <sup>Penalty.</sup>

Ordinance No. 64, May 27, 1872, adds the following to section 168, p. 887 City Code.

It shall not be lawful for hogs or cattle to run at large within the corporate limits of the city of Baltimore, and the owner <sup>No. 64, May 27, 72.</sup> or owners of any hogs or cattle found running at large within <sup>Hogs and cattle not permitted to run at large.</sup> said limits, shall be fined for each and every offence the sum of <sup>Penalty.</sup> five dollars, to be recovered as other fines are recovered.

## ARTICLE XLV.

## TAXES.

## S T A T U T E S .

Levy by city authorized.  
Limits of direct taxation:  
Assessment of property in city: authorized.

## SALE AND REDEMPTION.

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.  
Redemption by owner.

## APPEAL TAX COURT.

Appointment of board: duties.

Vacancies: compensation: oath.

## COLLECTOR OF STATE TAXES.

## Appointment.

Bond: record of bond: deposits to  
credit of treasurer: in what bank:  
statement: removal and suit.

Examination of books.

When Governor to appoint collector:  
bond.

Levy for commissions: per centage.

## O R D I N A N C E S .

## APPEAL TAX COURT AND ASSESSORS.

Salary of judges: of clerk to court:  
of assessors.

Assistant clerk: duties and salary.

Office hours of court

Refunding taxes paid in error: limitation:  
list of claims: statement: alleged  
payment.

Bailiffs: salary.

## COLLECTOR.

Salary of Deputy Collector.

General cash book keeper: salary.

Salaries of chief bookkeeper, cashier,  
assistant cashier and ledger clerks.

Duty of Comptroller: certificate from  
collector of taxes being paid: description  
of lots condemned for opening  
streets, &c., to be furnished Appeal  
Tax Court: lots bought or  
sold by city.

## LIMITS OF DIRECT TAXATION.

Extended.

## STATUTE.

The act of 1874, ch. 180, repeals and re-enacts the act of 1864, ch. 69, being  
sec. 1, p. 902, City Code, as follows:

1874, c. 180.

1. The mayor and city council of Baltimore is 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 is, or shall be, required by law to collect for other purposes.

The act of 1874, ch. 39, repeals and re-enacts sec. 872, P. L. L., being sec. 3, p. 903, City Code, as follows:

3. They may extend the limits of direct taxation within the said city from time to time, as they shall deem it expedient.

1874, c. 39.  
Limits of direct  
taxation.

The act of 1874, ch. 357, enacts the following:

The mayor and city council of Baltimore city may, whenever they think the public interest may require it, cause an assessment of all the property in said city liable or subject to assessment for city or State taxes, and they may prescribe the manner in which such assessment shall be made, and provide for adjusting all differences in relation to such assessment, and do all other things necessary for making such assessment.\*

1874, c. 357.  
Assessment of  
property in city  
authorized.

#### SALE AND REDEMPTION.

The act of 1874, ch. 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, repeals art. 81, and all acts or parts of acts inconsistent with the provisions of that act, and enacts the following as sections 51 and 55 thereof:

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

1874, c. 483,  
sec. 51.  
Collector to re-  
port to judge of  
circuit court  
sales of lands  
for taxes.

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\* The act of 1874, ch. 514, entitled an act to provide for the general valuation and assessment of property in this State was held inoperative and void by the court of appeals, June 5, 1874, in *Maxwell et al. Assessors, v. State ex rel. R. T. Baldwin.*

Notice to show  
cause.

Ratification of  
sale and pur-  
chaser's title.

New sale.  
Proceedings in  
court.

Burden of proof.

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.\*

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\* This section is a re-enactment of section 63 of the act of 1872, ch. 384, which repealed and re-enacted the act of 1870, ch. 312, on the same subject.

The order required by the act of 1870, ch. 312, to be given by the court upon the report of a sale of land for taxes in arrear, warning all persons interested in

Whenever real estate shall be sold by a collector, the owner thereof, prior to the sale, may redeem the same by paying into court, to be paid to the purchaser thereof, within the period of twelve calendar months from the date of such sale, the amount of the purchase money, with interest thereon, at the rate of fifteen per cent. per annum, from the date of the sale.\*

Ibid, sec. 55.

Redemption by owner.

## APPEAL TAX COURT.

The act of 1874, ch. 483, (secs. 13, 14 and 15) enacts the following, which amends secs. 14, 15 and 16, p. 906 City Code, as follows :

14. 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. 483,  
s. 13.

Appointment of board.

Duties.

15. 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 board shall receive such compensation as the mayor and city council shall provide, to be paid by the city.

Ibid, sec. 14.  
Vacancies.

Compensation.

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the property sold to appear by a day certain and show cause, if any they have, against its ratification, is not final and conclusive. Irregularities 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., Clarke et al., 36 Md., 207.*

\* This section repeals the act of 1870, ch. 342, which allowed two years for redemption by owner.

Ibid, sec. 15.

Oath.

16. 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.

NOTE.—Secs. 17, 18, 19, 20 and 21, pp. 906-908, City Code, are re-enacted in sections 90, 91, 92, 93 and 94 of act of 1874, ch. 483, except that “comptroller” is substituted for “treasurer” in sec. 93 (sec. 20, City Code.)

## COLLECTOR OF STATE TAXES.

The act of 1874, ch. 483 (secs. 30 in part, 32, 33, 34, 38 and 67) enacts the following, which amends secs. 22, 23, 24, 25, 26, 27 and 28, pp. 908-909 City Code :

1874, c. 483,  
sec. 30.

Appointment.

22. 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.

Ibid, sec. 32.  
Bond.

23. 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.

Sec. 26 of City  
Code.Ibid, sec. 33.  
Deposits to  
credit of treasurer.

24. 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 In what bank. to make such daily deposits and to send such certificate, he Statements. shall, on proof thereof to the satisfaction of the Governor, be liable to removal from office by the Governor, and the comp- Removal and suit. troller shall immediately enter suit upon his bond.

25. 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, sec. 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 When Governor to appoint collector. Governor, and be in all respects on a footing with other State collectors' bonds, as provided in this article, and the said collector shall have all the powers of other collectors. 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 sec. 67. Levy for commissions. Percentage.

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\* The act of 1874, ch. 483, repeals article 81, Revenue and Taxes, Public General Laws, and all acts or parts of acts inconsistent with the provisions of that act, and revises and codifies the Revenue Law of the State.

## O R D I N A N C E S .

## APPEAL TAX COURT AND ASSESSORS.

Ordinance No. 20, Feb. 28, 1871, amends section 1, p. 910 City Code, as follows :

No. 20, Feb. 28, '71.  
Salary. Each of the judges of the appeal tax court shall receive as salary the sum of eighteen hundred dollars per annum.

Ordinance No. 30, March 17, 1871, amends same section, as follows :

No. 30, March 17, '71.  
Salary. The salary of the clerk to the appeal tax court, shall be sixteen hundred dollars per annum.

Ordinance No. 6, Jan. 13, 1871, amends same section, as follows :

No. 6, Jan. 13, '71.  
Salary. The salary of the assessor of real estate for the city of Baltimore, shall be fixed and ascertained at the sum of fourteen hundred dollars per annum.

Ordinance No. 21, April 4, 1873, enacts and ordains as follows :

No. 21, Apr 4, '73.  
Assistant Clerk to Appeal Tax Court.  
Duties.  
Salary. There shall be appointed annually, as other city officers are 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, and who shall receive an annual salary of twelve hundred dollars.

Ordinance No. 54, April 24, 1872, amends section 3, p. 910 City Code, as follows :

No. 54, April 24, '72.  
Office hours of Appeal Tax Court. 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.

Ordinance No. 88, June 27, 1873, strikes out sec. 8, p. 912 City Code, and inserts in lieu thereof the following :

No. 88, June 17, '73. 8. 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 re-  
Refunding taxes paid in error.  
 pay the same, and shall reject all such claims as may be considered doubtful or not well founded, provided not more than four years has elapsed from the first day of May in the year  
Limitation.  
 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 correct list or account of all claims for taxes  
List of claims.  
 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 a copy thereof annually in February, setting forth  
Statement.  
 those allowed as well as those rejected, with the reason for rejecting the same, and upon the representation of any taxpayer that he or she has paid the taxes for which the collector has demanded payment, the appeal tax court are hereby authorized  
Alleged payment.  
 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.

Ordinance No. 110, Oct. 26, 1872, amends section 13, p. 914, and section 56, p. 928, City Code, as follows: and repeals ordinance No. 38, March 23, 1871, on the same subject:

The city collector shall have authority to appoint fourteen  
No. 110, Oct. 26, 1872. Fourteen Bailiffs.  
 bailiffs.

Each of said bailiffs shall receive the sum of three hundred and fifty-seven dollars per annum, payable monthly, for his services as assessor, under the direction of the appeal tax court.  
Ibid, s. 2. Salary.

COLLECTOR.

Ordinance No. 2, Dec. 16, 1872, amends section 56, p. 928 City Code, as follows:

The salary of the deputy collector of taxes shall be eighteen  
No. 2, Dec. 11, 1872. Salary of Deputy Collector.  
 hundred dollars per annum.

Ordinance No. 91, Oct. 11, 1873, amends same section as follows :

No. 91, Oct. 11,  
73.

General cash  
bookkeeper.  
Salary.

The title of the office of assistant bookkeeper in the city collector's office, tax department, is hereby changed to that of general cash bookkeeper, and the salary of said office shall be sixteen hundred dollars per annum.

Ordinance Feb. 12, 1874, amends section 56, p. 928, City Code, as follows :

Ordinance Feb.  
12, 74.  
Salaries.

The salary of the chief bookkeeper and cashier of the collector shall be sixteen hundred dollars per annum each, that of the assistant cashier, fourteen hundred dollars per annum, and that of the ledger clerks thirteen hundred dollars per annum each.

Ordinance approved March 3, 1874, enacts and ordains the following :

Ordinance  
March 13, 1874.  
Duty of Comptroller.

Certificate from  
Collector of  
Taxes being  
paid.

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.

Ibid, s. 2.

Description of  
lots condemned  
for opening  
streets, &c., to  
be furnished  
Appeal Tax  
Court.

Lots bought or  
sold by city.

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.

NOTE.—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 re-

cover 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.

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.

As to voluntary payment of taxes when the right to impose, &c., is denied, see *Lester v. Mayor, &c.*, 29 Md. 418 : 38 Md. 228.

#### LIMITS OF DIRECT TAXATION.

Ordinance June 9, 1874, enacts and ordains the following, in accordance with the provisions of the act of 1874, ch. 39, p. 313 *ante* :

The lines of direct taxation shall be extended to the follow-  
Ordinance June 9, 1874.  
Direct tax line.  
ing 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.

Ordinance No. 9 March 15, 1873, entitled a supplement to an ordinance entitled an ordinance to extend the lines of direct taxation, approved October 24th, 1872, repealed section one of said ordinance No. 109, approved October 24th, 1872 : \* and re-enacted the same to read as follows :

Beginning at the point where the centre line of Boston street  
No. 9, March 15, 1873.  
is intersected by the centre line of Patuxent street, and running thence northerly along the centre line of Patuxent street to the centre line of Elliott street, easterly along the centre

\* Sec. 2 of the ordinance of October 24, 1872, enacted that it is not intended or designed that this ordinance shall conflict with article 45, section 3, City Code, which provided that six dwellings or store houses shall be erected on each full square or part of a square, before a square or part of a square can be included within direct taxation : a condition repealed by act of 1874, ch. 39. See sec. 3, p. 313 *ante*.

Direct tax line. line of Elliott street to the centre line of Canton street, southerly along the centre line of Canton street to the centre line of Toone street, easterly along the centre line of Toone street to the eastern city line in the bed of East avenue or street, (as located by the Canton Company,) northerly along the eastern city limits to the centre line of Elliott street, westerly along the centre line of Elliott street to the centre line of Robinson street, northerly along the centre line of Robinson street to the centre line of O'Donnell street, westerly along the centre line of O'Donnell street to the centre line of Curley street, northerly along the centre line of Curley street to the centre line of Hudson street, easterly along the centre line of Hudson street to the centre line of Hair street, northerly along the centre line of Hair street to the centre line of Lancaster street, westerly along the centre line of Lancaster street to the centre line of Patuxent street, southerly along the centre line of Patuxent street to the centre line of Hudson street, westerly along the centre line of Hudson street to the centre line of Chesapeake street, northerly along the centre line of Chesapeake street to the centre line of Lancaster street, westerly along the centre line of Lancaster street to the centre line of Dawson street, southerly along the centre line of Dawson street to the centre line of Hudson street, westerly along the centre line of Hudson street to the centre line of Luzerne street, northerly along the centre line of Luzerne street to the centre line of Canton avenue, westerly along the centre line of Canton avenue to the centre line of Rose alley, southerly along the centre line of Rose alley to the centre line of Alice Anna street, westerly along the centre line of Alice Anna street to the centre line of Cannon street, northerly along the centre line of Cannon street to the centre line of Canton avenue, westerly along the centre line of Canton avenue to the centre line of Port alley, northerly along the centre line of Port alley to the centre line of Eastern avenue, westerly along the centre line of Eastern avenue to the centre line of Patterson Park

avenue, northerly along the centre line of Patterson Park Direct tax line. avenue to the centre line of Bank street, westerly along the centre line of Bank street to the centre line of Choptank street, northerly along the centre line of Choptank street to the centre line of Gough street, easterly along the centre line of Gough street to the centre line of Patterson park avenue, northerly along the centre line of Patterson Park avenue to the centre line of Orleans street, westerly along the centre line of Orleans street to the centre line of Choptank street, northerly along the centre line of Choptank street to the centre line of Jefferson street, easterly along the centre line of Jefferson street to the centre line of Burke street, northerly along the centre line of Burke street to the centre line of Monument street, westerly along the centre line of Monument street to the centre line of Chester street, northerly along the centre line of Chester street to the centre line of Chew street, westerly along the centre line of Chew street to the centre line of Castle alley, southerly along the centre line of Castle alley to the centre line of Monument street, easterly along the centre line of Monument street to the centre line of Duncan alley, southerly along the centre line of Duncan alley to the centre line of McElderry street, westerly along the centre line of McElderry street to the centre line of Chester street, southerly along the centre line of Chester street to the centre line of Jefferson street, westerly along the centre line of Jefferson street to the east line of Register street, extended, northerly along the east line of Register street to the centre line of McElderry street, westerly along the centre line of McElderry street to the centre line of Broadway, northerly along the centre line of Broadway to the centre line of Monument street, easterly along the centre line of Monument street to the centre line of Wolfe street, southerly along the centre line of Wolf street to the centre line of McElderry street, easterly along the centre line of McElderry street to the centre line of Star alley, or Chapel street, northerly along the centre line of Chapel street to the centre line of Monument street,

Direct tax line. westerly along the centre line of Monument street to the centre line of Wolfe street, northerly along the centre line of Wolfe street to the centre line of Eager street, easterly along the centre line of Eager street to the centre line of Castle street, northerly along the centre line of Castle street to the centre line of Chase street, easterly along the centre line of Chase street to the centre line of Chester street, northerly along the centre line of Chester street to the centre line of Biddle street, westerly along the centre line of Biddle street to the centre line of Castle street, northerly along the centre line of Castle street to the centre line of John street, westerly along the centre line of John street to the centre line of Washington street, southerly along the centre line of Washington street to the centre line of Biddle street, westerly along the centre line of Biddle street to the centre line of Star alley, or Chapel street, northerly along the centre line of Chapel street to the centre line of Hoffman street, westerly along the centre line of Hoffman street to the centre line of Wolfe street, southerly along the centre line of Wolfe street to the centre line of John street, westerly along the centre line of John street to the centre line of Belair avenue, now Gay street, southwesterly along the centre line of Gay street to the centre line of Biddle street, westerly along the centre line of Biddle street to the centre line of Bethel street, northerly along the centre line of Bethel street to the centre line of John street, westerly along the centre line of John street to the centre line of Caroline street, northerly along the centre line of Caroline street to the centre line of Hoffman street, westerly along the centre of Hoffman street to the centre line of Eden street, northerly along the centre line of Eden street to the centre line of Lanvale street, easterly along the centre line of Lanvale street to the centre line of Spring street, northerly along the centre line of Spring street to the centre line of Townsend street, westerly along the centre line of Townsend street to the centre line of Holbrook street, southerly along the centre line of Holbrook

street to the centre line of Oliver street, easterly along the Direct tax line. centre line of Oliver street to the centre line of Aisquith street, southerly along the centre line of Aisquith street to the centre line of John street, westerly along the centre line of John street to the centre line of Holbrook street, southerly along the centre line of Holbrook street to the centre line of Biddle street, westerly along the centre line of Biddle street to the centre line of Ensor street, southerly along the centre line of Ensor street to the centre line of Chase street, westerly along the centre line of Chase street to the centre line of Greenmount avenue, northwesterly along the centre line of Greenmount avenue to the centre line of Federal street, westerly along the centre line of Federal street to the centre line of Barkley street, southerly along the centre line of Barkley street to the centre line of Hoffman street, easterly along the centre line of Hoffman street to the centre line of Constitution street, southerly along the centre line of Constitution street to the centre line of Chase street, westerly along the centre line of Chase street to the centre line of North street, southerly along the centre line of North street to the centre line of Eager street, westerly along the centre line of Eager street to the centre line of Hargrove alley, northerly along the centre line of Hargrove alley to the centre line of Chase street, westerly along the centre line of Chase street to the centre line of St. Paul street, northerly along the centre line of St. Paul street to the centre line of Biddle street, westerly along the centre line of Biddle street to the centre line of Morton alley, northerly along the centre line of Morton alley to the centre line of John street, westerly along the centre line of John street to the centre line of Cathedral street, northwesterly along the centre line of Cathedral street to the centre line of Hoffman street, easterly along the centre line of Hoffman street to the centre line of Morton alley, northerly along the centre line of Morton alley to the centre line of Oliver street, westerly along the centre line of Oliver street to the centre

Direct tax line. line of Decker street, northerly along the centre line of Decker street to the centre line of Federal street, westerly along the centre line of Federal street to the centre line of Hudson alley, northerly along the centre line of Hudson alley to the centre line of Lanvale street, westerly along the centre line of Lanvale street to the centre line of Cathedral street, southeasterly along the centre line of Cathedral street to the centre line of Dolphin street, southwesterly along the centre line of Dolphin street to the centre line of Mount Royal avenue, northwesterly along the centre line of Mount Royal avenue to the centre line of Mosher street, southwesterly along the centre line of Mosher street to the centre line of Foster alley, northwesterly along the centre line of Foster alley to the centre line of McMechen street, northeasterly and northerly along the centre line of McMechen street to the north side of North avenue, westerly along the north side of North avenue to the centre line of Park avenue, southerly and southeasterly along the centre line of Park avenue to the centre line of Wilson street, northeasterly along the centre line of Wilson street to the centre line of Foster alley, southeasterly along the centre line of Foster alley to the centre line of McMechen street, southwesterly along the centre line of McMechen street to the centre line of Jenkins alley, southeasterly along the centre line of Jenkins alley to the centre line of Mosher street, southwesterly along the centre line of Mosher street to the centre line of Mason alley, northwesterly along the centre line of Mason alley to the centre line of McMechen street, northeasterly along the centre line of McMechen street to the centre line of Bolton street, northwesterly along the centre line of Bolton street to the centre line of Wilson street, southwesterly along the centre line of Wilson street to the centre line of Mason alley, southeasterly along the centre line of Mason alley to the centre line of McMechen street, southwesterly along the centre line of McMechen street to the centre line of Linden avenue, northwesterly along the centre line of Linden avenue to the centre



line of Wilson street, southwesterly along the centre line of Direct tax line. Wilson street to the centre line of Eutaw square, southeasterly along the centre line of Eutaw square to the centre line of McMechen street, northeasterly along the centre line of McMechen street to the centre line of Linden avenue, southeasterly along the centre line of Linden avenue to the centre line of Mosher street, southwesterly along the centre line of Mosher street to the centre line of Morris alley, northwesterly along the centre line of Morris alley to the centre line of McMechen street, southwesterly along the centre line of McMechen street to the centre line of McCulloh street, northwesterly along the centre line of McCulloh street to the centre line of Wilson street, northeasterly along the centre line of Wilson street to the centre line of Morris alley, northwesterly along the centre line of Morris alley to the centre line of Laurens street, southwesterly along the centre line of Laurens street to the centre line of McCulloh street, southeasterly along the centre line of McCulloh street to the centre line of Wilson street, southwesterly along the centre line of Wilson street to the centre line of Division street, northwesterly along the centre line of Division street to the centre line of Laurens street, southwesterly along the centre line of Laurens street to the centre line of Bouldin alley, northwesterly along the centre line of Bouldin alley to the centre line of Robert street, southwesterly along the centre line of Robert street to the centre line of Pennsylvania avenue, northwesterly along the centre line of Pennsylvania avenue to the centre line of Presstman street, northeasterly along the centre line of Presstman street to the centre line of Bouldin alley, northwesterly along the centre line of Bouldin alley to the centre line of Bloom street, northeasterly along the centre line of Bloom street to the centre line of Division street, northwesterly along the centre line of Division street to the north side of North avenue, westerly along the north side of North avenue to the centre line of Northwest street, southwesterly

Direct tax line. along the centre line of Northwest street to the centre line of Calhoun street, southeasterly along the centre line of Calhoun street to the centre line of Pressbury street, westerly along the centre line of Pressbury street to the centre line of Mount street, southerly along the centre line of Mount street to the centre line of Baker street, easterly along the centre line of Baker street to the centre line of Vincent alley, northerly along the centre line of Vincent alley to the centre line of Pressbury street, easterly along the centre line of Pressbury street to the centre line of Calhoun street, southeasterly along the centre line of Calhoun street to the centre line of Cumberland street, northeasterly along the centre line of Cumberland street to the centre line of Carey street, southeasterly along the centre line of Carey street to the centre line of Baker street, northeasterly along the centre line of Baker street to the centre line of Pennsylvania avenue, southeasterly along the centre line of Pennsylvania avenue to the centre line of Gold street, southwesterly along the centre line of Gold street to the centre line of Calhoun street, northwesterly along the centre line of Calhoun street to the centre line of Stricker street, southerly along the centre line of Stricker street to the centre line of Presstman street, westerly along the centre line of Presstman street to the centre line of Parish alley, southerly along the centre line of Parish alley to the centre line of Lorman street, westerly along the centre line of Lorman street to the centre line of Vincent alley, southerly along the centre line of Vincent alley to the centre line of Patterson avenue, easterly along the centre line of Patterson avenue to the centre line of Gilmor street, southerly along the centre line of Gilmor street to the centre line of Winchester street, westerly along the centre line of Winchester street to the centre line of Vincent alley, southerly along the centre line of Vincent alley to the centre line of Tenant street, easterly along the centre line of Tenant street to the centre line of Gilmor street, southerly along the centre line of Gilmor street to the centre line of

Mosher street, easterly along the centre line of Mosher street Direct tax line. to the centre line of Stricker street, southerly along the centre line of Stricker street to the centre line of Townsend street, easterly along the centre line of Townsend street to the centre line of Norris alley, northerly along the centre line of Norris alley to the centre line of Mosher street, westerly along the centre line of Mosher street to the centre line of Parrish alley, northerly along the centre line of Parrish alley to the centre line of Winchester street, westerly along the centre line of Winchester street to the centre line of Gilmor street, northerly along the centre line of Gilmor street to the centre line of Patterson avenue, easterly along the centre line of Patterson avenue to the centre line of Carey street, southerly along the centre line of Carey street to the centre line of Winchester street, easterly along the centre line of Winchester street to the centre line of Fremont street, southeasterly along the centre line of Fremont street to the centre line of Tenant street, westerly along the centre line of Tenant street to the centre line of Republican street, southerly along the centre line of Republican street to the centre line of Townsend street, westerly along the centre line of Townsend street to the centre line of Stockton alley, southerly along the centre line of Stockton alley to the centre line of Lanvale street, westerly along the centre line of Lanvale street to the centre line of Woodyear alley, southerly along the centre line of Woodyear alley to the centre line of Harlem avenue, westerly along the centre line of Harlem avenue to the centre line of Calhoun street, northerly along the centre line of Calhoun street to the centre line of a twenty foot alley laid out north of Harlem avenue, westerly along the centre line of said twenty foot alley to the centre line of Gilmor street, southerly along the centre line of Gilmor street to the centre line of Harlem avenue, easterly along the centre line of Harlem avenue to the centre line of Woodyear alley, southerly along the centre line of Woodyear alley to the centre line of Franklin street, easterly along the centre line of

Direct tax line. Franklin street to the centre line of Stockton alley, southerly along the centre line of Stockton alley to the centre line of Mulberry street, westerly along the centre line of Mulberry street to the centre line of Woodyear alley, southerly along the centre line of Woodyear alley to the centre line of Saratoga street, westerly along the centre line of Saratoga street to the centre line of Stricker street, northerly along the centre line of Stricker street to the centre line of Mulberry street, easterly along the centre line of Mulberry street to the centre line of Norris alley, northerly along the centre line of Norris alley to the centre line of Franklin street, westerly along the centre line of Franklin street to the centre line of Stricker street, southerly along the centre line of Stricker street to the centre line of Mulberry street, westerly along the centre line of Mulberry street to the centre line of Gilmor street, northerly along the centre line of Gilmor street to the centre line of Franklin street, easterly along the centre line of Franklin street to the centre line of Stricker street, northerly along the centre line of Stricker street to the centre line of Edmondson avenue, westerly along the centre line of Edmondson avenue to the centre line of Gilmor street, southerly along the centre line of Gilmor street to the centre line of Franklin street, westerly along the centre line of Franklin street to the centre line of Vincent alley, southerly along the centre line of Vincent alley to the centre line of Saratoga street, westerly along the centre line of Saratoga street to the centre line of Fulton street, southerly along the centre line of Fulton street to the centre line of Lexington street, westerly along the centre line of Lexington street to the centre line of Monroe street, southerly along the centre line of Monroe street to the centre line of Fayette street, easterly along the centre line of Fayette street to the centre line of Fulton street, southerly along the centre line of Fulton street to the centre line of Baltimore street, westerly along the centre line of Baltimore street to the centre line of Monroe street, southerly along the centre line of

Monroe street to the centre line of Frederick avenue, south-Direct tax line. westerly along the centre line of Frederick avenue to the centre line of Payson street, northerly along the centre line of Payson street to the centre line of Hollins street, westerly along the centre line of Hollins street to the western city boundary line, southwesterly along the western city boundary line to the centre line of McHenry street, easterly along the centre line of McHenry street to the centre line of Ackworth alley, northerly along the centre line of Ackworth alley to the centre line of Pratt street, easterly along the centre line of Pratt street to the centre line of Payson street, southerly along the centre line of Payson street to the centre line of McHenry street, easterly along the centre line of McHenry street to the centre line of Addison alley, southerly along the centre line of Addison alley to the centre line of Cole street, westerly along the centre line of Cole street to the centre line of Monroe street, northerly along the centre line of Monroe street to the centre of a forty foot street laid out by Wm. Wilkins, between Wilkins avenue and Ramsay street, southwesterly along the centre line of said forty foot street to the centre line of Payson street, southeasterly along the centre line of Payson street to the centre line of Wilkins avenue, northeasterly along the centre line of Wilkins avenue to the centre line of Cole street, easterly along the centre line of Cole street to the centre line of Fulton street, northerly along the centre line of Fulton street to the centre line of McHenry street, easterly along the centre line of McHenry street to the centre line of Mount street, southerly along the centre line of Mount street to the centre line of Cole street, easterly along the centre line of Cole street to the centre line of Vincent alley, northerly along the centre line of Vincent alley to the centre line of Ramsay street, easterly along the centre line of Ramsay street to the centre line of Gilmor street, southerly along the centre line of Gilmor street to the centre line of Ohio street, northeasterly along the centre line of Ohio street to the centre line of Calhoun street, northerly

Direct tax line. along the centre line of Calhoun street to the centre line of Pratt street, easterly along the centre line of Pratt street to the centre line of Woodyear alley, southerly along the centre line of Woodyear alley to the centre line of McHenry street, easterly along the centre line of McHenry street to the centre line of Carey street, southerly along the centre line of Carey street to the centre line of Ohio street, northeasterly along the centre line of Ohio street to the centre line of Stockholm street, southeasterly along the centre line of Stockholm street to the centre line of James street, northeasterly along the centre line of James street to the centre line of Cross street, southeasterly along the centre line of Cross street to the centre line of Washington avenue, southwesterly along the centre line of Washington avenue to the centre line of Stockholm street, southeasterly along the centre line of Stockholm street to the centre line of Pinkney alley, northeasterly along the centre line of Pinkney alley to the centre line of Cross street, northwesterly along the centre line of Cross street to the centre line of Columbia street, easterly along the centre line of Columbia street to the centre line of Parkin street, southerly along the centre line of Parkin street to the centre line of Cross street, southeasterly along the centre line of Cross street to the centre line of south Paca street, southwesterly along the centre line of south Paca street to the centre line of West street, southeasterly along the centre line of West street to the centre line of Russell street, southwesterly along the centre line of Russell street to the centre line of Stockholm street, southeasterly along the centre line of Stockholm street to the centre line of Claret alley, northeasterly along the centre line of Claret alley to the centre line of West street, southeasterly along the centre line of West street to the centre line of Eutaw street, southwesterly along the centre line of Eutaw street to the centre line of Stockholm street, northwesterly along the centre line of Stockholm street to the centre line of China alley, southwesterly along the centre line of China alley to the centre line of Ostend street, northwest-

erly along the centre line of Ostend street to the centre line of <sup>Direct tax line.</sup> Warner street, southwesterly along the centre line of Warner street to the Port Warden's line, southeasterly along the Port Warden's line to the centre line of China alley, northeasterly along the centre line of China alley to the centre line of Ostend street, southeasterly along the centre line of Ostend street to the centre line of Entaw street, northeasterly along the centre line of Entaw street to the centre line of Stockholm street, southeasterly along the centre line of Stockholm street to the centre line of Ohio avenue, northeasterly along the centre line of Ohio avenue to the centre line of Cross street, southeasterly along the centre line of Cross street to the centre line of Sharp street, southwesterly along the centre line of Sharp street to the centre line of West street, northwesterly along the centre line of West street to the centre line of Plum alley, southwest-erly along the centre line of Plum alley to the centre line of Ostend street, southeasterly and easterly along the centre line of Ostend street to the centre line of Patapsco street or alley, southerly along the centre line of Patapsco street or alley to the centre line of Fort Street, easterly along the centre line of Fort street to the centre line of Marshall street, southerly along the centre line of Marshall street to the centre line of Heath street, westerly along the centre line of Heath street to the centre line of Patapsco alley, southerly along the centre line of Patapsco alley to the centre line of Winder street, easterly along the centre line of Winder street to the centre line of Light street extended, southwesterly along the centre line of Light street extended to the centre line of McComas street, easterly along the centre line of McComas street to the centre line of Arundel alley, northerly along the centre line of Arundel alley to the centre line of Winder street, westerly along the centre line of Winder street to the centre line of Light street extended, northeasterly along the centre line of Light street extended to the centre line of Barney street, easterly along the centre line of Barney street to the centre line of William street,

**Direct tax line.** northerly along the centre line of William street to the centre line of Randall street, easterly along the centre line of Randall street to the centre line of Johnson street, northwesterly along the centre line of Johnson street to the centre line of Fort street, easterly along the centre line of Fort street to the centre line of Fourth street, northerly along the centre line of Fourth street to the centre line of Clement street, easterly along the centre line of Clement street to the centre line of River street, northerly along the centre line of River street to the centre line of Fifth lane, easterly along the centre line of Fifth lane to the Port Warden's line, southeasterly along the Port Warden's line to the centre line of Webster street, southwesterly along the centre line of Webster street to the centre line of Clement street, southeasterly along the centre line of Clement street to the centre line of Butler street, southwestwesterly along the centre line of Butler street to the centre line of Fort avenue, northwesterly along the centre line of Fort avenue to the centre line of Magazine street, southwestwesterly along the centre line of Magazine street to the centre line of Webster street, southeasterly along the centre line of Webster street to the centre line of Clemm street, southeasterly along the centre line of Clemm street to the centre line of Butler street, northeasterly along the centre line of Butler street to the centre line of Fort avenue, southeasterly along the centre line of Fort avenue to the centre line of Lawrence street, southwestwesterly along the centre line of Lawrence street to the centre line of Clemm street, southeasterly along the centre line of Clemm street to the centre line of Allen street, northeasterly along the centre line of Allen street to the centre line of Clement street, southeasterly along the centre line of Clement street to the centre line of Porter street, northeasterly along the centre line of Porter street to the centre line of Marriott street, southeasterly along the centre line of Marriott street to the centre line of Decatur street, northeasterly along the centre line of Decatur street to the centre line of Nicholson street, south-



easterly along the centre line of Nicholson street to the centre Direct tax line. line of Haubert street, southwesterly along the centre line of Haubert street to the centre line of Marriott street, south-easterly along the centre line of Marriott street to the centre line of Towson street, southwesterly along the centre line of Towson street to the centre line of Beason street, north-westerly along the centre line of Beason street to the centre line of Hull street, southwesterly along the centre line of Hull street to the centre line of Fort avenue, southeasterly along the centre line of Fort avenue to the centre line of Cookse street, northeasterly along the centre line of Cookse street to the centre line of Clement street, southeasterly along the centre line of Clement street to the centre line of Towson street, northeasterly along the centre line of Towson street to the centre line of Beason street, southeasterly along the centre line of Beason street to the centre line of Neal street, north-easterly along the centre line of Neal street to the Port War-den's line, northeasterly across the northwest branch of the Patapsco river to the centre line of Patuxent street at the Port Warden's line, and thence northeasterly along the centre line of Patuxent street to the centre line of Boston street, the beginning.

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## ARTICLE XLVI.

### TENANTS FOR YEARS OR AT WILL.

#### DECISIONS.

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*. There-upon, 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.

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.

Decision by Brown, C. J. in city court, Feb. 1874: *Minnick & wife vs. Shipley & Kinsey*. Mrs. Minnick, the owner of the property made a lease, her husband not joining in its execution, to Shipley & Kinsey, for three years at \$35 per month, with the privilege of renewing it for two years longer, at \$40 per month: the parties took possession of the property and remained 2½ years, paying the rent monthly; at the end of this time Shipley left the premises and Kinsey took one Haslup in as a partner without any notice to Mrs. Minnick. Kinsey & Haslup then continued to occupy the property, paying \$35 per month for the balance of the three years and \$40 per month after that time, and getting receipts for their payments in their own names, until the last of Sept. 1873, when they moved out and tendered the key, which Mrs. Minnick refused to accept, and afterwards brought suit for the rent for the month of October. *Held*: under the authority of *Anderson v. Critcher*, 11 G. & J. 450, that the parties having taken possession under a void lease, the law implies a verbal agreement of a similar import as to terms between them, and the payments having been made monthly in this case, the tenancy must be considered a monthly one. *Taylor on Landlord and Tenant*, sec. 56. *Woodfall on same*, page 108, 9th ed.

Shipley having left the property at the end of 2½ years, and the bills after that time having been made out against Kinsey & Haslup with Mrs. Minnick's knowl-

edge, there was a surrender in law binding under the Statutes of Frauds. A tenant from month to month cannot leave without a month's notice, and Kinsey is, therefore, liable. Judgment against Kinsey for \$40.

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## ARTICLE XLVII.

### THEATRICAL EXHIBITIONS.

#### ORDINANCE.

Acrobatic feats: net work to be provided.	Penalty.
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Ordinance No. 104, March 21, 1873, entitled an ordinance to provide against accident in certain theatrical performances, enacts and ordains the following.  
See p. 460, sec. 13, City Code :

Hereafter no agent, owner or lessee of any house of public <sup>No. 104, Mar 21,</sup> amusement, or any agent, owner or lessee of any show, circus <sup>Acrobatic feats.</sup> 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 exhibited by the performer from apparatus suspended at an extraordinary elevation above the stage, without first providing a network of such character <sup>Net work to be provided.</sup> 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.

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 first section of this ordinance, shall forfeit and pay a fine of fifty dollars for every time such offence may <sup>Penalty.</sup> be committed in his, her or their house or place of public amusement, to be recovered as other fines are recoverable. <sup>Ibid, s. 2</sup>

## ARTICLE XLVIII.

## VAGRANTS.

## S T A T U T E S .

## HOME OF THE FRIENDLESS.

Poor children to be sent to Home.  
 Managers may bind.  
 Power of managers over children.  
 Constables, &c., may take children before Orphans' Court, &c., for commitment.

## BOYS' HOME SOCIETY.

Powers and objects.

## DOLAN CHILDREN'S AID SOCIETY.

Incorporated : powers.

## HEBREW ORPHAN ASYLUM.

Powers : children, how subject.

## HENRY WATSON CHILDREN'S AID SOCIETY.

Corporate name : objects : legacies.

## S T A T U T E S .

## HOME OF THE FRIENDLESS.

The act of 1870, ch. 225, repeals and re-enacts sections 922, 924, 926 and 927, of art. 4, P. L. L., being sections 16, 18, 20, and 21, pp. 946, 947, City Code, to read as follows :

1870, c. 225.

Poor children may be sent to home of the friendless.

16. 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.

1870, c. 225.

Managers may bind.

18. 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 in this section, of binding or placing out said minors, shall not be limited to places within the State.

20. If any parent or guardian or any judge of the orphan's 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 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. 235. Power of Managers over children.

21. 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. 1870, c. 235. Constables, &c., may take children before Orphans' Court, &c., for commitment.

#### BOYS' HOME SOCIETY.

The act of 1874, ch. 68, enacts, *inter alia*, the following:

The special objects and purposes of this society shall be to shelter and protect destitute and homeless boys, to furnish them with food, raiment and lodging, to stimulate them to 1874, c. 68, s. 1. Objects.

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.

**Ibid sec. 6.**      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, sec. 7.**      The ground and building erected thereon for said Boys' Home, shall be free from tax, except State taxes.

**Ibid, sec. 8.**      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 branches of useful knowledge, as may be suited to their years and capacities.

#### DOLAN CHILDREN'S AID SOCIETY.

**1872, c. 205.**      The act of 1872, ch. 205, recites that, application has been made to the general assembly to confirm the bequest of the Rev. James Dolan, late of Baltimore city, deceased,\* to the

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\* The act of 1872, ch. 21, recites that, the Rev. James Dolan, late of the city of Baltimore, deceased, did, by his last will and testament, duly probated by the orphans' court of Baltimore city, and duly recorded in the office of the register of wills of said city, bequeath the one-third part of his estate, real, personal

Young Catholics' Friend Society of said city, for the purpose of establishing a Children's Aid Society; and that to carry out the charitable design of the said testator, it is necessary that a board of managers to be composed of the members of said society, should be appointed and be created a body corporate: it, therefore, incorporates specified members of said so- Incorporated. society under the name and style of the board of managers of the Dolan Children's Aid Society. Section 8 provides, that Ibid sec. 8. the Dolan's Aid Society, under the charge of the Young Cath- Powers. olics' 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.

The act of 1874, ch. 340, enacts the following *inter alia*. :

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

1874, c. 340, s. 2.  
Powers.

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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 doubts may exist as to the vesting of said estate in said society, and in order to give validity to said bequest, and to carry out the charitable design of said Rev. James Dolan, as expressed in his said will, it enacts, that the devise and bequest of Rev. James Dolan, of the one-third part of his estate, real, personal and mixed, 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 thereby confirmed, and the said society is thereby authorized to hold the same for the said purpose.

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 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, sec. 4.  
Children, how  
subject.

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.

#### THE HENRY WATSON CHILDREN'S AID SOCIETY.

The act of 1872, ch 14, enacts *inter alia* the following: see p. 947, City Code.

1872, c. 14, s. 1. The name of the "Children's Aid Society of Baltimore," is hereby changed to the name "The Henry Watson Children's Aid Society of Baltimore," which is hereby fixed and established in perpetuity as the corporate name of said society.

Ibid, sec. 2. Its object 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.

Ibid, sec. 6. All legacies given by persons dying, after the date of this 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."

NOTE.—See Houses of Refuge and Reformation, art. 26, *ante*.



## ARTICLE XLIX.

## WATER.

## S T A T U T E S .

Water stock : water rates : watchmen	&c.: penalty.
and police force : fines and penalties.	Erecting privies, hog pens, &c , over
Polluting the water in lakes, dams,	lakes, dams, &c.: penalty.

## O R D I N A N C E S .

WATER BOARD.	
Officers of water department : salaries :	engine : pipes : estimate of work :
proviso : bonds from employees.	certificate.
Water meters for hotels, &c.: charges.	Sum to be paid not to exceed what
Advertising fountain.	amount : bond from contracting
	party.
GUNPOWDER RIVER.	
Water board authorized to introduce	City register to provide for payment of
water of Gunpowder river.	money required : when loan or loans
Temporary loan : notice from water	made payable.
board to register.	Certified copy of ordinance for water
Contract for construction of works.	board.
Basis and substance of contract : 10,-	Rights of way, &c.
000,000 gallons per diem : pumping	High service supply : issue of notes of
	department.

## S T A T U T E S .

The act of 1870, ch. 24, repeals section 939, P L. L. art 4, as amended by the act of 1868, ch. 467, (sec. 12, p. 954, City Code,) and re-enacts the same to read as follows :

12. For the purpose of defraying all the expenses and costs of said lands, water 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

1870, c. 24.

- Water stock. stock," to an amount not exceeding five millions 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, and under such provisions as the mayor and city council may deem expedient and proper; the said mayor and city council are 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 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 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 authorized and 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 appendage, to prevent the water from being obstructed or contaminated, and to prohibit all meddling or tampering with the water works and their appurtenances; said fines and penalties shall be enforced as provided in this article, sections two hundred and twenty-nine to two hundred and thirty-four, inclusive. [Secs. 1-6, pp. 176-179, City Code.]
- Water rates.
- Watchmen and police force.
- Fines and penalties.

The act of 1870, ch. 25, repeals sections 1 and 2 of the act of 1861, ch. 240, being sections 15 and 16, p. 956, City Code, and re-enacts the same to read as follows:

1870, c. 25,  
Polluting the  
water in lakes,  
dams, &c.

15. 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, foetid or noxious animal or vegetable matter; or shall throw, or shall cause to be thrown therein, or so near thereto as to pollute the water therein, any impure, foetid 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. Penalty.

16. 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 supplying 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. Ibid, sec. 2. Erecting privies, hog pens, &c., over lake, dam, &c. Penalty.

#### ORDINANCES.

##### WATER BOARD.

Ordinance No. 64, May 21, 1870, amends sec. 5, p. 959 City Code, as follows:

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 registrar's department, and one clerk in engineer's department, and such gate-keepers, superintendents 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. No. 64, May 21, 1870. Officers of water department. Salaries. Proviso. Bonds from employees

Ordinance No. 7, Dec. 22, 1869, enacts and ordains the following :

No. 7, Dec. 22,  
1869.  
Water Meters  
for hotels, &c.

Charges.

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 establishment 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.

Ordinance No. 75, June 6, 1872, enacts and ordains the following :

Ibid, s. 2.

Public Business  
Directory.

Messrs. J. O. Belknap & Co., are hereby authorized and permitted to construct at their own expense, a public business directory or advertising fountain, at the intersection of Fayette, Park and Liberty streets, of similar design to the plan submitted to the joint standing committee on water, and now on file in the hands of the city register.

Water Engineer  
to supply free  
use of water.

Proviso.

To become prop-  
erty of city in  
five years.

The water engineer is hereby authorized and directed to supply to the said J. O. Belknap & Co., the free use of the water of the city, as well as the supply pipes necessary thereto, for the term of five years from the passage of this ordinance for the use of said fountain: provided, that at the end of the said five years, the said public business directory or advertising fountain, with all the appurtenances thereto belonging, shall become the property of the city of Baltimore.

Construction of  
fountain.

The construction of the said public business directory or advertising fountain, shall be done under the supervision of the city commissioner.

## GUNPOWDER RIVER.

Ordinance No. 115, Oct. 25, 1872, enacts and ordains the following :

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. 115, Oct. 25,  
1872.  
Water Board  
authorized to in-  
troduce Water of  
Gun powder  
River.

The city register is hereby authorized and directed to negotiate a temporary loan or loans, pledging if necessary as collateral security therefor any stocks or bonds held by the city, for the purpose of defraying the expense of the work by this ordinance authorized, the said loan or loans to be made payable by the city at a time not later than the first day of July, 1874, and the money so raised shall be placed to the credit of the water board and paid upon their warrant at such times and in such sums as the prosecution of the work aforesaid may in their judgment require, but the city register shall not negotiate such loan, until he shall have received from the water board thirty days previous notice of the period when any of the money to be derived therefrom will be wanted by them, and of the aggregate amount which they will probably require for the aforesaid work before the said first day of July, 1874.\*

Temporary  
loans.

Notice from  
Water Board to  
Register.

Ordinance No. 3, Dec. 23, 1872, enacts and ordains the following :

The water board of the city of Baltimore is hereby authorized and directed to proceed without delay to enter into a contract with some one or more of the persons who have heretofore submitted proposals to the city council or to the water

No. 3, Dec. 23,  
72  
Contract for  
construction of  
works.

\* See p. 262, ante, Stocks.

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.

10,000,000 gallons *per diem*.

Basis and substance of contract.

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 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

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\* This ordinance recites that, from actual knowledge of the limited quantity and injurious quality of the water furnished in the city during the past summer, and after careful inquiry into the present and reasonably prospective capacity of the existing sources of supply, it is not only believed that the ordinary and healthful consumption will demand much more water than can be hereafter afforded during warm and dry seasons, but the possibility and danger of a still greater deficiency and of more serious consequences therefrom are so apparent as to render it the duty of the mayor and city council of Baltimore, having proper regard for the preservation of "the safety and sanitary condition" of the city, to provide for obtaining by the speediest practicable method a partial resort to the Gunpowder river, in advance of the construction of the more extensive and costly works already authorized by ordinance; and that several definite proposals have been made by persons willing to contract with the city to procure an additional daily supply of ten millions of gallons of water, by means of pumping from the Gunpowder river over the intervening ridge into Lake Roland, and to accomplish the same within a period of time short enough to afford relief next summer. (See pp. 250 and 261, *ante*.)

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 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 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.

Ibid, s. 3.

What amount  
to be paid.

Bond from con-  
tracting party.

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.

Ibid, s. 4.

City register to  
provide for pay-  
ment of money  
required.

The city register is hereby, authorized and empowered, with the advice and concurrence of the mayor, to make provisions for the payment of the money required by the city for the fulfilment on its part of the contract herein authorized to be made by the water board, in its name and to that end he shall negotiate such temporary loan or loans as may be necessary, pledging therefor as collateral security, if deemed advisable, in proper amount any stocks or bonds held by the city. The said loan or loans to be made payable at a time not later than the first day of July, eighteen hundred and seventy-four; and the money so raised shall be placed to the credit of the water board, and paid upon their warrant at such times and in such sums as may be required under the provisions of the aforesaid contract herein authorized to be made by said water board.

When loan or  
loans made pay-  
able.

Ibid, s. 5.

Certified copy  
of ordinance for  
water board.

Immediately upon the approval or final adoption of this ordinance the mayor shall cause a copy duly certified to be presented to the water board, to enable them to take the earliest possible action to carry out its purpose.

Ibid, s. 6.

Rights of way,  
&c.

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



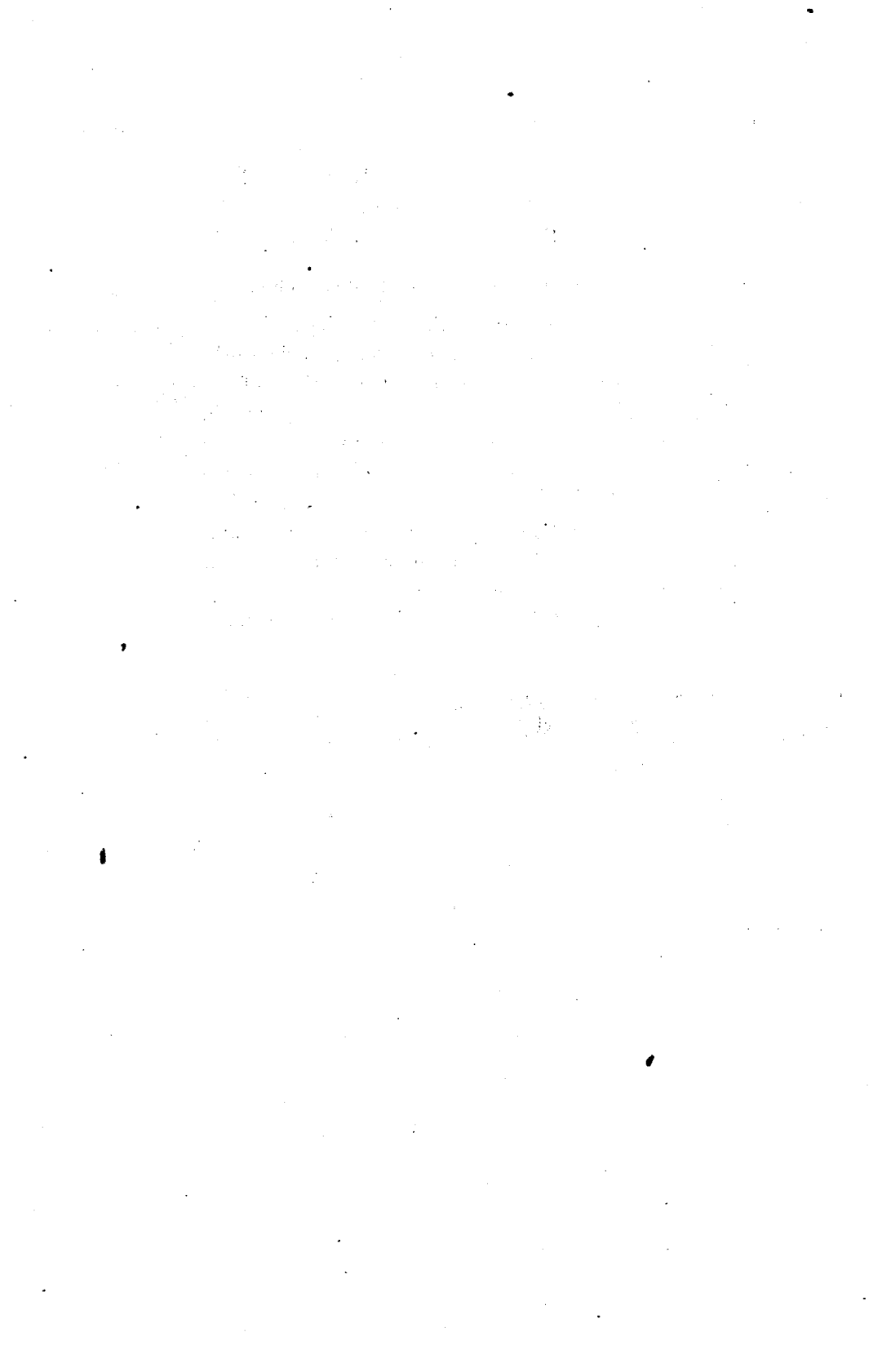
out of the provisions of this ordinance as fully as the said authority is given to the said mayor and city council in the code of public local laws of the State relating to the subject matter.\*

Ordinance No. 44, April 24, 1873, enacts and ordains the following :

The board of commissioners for the water department, is <sup>No. 44, April 24, '73,</sup> hereby authorized, if necessary for the completion of the works for the supply of water to the more elevated sections of the <sup>High service supply.</sup> city, to borrow a sufficient amount of money to complete said high service work, and to that end they are authorized to issue <sup>Issue of notes of department.</sup> the notes of the department to an amount not exceeding two hundred thousand dollars, payable twelve months after date with interest thereon at the rate of six per cent. per annum, and for the redemption of said notes at maturity the said board is authorized to pledge the properties of the city which may now be under the control of the water board. (See p. 250, *ante*.)

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\* The ordinance authorizing the issue of bonds to an amount not exceeding four millions of dollars, for the purpose of supplying the city with water from the Gunpowder river, (see p. 261, *ante*), was submitted to the voters November 3, 1874, and approved.



# APPENDIX.

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## ARTICLE XIII.

### COURTS.

#### OPINIONS.

The act of 1874, ch. 312, repeals section 110, of article 16, of the Public General Laws, so far as the same requires the judge of the circuit court or of 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.

#### SHERIFF.

The act of 1874, ch. 300, repeals and re-enacts section 179, of article four, Public Local Laws, being act of 1864, ch. 236, (sec. 66, p. 145, City Code), as follows:

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.

## ARTICLE XIX.

## FIRE.

## TELEGRAPH.

Ordinance No. 132, November 9, 1874, enacts and ordains the following :

No. 132, Nov. 9, '74. The superintendent of police and fire alarm telegraph is hereby authorized and directed to extend his telegraphic connection from the nearest telegraphic terminus, to the Marine Hospital.

Ibid, s. 2. Appropriation. The sum of ten hundred dollars, or so much thereof as is necessary, is hereby appropriated for the expenses of the said telegraphic extension, to be taken out of any money in the city treasury, not otherwise appropriated.

Ibid, s. 3. Rules and charges. The police and fire alarm telegraph department, shall have authority to make all needful rules, regulations and tariff of prices, for the use by citizens of said line, as may be necessary for the thorough working of said line.

## ARTICLE XXII.

## HARBOR.

Ordinance No. 85, October 6, 1874, enacts and ordains the following :

No. 85, Oct. 6, '74. Ashes, shells, &c., not to be thrown in Harbor. 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, puny, steamboat, barge or canal boat, above the Lazaretto, any ashes, shells, coal, decayed fruit, dead fish, or such garbage 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 of this ordinance, he shall, after conviction before a justice of the peace, forfeit and pay a fine of twenty-five dollars, one-half to the informer and one-half to the mayor and city council of Baltimore. Penalty.

It shall be, and is by this ordinance made, 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 first section of this ordinance that may come under their personal observation. Ibid, s. 2. Duty of Harbor Masters and Police.

All owners of private wharves, wherever situated 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, shall 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 may be directed by the port warden. Ibid, s. 3. Owners of private wharves. Logs.

The port warden shall notify all the owners of private wharves, as described in section three 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 shall 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, shall 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 shall remain without the "log," as required by this ordinance. Ibid, s. 4. Duty of Port Warden. Notice. Penalty.

Ibid, s. 5.  
Logs.

The port warden is hereby required and directed to have placed on all the wharves owned by the city of Baltimore, above the mouth of Jones' Falls, where there are no wooden platforms raised above the bed of the street, "logs" similar to those required for private wharves, as required in this ordinance, so soon after the passage of this ordinance as practicable.

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## ARTICLE —.

### JONES' FALLS.

Ordinance No. 131, November 9, 1874, enacts and ordains the following :

No. 131, Nov. 9,  
'74.  
Regrading, &c.,  
streets in flood-  
ed district.

Grades.

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 public thoroughfares within the district flooded by the freshet of Jones' Falls, July 24, 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:

The mayor and city commissioner is 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 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.; provided, that the said work be done by contract, to be awarded in the usual manner to the lowest responsible bidder.\*

Ibid., s. 2.

Excavation, &c.  
of Jones' Falls.

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\* Ordinance approved November 21, 1874, enacts and ordains, that so much of section 2, of ordinance No. 131, as requires that the excavations, building of walls, repairing of existing walls, and paving of the bed of the falls shall be done by contract, is hereby repealed; and that 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. That this ordinance is not intended to affect in any way any part of said ordinance, No. 131, except to the extent mentioned herein.

Ibid, s. 3.  
Purchase or  
condemnation.

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 city court.

Appeal.

Ibid, s. 4.  
Sewer.

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. 5.  
Appropriation.

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. 6.  
Powers of  
Mayor and City  
Commissioner.

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 manufactories in the flooded district.

Ibid, s. 7.  
Preference to  
home work and  
material.

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.

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 effected 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.

Purchase or  
condemnation.

Appeal.



## ARTICLE —.

## LIBRARIAN.

Ordinance No. 129, Nov. 5, 1874, enacts and ordains the following :

Hereafter there shall be annually appointed, when and as  
other city officers are appointed, a city librarian.

No. 129, Nov. 5,  
74.  
Appointment.

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 arch-  
ives, records, papers and proceedings of the corporation (except  
those relating to the titles of city property) now in the posses-  
sion 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 necessary, 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 ordi-  
nances and resolutions and proceedings of the mayor and city  
council, and all other books, papers and memorials relating to  
Baltimore, from its inception as a town to the present time,  
and shall continue the same annually; and he shall not per-  
mit any book or books, or documents of said series to be taken  
or removed 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 preserved until the return of the book, docu-  
ment, record or paper so borrowed; and the said librarian

Ibid, s. 2.  
Duties.

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 new city hall, and properly furnished for the reception and custody of said library, under the direction of the city register, city librarian, and the superintendent of said city hall.

Ibid, s. 3.  
Salary.  
Bond.

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.

## ARTICLE XXXIV.

### PARKS.

#### HOMEWOOD PARK.

Ordinance No. 90, October 17, 1874, recites that William Wyman, for and on behalf of the heirs of Samuel Wyman, deceased, the Peabody Heights Company of Baltimore city, and William Remington, have offered to convey to the mayor and city council of Baltimore for a public park, and as such, by this corporation under the conditions hereinafter set forth, to be forever kept, a certain tract of land lying in Baltimore county, and enacts and ordains as follows, (see *ante*, p. 182):

No. 90, Oct. 17,  
74.

Deed from heirs  
of Wyman, &c.

The mayor is hereby authorized and empowered to receive from the heirs of Samuel Wyman, the Peabody Heights Company of Baltimore city and William Remington, a deed in fee of those portions of the tract of land hereinafter described belonging respectively to them, the said whole tract of land lying in Baltimore county binding on the west side of Charles street

avenue, commencing at the intersection of the north side of Holmes street with said west side of Charles street avenue; and running thence westerly, binding on Holmes street, to Oak street; thence northerly, binding on the east side of Oak street, to Waverly avenue; thence easterly, binding on the south side of Waverly avenue, to Charles street avenue; and thence southerly, binding on the west side of Charles street avenue, to the beginning; said deed to be approved in title and form by the city solicitor.

Description.

Deed to be approved.

Said park shall be called Homewood Park, and shall be forever kept and used as a public park, under the control, management and direction of the commissioners of parks.

Ibid, s. 2.  
Name.

Within two years after the passage of this ordinance, the mayor and city council of Baltimore shall open, grade and pave Charles street avenue and Holmes street, bordering on said park, and that part of Oak street, lying between Holmes street and Mankin's lane, but shall not open, pave or grade the balance of Oak street bordering on said park, or any part of Waverly avenue, until said park may be embraced within the limits of the city of Baltimore, and until application is made for the opening of said street or avenue by the property owners whose property fronts on said street or avenue respectively.

Ibid, 3.

Opening of streets.

Within two years after the passage of this ordinance, the Mayor and City Council of Baltimore shall cause to be erected around the four sides of said park a substantial iron railing, similar or superior to the railing now enclosing the Druid lake in Druid hill park, with proper gates or openings; provided, however, that there shall be no gates or openings on the line of Oak street or Waverly avenue, until said street or avenue shall be opened, graded and paved, as hereinbefore provided for.

Ibid, s. 4.

Railing.

Ibid, s. 5.  
Keeper.

There shall be appointed for said park at least one discreet and sober person to take charge of the same, and to protect it from the depredations of trespassers.

Ibid, s. 6.  
Improvement.

Said park shall be so improved and embellished as not to disturb or alter the natural grade of the same.

Ibid, s. 7.  
Appropriation.

The sum of fifteen thousand dollars is hereby, appropriated, to be taken out of any money in the treasury not otherwise appropriated, to be expended under the direction of the park commissioners in the grading and enclosing said Homewood park, and the opening, grading and paving the streets surrounding the same, as provided in the third section of this ordinance.

#### RIVERSIDE PARK.

Ordinance No. 87, October 8, 1874, enacts and ordains the following, (see *ante*, p. 186):

No. 27, Oct. 8,  
'74.  
Extension of  
Park.

Description.

The commissioners for opening streets are hereby authorized and directed to condemn and take for public use all that 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  $48\frac{1}{2}^{\circ}$ , west 307 feet 8 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  $42^{\circ}$ , east 329 feet 10 inches, to the centre line of Covington street, and thence northerly binding on the centre line of Covington street, about 455 feet to the beginning, containing one and one-sixth acre of land, more or less.

## ARTICLE XXXVI.

## RAILROADS.

## RIGHT OF WAY.

Ordinance No. 98, October 19, 1874, enacts and ordains the following:

All vehicles going in the same direction, and upon the track No. 98, Oct. 19, 1874, with a passenger railway car, shall be entitled to the right of way. Right of way. way of such track, and not compelled to leave the same for vehicles travelling in an opposite direction.

This ordinance shall not in any way conflict with the right Ibid, s. 2. of way already granted the several city passenger railway companies for the use of their tracks. City Passenger Railways.

Each and every violation of the provisions of this ordinance Ibid, s. 3. shall be liable to a penalty of two dollars, the same to be collected as all other fines imposed by ordinances of the city. Penalty.

## ARTICLE —.

## REGISTRATION OF BIRTHS AND DEATHS.

Ordinance No. 86, October 6, 1874, enacts and ordains the following:

From and after the first day of January, 1875, the commissioner of health shall provide suitable books, in which he No. 86, Oct. 6, 1874 shall register, in the manner hereinafter directed, the returns Duty of health commissioner. Books. 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.

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, Ibid, s. 2. Duty of physician or coroner.

Certificate of death.

Exception.

Illegitimate children.

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.

Ibid, s. 3.  
Duty of sexton,  
&c.

Of undertaker.

Proviso.

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. 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 12 o'clock, M., on the Saturday next succeeding the date of burial, or removal of the body out of the city.

Return of certificate of death to board of health.

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, 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. 5.

Penalty against physician, or coroner, undertaker, &c.

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 the parent or parents of such child, to report its birth to the board of health in the manner and form, and within the period above required, except in cases of the births and deaths of illegitimate children.

Ibid, s. 6.  
Midwives.

Registry of births.

Duty of parents.

Exception.

Ibid, s. 7.

Names of physicians, midwives, undertakers, and sextons.

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 give notice of the passage 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.

Ibid, s. 8.

Registries of births &amp; deaths, accessible to public.

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. 9.

Form of books.

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, birthplace, 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. 10.

Blanks.

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 nine of this ordinance.



## ARTICLE XLI.

## SQUARES.

Ordinance No. 113, October 24, 1874, enacts and ordains the following :

The commissioners of any of the public squares within the limits of the city are hereby 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.

No. 113, Oct. 24,  
74.  
Jurisdiction of  
commissioners  
over pavements.

## ASHLAND SQUARE.

Ordinance No. 107, October 24, 1874, enacts and ordains the following :

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.

No. 107, Oct. 24,  
74.  
Keeper.

## BAKER CIRCLE.

Ordinance No. 126, October, 1874, enacts and ordains the following :

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.

No. 126, Oct., 74.  
Commissioner.

## ARTICLE XLIII.

## STREETS.

## CATTLE.

Ordinance No. 122, Nov. 5, 1874, enacts and ordains the following, (see p 311, ante):

No. 122, Nov. 5, 1874. From and after the passage of this ordinance, it shall not be lawful for any person or persons to drive any cattle, sheep or hogs along Madison avenue or Madison street, except between the hours of 9 P. M. and 5 A. M., under a penalty of twenty dollars for each offence.

Madison avenue and street.  
Penalty.

*Names of Streets Changed.*—Clark street changed to Edmondson avenue, by ordinance October 24, 1874; Walsh street to Argyle avenue, by ordinance Oct. 17, 1874, and Warren street to Warren avenue, by ordinance Nov. 5, 1874.

## ARTICLE XLV.

## TAXES.

## PERMITS TO ERECT BUILDINGS.

Ordinance No. 89, October 13, 1874, enacts and ordains the following, (see p. 916 City Code):

No. 89, Oct. 13, 1874. 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

Plats of ground to be improved.

Ordinance No. 116, Oct. 27, 1874, enacts and ordains the following :

On and after the first day of January, 1875, the judges of <sup>No. 116, Oct. 27, '74.</sup> the appeal tax court shall charge for each and every permit <sup>Charges for permits.</sup> issued by them, for the erection of buildings within the city limits, as follows : For every building erected in the city of Baltimore, the sum of one dollar shall be paid, the amount of said fees to be paid at the end of each month to the city comptroller.

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. <sup>Ibid, s. 2. Permit for each house.</sup>

Any party or parties offending against section two of this ordinance, shall be subject to a penalty of not more than twenty <sup>Ibid, s. 3. Penalty.</sup> dollars and not less than five dollars, to be collected as other fines are collected.

#### COLLECTOR.

Ordinance No. 124, Nov. 5, 1874, enacts and ordains the following :

The city collector is hereby authorized to appoint an additional ledger clerk in his office. The term of service of said <sup>No. 124, Nov. 5, '74.</sup> additional clerk shall commence on the first day of March, 1875, <sup>Additional ledger clerk.</sup> and his compensation shall be the same as that now paid the <sup>Term of service Salary.</sup> ledger clerks in the city collector's office.



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